

HB

401

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Transportation:*

*2/8/88*



FISCAL NOTE

REQUEST:

Revision Date: February 5, 1988  
Title: An Act establishing rebates for use in watercraft outside the state.  
Sponsor: Cato, Naverre & Swackhammer  
Requestor: Transportation & Finance

Agency Affected: Revenue  
BRU: Income and Excise Audit  
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	34.0	34.0	34.0	34.0	34.0
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	2.0	2.0	2.0	2.0	2.0
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	2.5	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	38.5	36.0	36.0	36.0	36.0
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	[2000.0]	[2000.0]	[2000.0]	[2000.0]	[2000.0]
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	[2000.0]	[2000.0]	[2000.0]	[2000.0]	[2000.0]

POSITIONS:

FULL-TIME	-	1	1	1	1	1
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS:

Prepared By: Steven E. Kettel  
Division: Income and Excise Audit

Phone: 465-2320  
Date: February 5, 1988

Approved by Commissioner: *[Signature]*  
Agency:

Date: *[Signature]*

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Prepared by Steven E. Kettel  
Director, Income and Excise Audit  
Department of Revenue  
February 5, 1988

### Analysis of HB 401

Prior to July, 1984, the Department of Revenue did not issue motor fuel tax refunds to in-state purchasers, such as fishermen and fish processors that used the fuel outside the state's 3-mile taxing jurisdiction. In July, 1984 the Department began issuing the refunds, and at the same time assessing the motor fuel tax against out-of-state fuel purchasers that imported untaxed fuel and used the fuel in state waters. Several recent U.S. Supreme Court decisions allowing a properly apportioned tax were the basis for the change in the Department's watercraft tax policy. This policy, which placed the incidence of the tax on the use of the fuel in-state was overturned by a Departmental Hearing Decision #87-07 dated March 20, 1987. This decision required the Department to amend its regulations prior to authorizing the assessment of tax against the importer/consumers of marine fuel. Later in September of 1987, the Attorney General's office advised this Department that additional statutory authority was necessary to support the tax refunds to those purchasing fuel inside but consuming it outside the 3-mile limit.

HB 401 would provide the necessary authority for the Department to issue refunds of tax to out-of-state consumers. The legislation, however, does not provide a mechanism for taxing fuel imported and consumed by a vessel in this state. Passage of this legislation without consideration of the importation issue is not advised.

### Department's Position on HB 401

The Department does not support passage without amendment for the following reasons:

- 1) The legislation further narrows the state's tax base by approximately \$2 million per year.
- 2) The recipients of these refunds are, by an overwhelming majority, non-resident individuals and businesses. Based upon our 18 month refunding project, only 14% of the claimants listed in-state addresses.
- 3) Purchasers of out-of-state fuel do not pay the 5¢ tax and thus have a competitive advantage over their Alaska resident competitors.
- 4) We have not seen evidence showing that without the refund legislation, motor fuel purchasers will move off-shore to make their fuel purchases. It is not clear to us that fuel sold on the high seas is significantly cheaper than fuel sold on-shore.
- 5) The watercraft tax account in the general fund has historically been used as a benchmark for appropriations to harbor facilities around the state. A decrease in marine fuel tax may reduce funding for these essential services and facilities.

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: HB 401/SB 366  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: February 5, 1988 Agency Affected: Commerce & Econ. Dev.  
Title: Establishing rebates for motor BRU: Division of Business Development  
fuel taxes  
Sponsor: Cato Components: \_\_\_\_\_  
Requester: \_\_\_\_\_

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-			

CAPITAL	-0-	-0-	-0-			
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REVENUE	-0-	-0-	-0-			
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FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-			

POSITIONS:

FULL-TIME	-0-	-0-	-0-			
PART-TIME	-0-	-0-	-0-			
TEMPORARY	-0-	-0-	-0-			

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on this department

Prepared by: Paul Peyton, Project Manager  
Division: Business Development

Phone: 465-2162  
Date: February 5, 1988

Approved by Commissioner: J. Anthony Smith  
Agency: Department of Commerce and Economic Development

Date: 2/5/1988

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

page \_\_\_\_ of \_\_\_\_

07850-2/020588a

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis, W.O. 5-1622B:  
Rebates of motor fuel taxes for fuel used in  
certain watercraft

TO: Senator Fred Zharoff

FROM: Jack Chenoweth  
Legislative Counsel

This bill proposes to authorize rebates or refunds of motor fuel taxes when the fuel is used or consumed in the operation of watercraft outside the state.

Bill section 1 adds a new section, AS 43.40.033, authorizing the refund of watercraft motor fuel taxes, and directing the Department of Revenue to adopt necessary regulations and to prescribe forms to assure proper operation of the refund program.

Bill section 2 amends an existing section, AS 43.40.050(b), limiting to one year the filing period for refund claims for watercraft motor fuel taxes; the one year limitation is currently applicable to the department's other refund and credit programs.

Section 5 gives the Act a July 1, 1988 effective date. By section 3, the watercraft motor fuel rebate program, established by this Act, is made applicable to motor fuel sold and delivered in the state, and used and consumed in watercraft outside the state after June 30, 1988.

As I understand, between 1985 and March, 1987, the Department of Revenue made refunds of watercraft motor fuels (within the limits of and in a manner substantially similar to what is being proposed in this bill). The department stopped that program apparently after it was advised by the Department of Law that there was no legal basis for the refund program.

Senator Fred Zharoff  
Page 2  
January 22, 1988

Bill section 4, in a sense, "ratifies" those payments that were apparently made in error by declaring that the attorney general and the Department of Revenue may not recover these refunds. The provisor is drafted in a manner that recognizes the payments that have already been made; it does not authorize any additional refunds to persons who might have applied under that defunct program.

