HB

63

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/97

REPORTED OUT: MAY 8 1997

FURTHER:

DATE TURNED IN TO OFFICE: 5-8-97

Finance Committee considered CS FOR HOUSE BILL NO. 63(2d RLS)

AVIATION FUEL TAX EXEMPTION

and recommends:

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical change
[ ] new: SCR#_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
				✓	
			✓		
			X		
				✓ without amendment	
Co-Chair:		*Co-Chair:*	✓		
Co-Chair:	✓	*Co-Chair:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DOR	4/2		4575.0

[ ] APPROPRIATION -- no fiscal note

***include fiscal notes accompanying Governor's bill**

CS FOR HOUSE BILL NO. 63(2d RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 4/30/97
Referred: Rules

Sponsor(s): REPRESENTATIVES THERRIAULT, Davies, Kelly, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the definition of 'motor fuel' under the state's motor fuel
2 tax to add, as a part of the tax exemption set out in that definition, exemption
3 from the tax for fuel sold for use in jet propulsion aircraft operating in flights
4 that continue from foreign countries, subject to termination of the exemption for
5 that fuel if a refiner operating a refinery at which the fuel was produced fails
6 to comply with terms of a voluntary agreement entered into by the refiner to
7 use Alaska residents, contractors, and suppliers to provide goods and services
8 when the refinery's capacity is expanded, to add exemption from the tax for
9 certain number 6 'residual fuel oil,' also known as bunker fuel, and to delete the
10 exemption from the tax for fuel that is at least 10 percent alcohol by volume;
11 and repealing ch. 42, SLA 1994, the Act providing for the imposition of a
12 different tax levy on residual fuel oil used in and on certain watercraft until

1 **June 30, 1998; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 43.40.015(d) is amended to read:

4 (d) A certificate of use is not required

5 (1) for fuel exempted under AS 43.40.100(2)(C) [, (F),] or (I) [(K)];

6 and

7 (2) for fuel exempted under AS 43.40.100(2)(I) [AS 43.40.100(2)(J)]

8 other than fuel sold or transferred under this exemption to a person who is engaged in

9 construction or mining activity.

10 * **Sec. 2.** AS 43.40 is amended by adding a new section to read:

11 **Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain**

12 **fuel sold for use in jet propulsion aircraft operating in flights that continue from**

13 **foreign countries.** (a) The provisions of this section apply to disallow the exemption

14 for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft

15 operating in flights that continue from foreign countries if, for motor fuel produced by

16 a refiner,

17 (1) the refiner determines, on or after the effective date of this section,

18 that the refiner will expand capacity or expand the refinery to produce more residual

19 fuel oil used in watercraft;

20 (2) on or after the effective date of this section, the refiner has

21 voluntarily committed by agreement entered into with the commissioner that, if the

22 refiner expands its oil refining capacity in order to produce additional supplies of fuel

23 for use in jet propulsion aircraft that qualify for the tax exemption, when the refiner

24 expands capacity, the refiner will

25 (A) use the refiner's best efforts to advertise for, recruit, and

26 employ in the construction activities associated with expanding refinery

27 capacity resident workers who have experience in the specific fields in which

28 they are hired to work;

29 (B) contract with licensed Alaska firms to prepare materials that

30 are used in construction activities and to provide services in conjunction with

activities associated with expanded refinery capacity and, in contracting with those firms, to encourage the refiner's contractors to employ and, when necessary, train state residents; and

(C) enter into contracts with Alaska-licensed vendors, contractors, and suppliers for the provision of supplies and services used in conjunction with activities associated with expanding refinery capacity; and

(3) the commissioner determines that a dealer or user claiming the exemption for motor fuel acquired from a refiner who has entered into an agreement described in (2) of this subsection acquired the motor fuel for which the exemption is claimed from a refiner who has not complied with the requirements of the agreement in completing expansion of its oil refining capacity under the agreement described in (1) of this subsection.

