

**HB**

**239**

# Alaska State Legislature

## Interim:

145 Main St. Lp., 223  
Kenai, Alaska 99611  
907/283-7095  
907/283-3075 fx  
907/262-7574 hm



Session:  
State Capitol  
Juneau, AK 99801  
907/465-2695  
fx 907/465-3835  
800/463-2695

## Representative Gary Davis

### SPONSOR STATEMENT SCS CS HB 239(Fin)

**“An Act relating to the liability of motor fuel dealers for payment of tax imposed on certain credit transactions involving motor fuel sales or transfers that become worthless debt or on sales or transfers to persons who declare bankruptcy; and providing for an effective date”**

The Alaska motor fuel tax is an excise tax designed to be paid ultimately by the consumer or user of the fuel. For administrative reasons, state law requires the tax to be collected and paid by the motor fuel wholesaler at the time the fuel is sold or transferred. As a practical matter, this transaction often occurs at the wholesale level with businesses that subsequently resell the fuel to the consumer or user of the fuel.

In commercial transactions of this nature, it is customary and typical to extend reasonable credit terms that may result in a deferral or delay in the collection of both the debt and the motor fuel tax by the dealer. In some cases, the debt may become wholly or partially worthless because of a bankruptcy filing or other similar reasons.

House Bill 239 allows motor fuel dealers in these cases to receive a nonrefundable credit in an amount equal to the tax previously remitted to the state. The credit would be applied against subsequent tax liabilities only, and could only be taken for sales with a total tax liability of \$500 or more.

The language specifies that dealers may only apply for a bad debt credit by filing written proof of the bankruptcy petition, or after reporting the debt as worthless or partially worthless on the dealer's federal income tax return.

Many states and local governments authorize credits or deductions for taxes paid on accounts that are later found to be worthless. It is also typical to require the tax be repaid if the account or debt is subsequently recovered. House Bill 239 includes a provision requiring repayment of the tax if the account or debt is subsequently repaid, with partial payments to be handled on a proportional or pro rata basis.

SCSHB239/SSI/5/6/98

Representing House District 8  
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna

Representative Gary Davis at legis.state.ak.us

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### SECTIONAL ANALYSIS

#### SCS CS HB 239(Fin)

**“An Act relating to the liability of motor fuel dealers for payment of tax imposed on certain credit transactions involving motor fuel sales or transfers that become worthless debt or on sales or transfers to persons who declare bankruptcy; and providing for an effective date”**

Section 1: Adds the following new section to AS 43.40, Motor Fuel Tax:

43.40.025(a) states when the dealer will be able to determine if a debt is wholly or partially worthless. AS 43.40.025(a)(1) and (2) are trigger mechanisms that determine the value of a debt owed to the fuel dealer.

43.40.025(b) explains the entitlement of credit on a worthless or partially worthless debt and the limitations for qualification.

43.40.025(c) explains that the fuel may not claim a refund but may use the entitlement as a credit toward future motor fuel tax debts. Sections 2(c)(1) and (2) state when the dealer may take the tax credit, and the procedures required before claiming the credit.

43.40.025(d) states that when a partially or wholly worthless debt that is collected at a later date, the dealer shall return payment to the Department of Revenue for all credit received.

43.25.40(e) requires a five-year period of time between requesting a credit for a partially or wholly worthless debt originating from the same person.

43.40.025(f) disallows the collection of a credit if the fuel dealer knows that a person to whom the fuel was sold has become a debtor under 11

43.40.025(g) defines “credit transaction.”

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*Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

*Representative Gary Davis (leg@alaska.gov)*

Section 2: (a) states that this act applies to sales or transfers of motor fuel sale or transfers under AS 43.40.010-43.40.100. Section 3(b) states that the filing with the Internal Revenue Service as a deduction of income for applicability must be filed on or after the effective date of this legislation.

Section 3: repeals this legislation on July 1, 2008

Section 4: provides the effective date of the legislation.