JBC:bb  
WKB1/087

# **ALASKA STATUTES**

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## **Title 43** **Revenue and Taxation**

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**OCTOBER 1983**

**Sec. 43.35.140. Gambling not legalized.** AS 43.35.100 — 43.35.150 do not legalize gambling. (§ 4 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

**Cross references.** — For limitations on authorized gaming activities, see AS 05.15.180.

**Sec. 43.35.150. Violations and penalties.** (a) It is unlawful for a person to (1) distribute in the state a punchboard for which the license tax provided in AS 43.35.100 — 43.35.150 is not paid; or (2) maintain for use, or permit the use of, in a place or premises occupied by the person a punchboard upon which the license stamp is not affixed.

(b) A person violating a provision of AS 43.35.100 — 43.35.150 is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500. (§ 5 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

### Chapter 40. Motor Fuel Tax.

**Section**

- 10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
- add 33- 30. Refund for nonhighway use
- 35. Other refunds and credits
- 50. Refund claim by affidavit

**Section**

- 60. Separate invoices
- 70. Refund warrants
- 80. Examination of books and records
- 85. Preservation of books and records
- 100. Definitions

**Collateral references.** — 71 Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as inter-

state commerce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

**Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds.** (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

- (1) the tax on aviation gasoline is four cents a gallon,
- (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

**Effect of amendments.** — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment substituted "the tax has been" for "duty is" in subsection (b).

**Sec. 43.40.035. Other refunds and credits.** (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements of AS 43.40.010(l) have been fulfilled; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982; am § 3 ch 87 SLA 1983)

**Effect of amendments.** — The 1983 amendment substituted "the requirements of AS 43.40.010 (l) have been fulfilled" for

"a certificate of use is acquired under AS 43.40.010(l)" in the first sentence of subsection (a).

*Sec. 43.40.040. Applications and permits for refund. [Repealed, § 45 ch 113 SLA 1980. For current law, see AS 43.40.050(a).]*

**Sec. 43.40.050. Refund claim by affidavit.** (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address

and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7 — 9 ch 82 SLA 1982)

**Effect of amendments.** — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment substituted "under AS 43.40.030" for "as provided in

AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

**Collateral references.** — 53 C.J.S., Licenses, § 62.

**Sec. 43.40.060. Separate invoices.** The department may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

**Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim by the department, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

**Sec. 43.40.080. Examination of books and records.** (a) To determine the validity of a claim for refund, the department may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The department may cancel the refund permit

**Article 4. Recovery of Money or Property Illegally Paid or Diverted.**

**Section**

- 90. Action by attorney general
- 100. Costs of action and disposition of amount recovered

**Sec. 37.10.090. Action by attorney general.** Whenever money, funds, or property of a city, school district, municipal government, or the state are illegally paid or are diverted for an illegal purpose, or paid to a person not authorized by law to receive them, they may be recovered by an action instituted by the attorney general. When it appears to the attorney general that it is more advantageous to begin or conduct the action with additional counsel, the attorney general may choose and authorize additional counsel to bring the suit in the name of the proper party. (§ 12-5-1 ACLA 1949)

**Sec. 37.10.100. Costs of action and disposition of amount recovered.** (a) The necessary and reasonable costs of the suit and of the additional counsel shall be advanced by the state, and a sum recovered in the suit shall be deposited in the state treasury.

(b) However if the sum recovered belongs to a city, school district, or municipal government, the sum shall be transferred to it, less sums advanced by the state in the suit, and not already repaid to it. The Department of Administration may pay to the city, school district or municipal corporation the sums belonging to it, upon warrants drawn as provided by law. The warrants shall be based upon vouchers approved by the attorney general. (§ 12-5-2 ACLA 1949)

**Chapter 11. Renewable Resources Funds.**

**Article**

- 1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.060)
- 2. Alaska Renewable Resources Investment Fund (§§ 37.11.050 — 37.11.090)

**Article 1. Alaska Renewable Resources Development Fund.**

Section	Section
10. Alaska renewable resources development fund	30. Fund utilization
20. Fund authorization level	40. Fund balances

**Editor's notes.** — This article may be unconstitutional under the rationale of State v. Alex, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5068, 5142), P.2d (1982), which held that the assessment provisions of the Fisheries Enhancement

Loan Program Act AS 16.11.530 constituted the proceeds of a state tax or license to a special purpose or improvement of Alaska Const. art. II § 7  
Section 2 of 1980 SLA 1974 provided "On June 30 of the first year in which the

Title 37  
Public Finance

DEC 15 1987

DRAFT POSITION PAPER

RE: State of Alaska Marine Fuel Tax Rebates

OFFICE OF THE COMMISSIONER

I. HISTORICAL BACKGROUND

In 1985 the Alaska Department of Revenue (DOR) instituted a rebate program for taxes paid on marine fuel purchased from shoreside fuel facilities in Alaska but consumed in waters beyond the State of Alaska three-mile territorial limit. By filing appropriate documents with DOR a consumer would receive a pro-rated rebate of the \$0.05 (five cent) per gallon tax. In other words the consumer paid the tax at the time of purchase but the tax was later refunded on that portion of the fuel estimated to be consumed beyond State of Alaska jurisdiction. In establishing the rebate procedure the state adopted the position that where the fuel was consumed took precedence over where the fuel was purchased.

Another pertinent provision of Alaska law provides an exemption from the marine fuel tax at the time of purchase. This exemption applies to marine fuel sold in Alaska and transported as "cargo out of the state into international waters if the fuel is sold or otherwise transferred to watercraft which operate exclusively in international waters and which do not enter state territorial waters, ports or facilities". This exemption allows high seas bunkering suppliers, which primarily are foreign flag tankers, to purchase marine fuel tax-free and refuel the fishing and processing fleet as long as the consuming vessels do not enter state waters.