(b) For purposes of this section,

(1) the term "resident worker" means an individual who

(A) is physically present in the state with the intent to remain in the state indefinitely and has a home in the state;

(B) demonstrates that intent by maintaining a residence in the state;

(C) possesses a resident fishing, trapping, or hunting license, or receives a permanent fund dividend; and

(D) may be required to state under oath that the individual is not claiming residency outside of the state or obtaining benefits under a claim of residency outside of the state;

(2) the phrases "Alaska-licensed contractors" and "Alaska firms" mean a contractor or firm that

(A) has held an Alaska business license for one year before performing any work in connection with the commitment described in (a) of this section;

(B) has maintained for one year a place of business within the state that deals in the supplies, services, or construction of the nature required for the commitment described in (a) of this section; and

(C) is

(i) a sole proprietorship and the proprietor is an Alaska resident;

(ii) a partnership and more than 50 percent of the partners are Alaska residents;

(iii) a corporation that has been incorporated in the state or is authorized to do business in the state; or

(iv) a joint venture composed entirely of ventures that qualify under this subparagraph.

*** Sec. 3.** AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine, or mechanical contrivance **that** [WHICH] is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights

(i) to foreign countries**; or**

(ii) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

Sen. Donley move amend w/ failed

(F) [FUEL WHICH IS AT LEAST 10 PERCENT ALCOHOL BY VOLUME; not exceed maim. est. state & fed law } Amend #3 (Donley)

(G)] fuel sold or transferred between qualified dealers;

1 (G) [(H)] fuel sold to federal, state, and local government
2 agencies for official use;
3 (H) [(I)] fuel used in stationary power plants that generate
4 electrical energy for private residential consumption;
5 (I) [(J)] fuel used to heat private or commercial buildings or
6 facilities;
7 (J) [(K)] fuel used for other nontaxable purposes as prescribed
8 by regulations adopted by the department; [OR]
9 (K) [(L)] fuel used in stationary power plants of 100 **kilowatts**
10 [KW] or less that generate electrical power for commercial enterprises not for
11 resale; **or**
12 **(L) residual fuel oil used in and on watercraft if the residual**
13 **fuel oil is sold or transferred in the state or consumed by a user; for**
14 **purposes of this subparagraph, "residual fuel oil" means the heavy refined**
15 **hydrocarbon known as number 6 fuel oil that is the residue from crude oil**
16 **after refined petroleum products have been extracted by the refining**
17 **process and that may be consumed or used only when sufficient heat is**
18 **provided to the oil to reduce its viscosity rated by kinetic unit and to give**
19 **it fluid properties sufficient for pumping and combustion;**
20 * **Sec. 4.** Chapter 42, SLA 1994, is repealed.
21 * **Sec. 5.** This Act takes effect July 1, 1997.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

FISCAL NOTE

No. 2
Bill Version: CSHB 63(FIN)
(H) Publish Date: 4/4/97

REPORTED OUT OF SFC MAY 8 1997

Revision Date:
Title: Aviation Fuel Tax Exemption
Sponsor: Representative Therriault
Requestor: (H) TRA

Dept. Affected: Revenue
BRU: Revenue Operations
Component: Income and Excise Audit
COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	4,575.0	4,575.0	4,575.0	4,575.0	4,575.0	4,575.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost $ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert Bartholomew, Assistant Director
Phone: 465-2320
Division: Income and Excise Audit
Date: April 2, 1997
Approved by Commissioner: Wilson L. Condon
Date: April 2, 1997
Agency: Revenue

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HB 63 Amends the Motor Fuel Tax Statutes for Three Types of Fuel. Outlined Below is an Analysis for Each Change

ISSUE #1 Aviation Jet Fuel Amendments

The activation of a Foreign Trade Zone (FTZ) in Anchorage (Oct. 1995) allowed imported foreign aviation fuel to be sold preempted (by federal law) from state tax to aircraft flying directly or indirectly to a foreign country. Alaska oil refining industry believes that they will not be able to compete economically with FTZ (foreign import) fuel unless the current Alaska tax exemption for direct foreign flights is expanded to include indirect (i.e. flights that refuel in Alaska, stop in another U.S. city and then continue on to a foreign country). Current Alaska statutes provide only for an exemption for fuel sold on flights going directly to a foreign country.