Functioning together, the rebate procedure and the tax exemption for high seas bunkering activities created a tax structure whereby American based fisherman and fuel suppliers were treated on the same basis as high seas bunkering operators.

In April 1987 an internal assessment by DOR resulted in first a temporary suspension which in September 1987 became permanent after the Attorney

General reviewed the legality of the rebate program. In essence the Attorney General confirmed DOR lacked the statutory authority to rebate marine fuel taxes. Without the rebate program significant economic inequities resurfaced which penalized the shore-based fuel supplier and American flag vessels either operating in or re-entering state waters.

## II. THE PROBLEM

Fundamentally, Alaska now has a marine fuel tax structure which tends to discourage the high-seas fleet from entering Alaska waters and simultaneously increases the operating expenses of the Alaskan based fishing operators to a level above their foreign competitors. Additionally, there is substantial basis for asserting that the tax generates an economic disincentive to establish shore-based fishing operations in Alaska. In essence this particular tax discourages the high seas fleet operators from calling on Alaska ports as they then lose the tax exempt status on fuel purchased beyond the three-mile limit. The net effect is that Alaskan ports and the Alaskan economy lose the benefits generated through the harvestation of our fish resources. These benefits include food purchases, crew changes, port berthing fees, tug assists, pilotage, repairs, maintenance supplies, personal purchases and in general all of the expenses vessels incur when calling on one of our coastal communities.

## III. DISCUSSION

While Alaska continues to be in the throes of a devastating recession there is a bright light on our economic horizon. The shining star is the most traditional of Alaska's basic resources, commercial fishing, and specifically the bottom and intermediate trawl fishery. There is a consensus among those knowledgeable of the industry that if this resource is properly managed and regulated to the best interests of Americans this fishery will become the very mainstay of the seafood industry.

The Cowper Administration is undertaking an enormous effort to Alaskanize the bottom fish industry. The Governor has appointed a fisheries minicabinet to draft a fisheries policy which consists of goals and strategies for developing Alaska's seafood industry. One of the specific charges to this group is to examine and identify tax impediments to attracting shore-side processing. Unquestionably, the suspension of the rebate program has created an impediment and accordingly appears to be inconsistent with the Cowper Administrations commitment to the industry.

The North Pacific Fisheries Management Council is gradually phasing in a larger percentage of their recommended guide line harvest allocations to American fishing and processing firms. Organized groups such as the Southwest Municipal Conference are working diligently to encourage more shore based participation so Alaska can share in the economic benefits derived from the fish resources within our 200-mile Exclusive Economic Zone (EEZ).

The domestic fishing industry has been, historically, under capitalized and, of consequence, the additional fuel cost generated by the marine fuel tax may be a determining factor in decisions such as shore based plants vs floater and whether or not to base, re-supply and even repair vessels in Alaska. For example, the total amount of fuel consumed in U.S. waters by foreign flag vessels is estimated to be 160 million gallons annually. Purchases of fuel by these vessels operating within our waters from shore side fuel suppliers is estimated to be less than 10% or 16 million gallons. At sea refueling is a common practice not only for foreign flag vessels but also for American joint venture trawlers.

#### IV. POSSIBLE SOLUTIONS

There are two obvious solutions to the problem.

One is to repeal the exemption on fuel purchased in Alaska and consumed exclusively in international waters. This policy would subject all

Page Four

purchases of fuel in Alaska to the fuel tax and place the domestic based fishing vessels and the high seas bunkering operator on equal terms. Under the aforementioned situation we are assuming the high seas foreign flag refueler purchased fuel from an Alaskan based supplier rather than importing the fuel from a foreign country or transporting the fuel from another state. In reality, this approach would accomplish very little in terms of encouraging either the domestic or foreign consumer to utilize shoreside fuel suppliers.

The second option is to simply reinstate the rebate program. This procedure requires the legislature to enact a statute specifically authorizing DOR to implement a rebate system. Based on reasonable assumptions this approach would result in approximately 1.5 to 2 million dollars less revenue to the state treasury. The potential loss in revenue is a bonafide concern, however, this loss may well be more than offset by increased economic benefits associated with attracting the fishing industry shoreside.

The latter approach is consistent with the efforts of the Cowper Administration, North Pacific Fisheries Management Council, Southwest Municipal Conference and Alaska businesses all of who are attempting to create a positive business environment in Alaska.

For the record, I am Rep. Bette Cato, prime sponsor of HB 401.

HB 401 has two purposes. It reinstates a marine fuel tax refund program that existed from 1984 through early 1987, and it clarifies the fact that refunds made under the previous program were legal, and legal action may not be taken to recover them.

The marine fuel tax refund program allows a purchaser of marine fuel to apply for a tax refund on the marine fuel consumed outside of state waters.

The refund program provides two distinct benefits.

First of all, it attracts more commercial fishing vessels to Alaska's coastal communities to not only purchase fuel, but also to purchase groceries, clothing, minor repair work, and other products and services. It would help the economies of our coastal communities.

Secondly, it establishes a more equitable tax structure that will help our Alaskan shore based fuel suppliers compete with high seas suppliers. High seas fuel suppliers do not pay the tax because they operate outside state waters. In fact, under current law and regulations, a high seas fuel supplier can come into port, purchase tax-exempt marine fuel, take it outside the state's three mile limit and then sell it without the tax. State regulations provide this exemption apparently because of the U.S. Constitution's commerce clause. This creates a situation where people who fish who purchase their fuel in

port, from Alaskan sources, end up paying the tax, while people who fish who purchase their fuel from high seas fuel suppliers that operate beyond the three mile limit do not.

Alaska's fishing industry has changed with the development of long distance bottom fishing fleet. This fleet works mainly in areas outside the jurisdiction and control of the state of Alaska. Alaska's challenge is to attract this fleet to do business in Alaskan ports, and to allow the suppliers of products and services in our Alaskan ports, such as fuel suppliers, to operate effectively against their competitors outside the three mile limit. HB 401 establishes a tax structure which will help accomplish that goal.

Mt. Dale Lindsay, the president of Harbor Enterprises, Inc., is here today. He can provide the committee with specific details about the problem this legislation addresses.

Thank you.



# PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

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(907) 278-7586

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Kodiak  
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Dutch Harbor  
(907) 581-1350

TESTIMONY OF DALE R. LINDSEY  
HARBOR ENTERPRISES, INC.  
HOUSE BILL 401  
HOUSE TRANSPORTATION COMMITTEE

GOOD AFTERNOON. MY NAME IS DALE LINDSEY AND I AM THE PRESIDENT OF HARBOR ENTERPRISES, INC. TO PROVIDE YOU WITH A BIT OF BACKGROUND ON THE COMPANY, MYSELF AND MY SUPPORT OF HOUSE BILL 401, I OFFER THE FOLLOWING INFORMATION FOR YOUR ASSIMILATION.

HARBOR ENTERPRISES, INC. (HEI) WAS FOUNDED IN SEWARD IN 1936 AND IS ONE OF THE OLDEST PETROLEUM MARKETING FIRMS IN ALASKA. OUR COMPANY CONTINUES TO BASE ITS OPERATIONS IN SEWARD. WE PRESENTLY HAVE BULK PLANT FACILITIES LOCATED AT NIKISKI, WHERE WE HAVE THREE EMPLOYEES; KODIAK, 6 EMPLOYEES; DUTCH HARBOR, 11 EMPLOYEES; AND SEWARD, 15 EMPLOYEES. IN ADDITION, WE HAVE MARKETING OFFICES LOCATED IN ANCHORAGE, 4 EMPLOYEES AND SEATTLE, 1 EMPLOYEE. WE ALSO DISTRIBUTE PETROLEUM PRODUCTS TO COASTAL COMMUNITIES LOCATED IN SOUTHCENTRAL ALASKA, KODIAK ISLAND, ALASKA PENINSULA, ALEUTIANS AND BERING SEA VIA BARGE. IN A POLL CONDUCTED BY ALASKA BUSINESS MONTHLY, WE RANKED 14TH IN ALASKA IN TERMS OF FISCAL 1986-87 GROSS SALES REVENUE. HEI IS ALSO THE LARGEST ALASKAN OWNED AND ALASKAN BASED FUEL DISTRIBUTOR.

AT THE PERSONAL LEVEL, I WAS BORN AND RAISED IN SEWARD AS WAS MY WIFE, CAROL AND OUR FOUR CHILDREN. AFTER A BRIEF STINT AS A LOCOMOTIVE FIREMAN AND ENGINEER WITH THE ALASKA RAILROAD, I



PAGE TWO  
ACQUIRED A HEATING FUEL DISTRIBUTORSHIP IN SEWARD IN 1959 AND HAVE OVERSEEN ITS GROWTH AND EXPANDED OPERATIONS SINCE. IN ADDITION TO HEI, I OWN TWO CRAB FISHING VESSELS WHICH CURRENTLY OPERATE OUT OF DUTCH HARBOR. LET ME ASSURE YOU THAT ALTHOUGH I AM BOTH A SELLER OF FUEL AND A CONSUMER OF FUEL, MY PREFERENCE LIES IN SELLING THE STUFF RATHER THAN IN BUYING IT! IRRESPECTIVE OF WHICH SIDE OF THE FENCE THAT PERIODICALLY WE FIND OURSELVES ON, WE ARE WITHOUT QUESTION ALASKAN AND WE ARE QUITE PROUD OF THIS FACT.

HEI MARKETS AND OPERATES AS PETRO MARINE SERVICES. AS OUR TRADE NAME INDICATES WE ARE A MARINE ORIENTED COMPANY. ACCORDINGLY, WE FOCUS A GOOD DEAL OF OUR MARKETING EFFORT TOWARD SERVING THE MARINE INDUSTRY IN ALASKA OF WHICH A MAJORITY IS COMMERCIAL FISHING RELATED AND THIS BRINGS US TO THE REASON THAT I AM APPEARING BEFORE YOU TODAY.

IN JUNE 1985 I CAME TO JUNEAU TO DISCUSS SPECIFIC INEQUITIES IN THE STATE'S MOTOR FUEL TAX REGULATIONS WITH OFFICIALS IN THE DEPARTMENT OF REVENUE. THE CRUX OF THE ISSUE THEN AND NOW AGAIN, IS THE \$0.05 (FIVE CENTS) PER GALLON TAX CHARGED ON SALES OF MOTOR FUEL FOR MARINE USE CONSUMPTION. WHAT PROMPTED THESE DISCUSSIONS WAS A PROVISION IN THE STATUTES WHICH ALLOWED FOREIGN FLAG TANKERS TO PURCHASE FUEL FROM ALASKAN REFINERS EXEMPT ALL TAXES. THESE FOREIGN TANKER OPERATORS WOULD THEN TRANSPORT THIS FUEL BEYOND THE STATE'S THREE-MILE JURISDICTION AND SELL TO FOREIGN AND DOMESTIC FISHING VESSELS EX THE FIVE CENTS MARINE FUEL TAX WHICH WE SHORESIDE DISTRIBUTORS WERE SUBJECT TO. WHILE I WAS UNSUCCESSFUL IN CONVINCING REVENUE OFFICIALS THAT THEY