Current Law
AS 43.40 (Alaska motor fuel tax) currently imposes a 3.2 cent per gallon tax on aviation jet fuel purchased in Alaska. Fuel purchased in Alaska for use in flights directly from Alaska to a foreign country is exempt from the Alaska tax. Fuel purchased for use in flights originating in a foreign country, refueling in Alaska and continuing to a U.S. destination prior to returning to foreign country (i.e. indirect foreign flight) is taxable.

Proposed Law
HB 63 would expand the above exemption to exempt from tax fuel purchased in Alaska for all flights to or from foreign countries.

Revenue Impact
This bill will result in approximately $2.800 million in revenue loss for FY 98 and annually through FY 2003. (See note #2 under assumptions, below.)

This estimate considers the effect of the recent activation of Anchorage Foreign Trade Zones (FTZ). The FTZ allows international air carriers to use imported fuel without incurring customs duties. Under the rules and regulations of the U.S. Customs Service, the operation of the FTZ allows air carriers to place imported fuel in the FTZ and withdraw the fuel for use in flights to or from a foreign country. Under federal law, the State of Alaska cannot impose tax on fuel placed in the FTZ. Alaska will lose some tax revenues from the FTZ independently of HB 63.

The fiscal impact of HB 63 results from exempting fuel that could not otherwise qualify for FTZ treatment or the current foreign flight exemption. The fiscal impact is measured by the amount of domestic fuel that is used for flights that continue from foreign countries to a U.S. destination.

Fiscal Note Assumptions/Calculations
1) During calendar year 1996 169.4 million gallons of AVJET was imported into the Port of Anchorage. 37.6 million (22%) qualified as FTZ AVJET. For FY9 DOR assumes 37 million gallons of FTZ AVJET will be imported. Transportation costs and favorable crude price and supply will continue to make Alaska refined fuel most economical. West Coast imports will continue to be cheaper than imported foreign fuel. Alaska's growing AVJET demand and occasional favorable world market prices will support importation of some FTZ fuel.

2) Total estimated AVJET tax revenues to be collected in FY98 is $7.2 million. Fuel used by carriers who fly primarily domestic routes accounts for $3.2 million. Thus estimated revenues from indirect foreign flights is estimated at $4.0 million. Estimated revenue loss due to import of FTZ fuel, based on 37 million gallons (calendar year 1996 actuals) is $1.2 million. This assumes that 100% of all FTZ imports will be used on foreign flights, thus qualifying for tax preemption. Thus the remaining potential revenue loss from HB 63 is $2.8 million for FY 98.

3) Actual revenue loss is dependent on the amount of foreign fuel that will be imported and placed in FTZ. Alaska is pre-empted from taxing this fuel.

Issue # 2 Marine Motor Fuel Amendment.

HB 63 removes the current 5 cents a gallon marine fuel tax on bunker fuel used in watercraft. Bunker fuel is defined as residual fuel oil (#6) that is the residue from crude oil after refined petroleum products have been extracted by the refining process.

Revenue Effect

DOR is receiving tax revenue on bunker fuel used in watercraft. But the amount could not be distinguished from the total $8.5 million of FY96 marine fuel tax revenue. Industry provided information show 12.5 million gallons of bunker fuel were consumed in 1996 for a total tax revenue of $625,000. By removing the tax on bunker fuel the state this would lose this revenue.

Issue #3 - Repeal the motor fuel tax exemption for fuel that contains an alcohol additive (gasohol).

HB 63 repeals the exemption from motor fuel tax for gasohol. DOR estimates that 100 million gallons of gasohol will be sold in FY98. $8 million in tax revenues will be collected if the exemption is repealed.

Summary of the Changes in tax Revenue from HB 63

ISSUE #1 Aviation Jet Fuel Amendments	($2,800,000)
Issue # 2 Marine Motor Fuel Amendment	(625,000)
Issue #3 - Repeal the gasohol tax exemption	$8,000,000
Net New Revenue	$4,575,000