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OUGHT TO EITHER CLOSE THE EXEMPTION TO THE FOREIGNERS OR REPEAL THE TAX ALTOGETHER, THEY DID MENTION THAT A REFUND WOULD BE ALLOWED ON TAXED FUEL PURCHASED WITHIN ALASKA BUT CONSUMED IN WATERS OUTSIDE THE STATE'S THREE-MILE LIMIT. IN ESSENCE THE REBATE PROCEDURE REPRESENTED A SIGNIFICANT DEPARTURE FROM THE DEPARTMENT OF REVENUE'S TRADITIONAL POSITION THAT THE PLACE OF DELIVERY TAKES TAX PRECEDENCE OVER WHERE THE FUEL IS CONSUMED. THE NET RESULT OF THIS DECISION WAS THAT APPROXIMATELY 95% OF THE TAX REVENUE GENERATED FROM FUEL SOLD TO THE HIGH SEAS FLEET OPERATING IN WATERS OUTSIDE ALASKA'S JURISDICTION WAS REFUNDED BETWEEN JANUARY 1, 1985 AND MAY 1, 1987.

FOLLOWING A DEPARTMENT OF REVENUE INTERNAL POLICY REVIEW IN THE SPRING OF 1987, THE REBATE PROGRAM WAS PLACED IN TEMPORARY SUSPENSION. THIS WAS FOLLOWED WITH PERMANENT SUSPENSION IN SEPTEMBER 1987 AFTER A LEGAL OPINION BY THE ATTORNEY GENERAL STATED DEPARTMENT OF REVENUE HAD EXCEEDED THEIR STATUTORY AUTHORITY WHEN THEY IMPLEMENTED THE REBATE PROGRAM.

UNFORTUNATELY, BY VIRTUE OF THE AFOREMENTIONED OPINIONS, THE INEQUITIES TO THE SHORESIDE FUEL DISTRIBUTOR WHICH EXISTED PRIOR TO JUNE 4, 1985 ARE PREVALENT ONCE MORE. IN VIEW OF THIS FACT MY RECOMMENDATION IS THAT THIS COMMITTEE SUPPORT HOUSE BILL 401 AS DRAFTED AND INTRODUCED BY REPRESENTATIVES CATO, NAVARRE AND SWACKHAMMER. THE IMPACT OF THE MARINE FUEL TAX NOW FALLS DISPROPORTIONATELY ON ALASKA FISHERMEN AND OTHER FISHERMEN WHO CHOOSE TO DO BUSINESS WITH ALASKA SHORESIDE SUPPLIERS. I WOULD LIKE TO UNDERSCORE THIS POINT. THOSE WHO PARTICIPATE IN THE ALASKAN ECONOMY BY HOME-PORTING HERE OR OPERATING IN ALASKA



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WATERS, BEAR THE BURDEN OF THE TAX. WITHOUT QUESTION, THE REBATE PROGRAM TENDED TO PROVIDE SOME RELIEF FOR FISHERMEN WHO PATRONIZED ALASKA SHORESIDE BUSINESSES, BUT HAD TO COMPETE WITH THE HIGH SEAS OPERATORS. THE CURRENT SITUATION--WITHOUT REBATES--TENDS TO PENALIZE THOSE FISHING VENTURES FROM WHICH ALASKANS BENEFIT THE MOST. IT TENDS TO INCREASE THE COSTS ASSOCIATED WITH DOING BUSINESS IN ALASKA.

IT SHOULD BE KEPT IN MIND THAT THE REBATE PROGRAM WAS SUSPENDED BECAUSE OF UNANTICIPATED LEGAL CONSIDERATIONS...NOT BECAUSE IT WAS POOR PUBLIC POLICY OR LACKED MERIT. IN FACT, TO THE BEST OF MY KNOWLEDGE, THE POLICY CONSIDERATIONS WHICH PROMPTED THE DEPARTMENT OF REVENUE TO BEGIN THE REBATES REMAIN THE SAME NOW AS THEY WERE IN 1985.

I HAVE DISTRIBUTED TO YOU, WITH MY WRITTEN TESTIMONY, A LIST OF PRACTICAL AND ECONOMIC REASONS THAT THE REBATE PROGRAM CONTINUES TO BE SOUND PUBLIC POLICY. IT CERTAINLY SEEMS CONSISTENT WITH THE MANY EFFORTS TO "ALASKANIZE" THE OFF-SHORE FISHERY. FOR EXAMPLE, THE LEGISLATURE IS NOW CONSIDERING SJR 51 AND HJR 45. THESE RESOLUTIONS EMBODY IMPORTANT POLICY STATEMENTS URGING THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL TO ADOPT REQUIREMENTS THAT ALASKAN SHORE-SIDE SUPPORT SERVICES BE UTILIZED.

GOVERNOR COWPER HAS APPOINTED A FISHERIES MINI-CABINET TO ENSURE MAXIMUM PARTICIPATION BY ALASKANS IN THE SEAFOOD INDUSTRY. THIS GROUP WILL BE STUDYING IMPEDIMENTS TO SHORE-SIDE INFRASTRUCTURE DEVELOPMENT, INCLUDING STATE AND LOCAL TAX POLICY.

THE DEPARTMENT OF COMMERCE STUDY OF BERING SEA SUPPORT



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SERVICES WAS RELEASED LAST FALL. IT NOTES THAT THE MANNER IN WHICH THE OFFSHORE FISHERIES ARE BEING DEVELOPED IS NOT MEETING THE EXPECTATIONS OF MANY ALASKANS. I QUOTE:

"AMERICANIZATION FROM FOREIGN TO DOMESTIC PRODUCTION IS TAKING PLACE AT A PACE NO ONE ENVISIONED, LARGELY THROUGH EXPANSION AT OVER-THE-SIDE JOINT VENTURES AND FACTORY TRAWL HARVESTS. THIS HAS BEEN A FRUSTRATING EXPERIENCE FOR ALASKANS BECAUSE MUCH OF THIS ECONOMIC ACTIVITY LEAVES ONLY MINIMAL IN-STATE ECONOMIC BENEFIT."

THE STUDY ALSO CONCLUDES THAT AVAILABILITY OF FUEL IS THE SINGLE MOST IMPORTANT REASON FOR CHOICE OF PORT. IT ALSO FOUND THAT OWNERS DID NOT HESITATE TO COMPARE AT-SEA PRICES WITH THOSE SHORESIDE IN DUTCH HARBOR. I HAVE ALSO FOUND THIS TO BE TRUE. FOR EXAMPLE, LAST YEAR (WHILE THE REBATE PROGRAM WAS IN EFFECT) THE HIGH-SEAS PRICE FOR #2 MARINE DIESEL WAS \$0.71 PER GALLON. WE SOLD FUEL IN DUTCH HARBOR FOR \$0.69 PER GALLON. WITH THE MARINE FUEL TAX OF \$0.05 PER GALLON WE HAVE TO CHARGE \$0.74; HOWEVER, AS LONG AS THE REBATE PROGRAM WAS AVAILABLE OUR COMPANY COULD BE MORE COMPETITIVE, WHICH IS CRUCIAL TO OUR ECONOMIC SURVIVAL.

I APPRECIATE HAVING THIS OPPORTUNITY TO PRESENT MY VIEWS TO THE HOUSE TRANSPORTATION COMMITTEE. ONCE AGAIN, I RESPECTFULLY URGE YOUR SUPPORT OF THIS LEGISLATION.

I WOULD BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE CONCERNING MY POSITION AS THIS RELATES TO HOUSE BILL 401.



# PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

Anchorage  
(907) 278-7586

Nikiski  
(907) 776-8000

Kodiak  
(907) 486-3421

Dutch Harbor  
(907) 581-1350

## WHY THE REBATE PROGRAM MAKES SENSE IS GOOD PUBLIC POLICY AND SHOULD BE REINSTATED.

- I. THE REBATE PROGRAM REMOVES A SIGNIFICANT COMPETITIVE DISADVANTAGE EXPERIENCED BY ALASKA FISHERMEN AND FISHERMEN DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS.
  - A. HIGH SEAS FUEL SUPPLIERS ARE NOT SUBJECT TO THE TAX...ONLY ALASKA-BASED FISHERMEN AND USERS OF ALASKA SUPPLIERS PAY THE TAX, WHICH TENDS TO INCREASE THEIR EXPENSES COMPARED TO EXCLUSIVELY HIGH SEAS FISHING ENTERPRISES.
  
- II. BECAUSE THE REBATE PROGRAM TENDS TO EQUALIZE THE COSTS OF AT SEA FUEL WITH SHORE-SIDE FUEL, IT REMOVES A DISINCENTIVE FOR DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS OF FUEL, SHIP REPAIRS, PROCESSING, TRANSPORTATION, AND COLD STORAGE (SEE SJR 51).
  - A. LOWER SHORE-SIDE FUEL COSTS RESULTING FROM REBATES MAY CREATE GREATER OPPORTUNITIES FOR ALASKA BUSINESSES, EMPLOYMENT, IMPROVED INFRASTRUCTURE AND COMMUNITY TAX REVENUES.
  
- III. PASSAGE OF SB366 AND HB401 SHOULD NOT BE CONSIDERED AS "SPECIAL INTEREST LEGISLATION". ALL END-USE CONSUMERS AND SHORESIDE FUEL DISTRIBUTORS WILL BENEFIT ALONG WITH THE STATE BY VIRTUE OF ATTRACTING SIGNIFICANTLY MORE FISH PROCESSING AND RAW FISH LANDING ACTIVITY TO SHORE WHICH, IN TURN, WILL ENHANCE SERVICE AND SUPPLY BUSINESSES. IF A REVENUE LOSS SITUATION DID NOT EXIST THE REBATE PROGRAM BILL WOULD ESSENTIALLY BE NON-ISSUE LEGISLATION.
  
- IV. THE REBATE PROGRAM MAY HELP MAKE ALASKA PROCESSED FISH PRODUCTS MORE COMPETITIVE BY REMOVING AN EXPENSE WHICH HIGH SEAS OPERATORS DO NOT NECESSARILY INCUR.
  
- V. THE REBATE PROGRAM SHOULD HELP ENCOURAGE DEVELOPMENT OF AN ALASKA-BASED CATCHER-PROCESSOR FLEET AND CAPTURE A LARGER PORTION OF THE OFF-SHORE RESOURCE.
  - A. BRINGING THE ON-SHORE FUEL COSTS INTO A BETTER COMPETITIVE POSITION WITH HIGH SEAS COSTS WILL HELP



ALASKA COMMUNITIES SECURE HOME-PORTING OF CATCH-PROCESSORS. (FOR EXAMPLE, THE CITY OF HOMER'S EFFORTS TO SECURE HOME-PORTING OF "OCEAN TRAWL" VESSELS.)

- VI. THE REBATE PROGRAM IS CONSISTENT WITH THE GOALS OF THE COWPER ADMINISTRATION, THE ALASKA LEGISLATURE, THE FISHING INDUSTRY, THE ALASKA BUSINESS COMMUNITY, AND MUNICIPAL GOVERNMENTS.
- A. GOVERNOR COWPER HAS APPOINTED A FISHERIES MINI-CABINET TO FORMULATE A FISHERIES DEVELOPMENT POLICY± DESIGNED TO MAXIMIZE ALASKA OWNERSHIP AND EMPLOYMENT IN THE SEAFOOD INDUSTRY AND TO PROMOTE SUPPORT SERVICE DEVELOPMENT IN ALASKA COMMUNITIES. IMPORTANT ASPECTS OF THIS UNDERTAKING INCLUDE IDENTIFICATION OF CONSTRAINTS TO SHORE-SIDE INFRASTRUCTURE DEVELOPMENT AND POTENTIAL METHODS TO MITIGATE THE NEGATIVE ASPECTS OF STATE AND LOCAL TAX POLICY. THE REBATE PROGRAM IS CONSISTENT WITH THESE OBJECTIVES.
- B. THE LEGISLATURE'S STATED POLICY IS SIMILAR IF NOT IDENTICAL TO THE EXECUTIVE BRANCH. IN 1987, THE LEGISLATURE PASSED A FISHERIES BUSINESS TAX CREDIT PROGRAM DESIGNED TO FACILITATE GREATER ON-SHORE PROCESSING CAPACITY. CURRENTLY PENDING BEFORE THE LEGISLATURE ARE SJR 51 AND HJR 45, WHICH ARE IMPORTANT POLICY STATEMENTS RELATIVE TO INCREASING ALASKA'S PARTICIPATION IN THE ECONOMIC BENEFITS OF OFF-SHORE FISHING ACTIVITIES.
- C. THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL IS REVIEWING A RECENT PROPOSAL, SPONSORED BY THE SOUTHWEST MUNICIPAL CONFERENCE, TO REQUIRE USE OF SHORE-SIDE FUEL SUPPLIERS, PROCESSORS, TRANSPORTATION COMPANIES AND THE LIKE.
- D. THE REBATE PROGRAM COMPLIMENTS ALL OF THESE EFFORTS AND SHOULD BE REINSTATED IN LAW.

FOOTNOTES;

1. IN 1986, 500 FOREIGN FLAG VESSELS SPENT 34,000 VESSEL DAYS IN U.S. EEZ, BUT USED ONLY MARGINAL AMOUNTS OF U.S. SHIPPING CAPACITY AND OTHER SUPPORT SERVICES (SJR 51 AND HJR 45.)
2. THE AMOUNT OF BULK FUEL CONSUMED IN U.S. EEZ BY FOREIGN FLEETS IS ESTIMATED TO EXCEED 160 MILLION GALLONS ANNUALLY. PURCHASES OF FUEL BY FOREIGN VESSELS FROM U.S. FIRMS IS ESTIMATED TO BE LESS THAN 10 PERCENT OF THE FUEL CONSUMED. AT-SEA REFUELING IS A COMMON PRACTICE NOT ONLY FOR FOREIGN OPERATORS BUT FOR U.S. JOINT VENTURE TRAWLERS (SOUTHWEST



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MUNICIPAL CONFERENCE PROPOSAL TO NPFMC).

3. THE ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, DIVISION OF BUSINESS DEVELOPMENT, RECENTLY PUBLISHED A STUDY OF BERING SEA SUPPORT SERVICES FOR 1985. IT REACHED THE FOLLOWING CONCLUSIONS.

A. "THE MOST IMPORTANT REASONS FOR CHOICE OF PORT ARE, IN ORDER, FUEL, VESSEL MAINTENANCE AND REPAIR FACILITIES."

B. "PORTS INTERESTED IN ATTRACTING THESE SHIPS MUST HAVE SUBSTANTIAL FUEL AVAILABLE AND REPAIR FACILITIES, AS WELL."

C. "OWNERS TEND TO COMPARE AT-SEA FUEL PRICES WITH THOSE IN DUTCH HARBOR."





Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:**

February 8, 1988

**SIGN-IN**

**Subject of meeting:**

\*HCR 34: Relating to tourist-oriented signs

\*HB 401: Rebates for Motor Fuel Taxes

\*HCR 35: Commending the Alaska Marine Highway

**NAME** Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Carl Meyer	P.O. Box 5A Juneau	465-2343	Dept. of Revenue	YES HB 401
Dale Lindsey	P.O. Box 389 Seward	224-3190	Marine Enterprises Inc	HB 401 Yes
DAVIN McCLUNE	2033 SIXTH AVE. #770 SEATTLE WA 98121 ?	(206) 448-7588	DEPT. OF REVENUE.	NO
KEITH GERKEN	Box 2 JUNEAU	465-3900	DOT + PF	YES
Rep. Ron Larson	Box V Juneau		<del>will be here as soon as finance has a quorum</del>	HJR 34 Yes
Greg Rubin	Here for 3 more mos			HCR 35

\* indicates first public hearing

FEB 11 1988

February 9, 1988

Mr. Bob Evans  
Legislative Liaison  
Office of the Governor  
P. O. Box A  
Juneau, Alaska 99811

Dear BOB:

This is to follow up our recent conversation regarding watercraft fuel taxation issues now under consideration by the Legislature.

There are two separate matters of concern which have shifted back and forth from the Administration to the Legislature due to 1987 AG opinions:

- (1) Does the State have the authority to tax fuel purchased out-of-state, but consumed in Alaska? As a matter of policy, should the State seek statutory authority if it does not now possess it?
- (2) Does the State have the authority to issue rebates of the State fuel tax for fuel purchased in Alaska but consumed out-of-Alaska? If not, is this a good policy?

With respect to fuel purchased out-of-State, the State has historically taken the position that no tax should be levied on fuel purchased out-of-State but consumed in-State. By "historically", I mean from territorial days until 1985, when the Department of Revenue used creativity to interpret its statutory authority to permit the collection of such a tax. Various marine carriers filed suit against the Department in 1985 regarding its authority to levy the tax by regulation, and won a procedural

Mr. Bob Evans  
Office of the Governor  
February 9, 1988  
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victory last year. The AG's office then opined that the Department should not attempt to reimpose the tax without specific legislative authorization. (Before the Ag's opinion, two bills had been introduced (SB 100/HB 280) to clarify the statutes to make it clear that the State did not have the authority to levy the tax.)

This issue has been resting peacefully until recent legislation (SB 366/HB 401) was introduced dealing with rebates for fuel purchased in-State, but consumed out-of-State. Historically, the State has been granting these rebates, but discontinued them last year when the AG's office told Revenue it lacked the statutory authority to do so. In the first hearing on SB 366, the Department of Revenue suggested to the Senate Resources Committee that it would support recontinuation of the rebates if the Legislature would give it the specific authority to tax out-of-State fuel. In a subsequent hearing on HB 401, the Department indicated it was drafting a bill to accomplish this.

Before the Governor's office makes a decision on whether to introduce the Department of Revenue's proposed legislation, I urge you to consider the following arguments in opposition to the concept:

- (1) The tax would add a "surcharge" to virtually all food and basic goods transported by water to Alaska. All the marine transportation companies would be forced to pass this new charge along to the "customer", which is all of us.
- (2) The tax could not be fairly applied, since it would catch major carriers, but miss charter operations, private vessels, etc. The State has no way of monitoring such trips to Alaska, so it would not be likely to collect the tax.
- (3) The same tax has also been considered by Revenue for aviation fuel purchased for aircraft flying into Alaska, as the same logic would apply to the State's tax jurisdiction over activities in air space as in the water. Such a tax would run counter to DOT and CED efforts to attract more air traffic into Alaska's major airports, particularly Anchorage.
- (4) There is no clear relationship between the proposed tax and public services rendered to those being taxed. The marine carriers operate to and from private facilities, and receive no State services that I can think of.

Mr. Bob Evans  
Office of the Governor  
February 9, 1988  
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On the other hand, providing a rebate for fuel purchased in-State but consumed out-of-State does make sense, because it encourages more business for shore based facilities which would otherwise go to offshore supply ships. This incentive for attracting business is widely used in other coastal states. Those states (i.e., Washington) which offer rebates, do not generally collect taxes on fuel purchased in neighboring states but consumed en route to their home ports. This would clearly serve as a dis-incentive to interstate commerce and diminish the impact of their port marketing programs.

For these reasons, I believe that the Administration should not link the two issues (i.e., the revenue from one pays the cost of the other) because they are separate and distinct issues. Further, I urge you to maintain the State's historic position on fuel taxation for sound public policy reasons.

Sincerely,

/s/  
Reed R. Stoops

RRS:sd/rs.81

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 5  
JUNEAU, ALASKA 99811-0400  
PHONE: (907) 465-2300

February 12, 1988

The Honorable Bette Cato  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Cato:

At the recent hearing on HB 401, the Transportation committee requested additional information from this Department.

(1) Is there documentation which substantiates the difference in fuel prices between shorebased and floating/foreign distributors?

Foreign sellers are not required to file tax returns with this Department. We have unconfirmed reports that the offshore price is only a few cents per gallon cheaper than the onshore price.

(2) Does the watercraft tax receipts correspond with the docks and harbor appropriation levels?

The watercraft motor fuel tax presently generates revenues of \$5 million per year. Correspondingly, the following budget request items relating to harbors and docks will exceed the revenue estimates:

St. Paul Island - Completion of harbor project	\$4 million
Governor's Jobs Bill - Harbor projects	2 million
Annual Debt Service on existing facilities	\$4.9 million ('87) \$4.1 million ('88)

(3) What is the breakout of refunds (old program) by (a) country (b) state?

Representative Cato  
February 12, 1988  
Page 2

Marine Fuel Tax Refunds

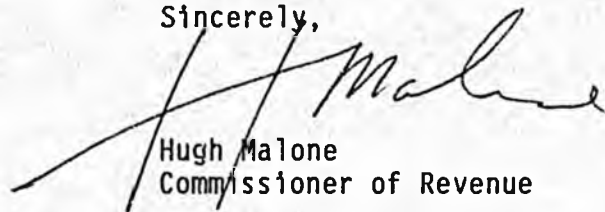
\$4,229,375.06 total refunded 18 month period

Alaska	94	- 14%
Washington	447	
California	27	
Oregon	28	
Texas	7	
Ohio	11	- 86%
Maryland	2	
Virginia	1	
Canada	22	
Japan	4	
England	<u>1</u>	
	<u>644</u>	

(4) Do the 86% nonresident figure represent the number of claims or the dollar amount?

85% of the claims were filed by nonresident businesses.

Sincerely,



Hugh Malone  
Commissioner of Revenue

HM:SEK:sp  
88-39

*Journal  
Empire*

TUESDAY, JANUARY 26, 1988

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## Marine fuel tax rebate pushed

By SUE CROSS

THE ASSOCIATED PRESS

A Kodiak senator backed by the fishing industry is launching a drive to bring back Alaska's marine fuel tax rebate, a program that returned about \$2 million a year to fishermen before it was halted in September.

Sen. Fred Zharoff, D-Kodiak, says the measure he introduced Monday (SB366) would boost business in coastal towns that supply the Gulf of Alaska's international fishing fleet.

"When a vessel comes in to purchase fuel, it buys more than fuel, — also groceries, clothing, etcetera," said Zharoff, a fisherman himself. "If we can offer this incentive, we'll be able to offer not only fuel, but other services as well."

The bill would rebate Alaska's 5-cents-per-gallon marine fuel tax for vessels that burn the fuel more than three miles offshore, outside Alaska's territorial limit.

Revenue officials say the state may not be able to afford the rebate anymore.

It was suspended in September and subsequently dropped.