

**HB**

**63**

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Mary Pagenkopf

*Senate Rules Committee 5/11/97 12:48 p.m.*

0-LS0262M  
Chenoweth  
5/11/97

SENATE CS FOR CS FOR HOUSE BILL NO. 63( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

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

1 on residual fuel oil used in and on certain watercraft until June 30, 1998; and  
2 providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 43.40.010(a) is amended to read:

5 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
6 otherwise transferred within the state, except that

7 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

8 (2) the tax on motor fuel used in and on watercraft of all descriptions  
9 is five cents a gallon; [AND]

10 (3) the tax on all aviation fuel other than gasoline is three and two-  
11 tenths cents a gallon; and

12 (4) the tax rate on motor fuel that is blended with alcohol is the  
13 same tax rate a gallon as other motor fuel; however,

14 (A) in an area and during the months in which fuel  
15 containing alcohol is required to be sold, transferred, or used in an effort  
16 to attain air quality standards for carbon monoxide as required by federal  
17 or state law or regulation, the tax rate on motor fuel that is blended with  
18 alcohol is four cents less than the tax on other motor fuel not described in  
19 (1) - (3) of this subsection;

20 (B) notwithstanding (A) of this paragraph, through June 30,  
21 2004, the tax on motor fuel sold or otherwise transferred within the state  
22 is eight cents a gallon less than the tax on other motor fuel not described  
23 in (1) - (3) of this subsection if the motor fuel

24 (i) is at least 10 percent alcohol by volume, has been  
25 produced from the processing of lignocellulose derived from wood,  
26 and was produced in a facility that processes lignocellulose from  
27 wood, but this reduction in the rate of tax applies to motor fuel sold  
28 or transferred that contains alcohol that was produced only during  
29 the first five years of the facility's processing of lignocellulose from  
30 wood; or

1                   (ii) is at least 10 percent alcohol by volume, has been  
2                   produced from the processing of waste seafood, and was produced  
3                   in a facility that processes alcohol from waste seafood, but this  
4                   reduction in the rate of tax applies to motor fuel sold or transferred  
5                   that contains alcohol that was produced only during the first five  
6                   years of the facility's processing of alcohol from waste seafood.

7       \* Sec. 2. AS 43.40.010(a), as repealed and reenacted by sec. 3, ch. 127, SLA 1994, is  
8 amended to read:

9           (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
10 otherwise transferred within the state, except that

11                   (1) the tax on aviation gasoline is four cents a gallon;

12                   (2) the tax on motor fuel used in and on watercraft of all descriptions  
13 is five cents a gallon; [AND]

14                   (3) the tax on all aviation fuel other than gasoline is two and one-half  
15 cents a gallon; and

16                   (4) the tax rate on motor fuel that is blended with alcohol is the  
17 same tax rate a gallon as other motor fuel; however,

18                           (A) in an area and during the months in which fuel  
19 containing alcohol is required to be sold, transferred, or used in an effort  
20 to attain air quality standards for carbon monoxide as required by federal  
21 or state law or regulation, the tax rate on motor fuel that is blended with  
22 alcohol is four cents less than the tax on other motor fuel not described in  
23 (1) - (3) of this subsection;

24                           (B) notwithstanding (A) of this paragraph, through June 30,  
25 2004, the tax on motor fuel sold or otherwise transferred within the state  
26 is eight cents a gallon less than the tax on other motor fuel not described  
27 in (1) - (3) of this subsection if the motor fuel

28                           (i) is at least 10 percent alcohol by volume, has been  
29 produced from the processing of lignocellulose derived from wood,  
30 and was produced in a facility that processes lignocellulose from  
31 wood, but this reduction in the rate of tax applies to motor fuel sold

1 or transferred that contains alcohol that was produced only during  
2 the first five years of the facility's processing of lignocellulose from  
3 wood; or

4 (ii) is at least 10 percent alcohol by volume, has been  
5 produced from the processing of waste seafood, and was produced  
6 in a facility that processes alcohol from waste seafood, but this  
7 reduction in the rate of tax applies to motor fuel sold or transferred  
8 that contains alcohol that was produced only during the first five  
9 years of the facility's processing of alcohol from waste seafood.

10 \* Sec. 3. AS 43.40.010(b) is amended to read:

11 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
12 by a user, except that

13 (1) the tax on aviation gasoline consumed is four and seven-tenths cents  
14 a gallon;

15 (2) the tax on motor fuel used in and on watercraft of all descriptions  
16 is five cents a gallon; [AND]

17 (3) the tax on all aviation fuel other than gasoline is three and two-  
18 tenths cents a gallon; and

19 (4) the tax rate on motor fuel that is blended with alcohol is the  
20 same tax rate a gallon as other motor fuel; however,

21 (A) in an area and during the months in which fuel  
22 containing alcohol is required to be sold, transferred, or used in an effort  
23 to attain air quality standards for carbon monoxide as required by federal  
24 or state law or regulation, the tax rate on motor fuel that is blended with  
25 alcohol is four cents less than the tax on other motor fuel not described in  
26 (1) - (3) of this subsection;

27 (B) notwithstanding (A) of this paragraph, through June 30,  
28 2004, the tax on motor fuel consumed by a user within the state is eight  
29 cents a gallon less than the tax on other motor fuel not described in (1) -  
30 (3) of this subsection if the motor fuel

31 (i) is at least 10 percent alcohol by volume, has been

1 produced from the processing of lignocellulose derived from wood,  
2 and was produced in a facility that processes lignocellulose from  
3 wood, but this reduction in the rate of tax applies to motor fuel  
4 consumed by a user that contains alcohol that was produced only  
5 during the first five years of the facility's processing of  
6 lignocellulose from wood; or

7 (ii) is at least 10 percent alcohol by volume, has been  
8 produced from the processing of waste seafood, and was produced  
9 in a facility that processes alcohol from waste seafood, but this  
10 reduction in the rate of tax applies to motor fuel consumed by a  
11 user that contains alcohol that was produced only during the first  
12 five years of the facility's processing of alcohol from waste seafood.

13 \* Sec. 4. AS 43.40.010(b), as repealed and reenacted by sec. 5, ch. 127, SLA 1994, is  
14 amended to read:

15 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
16 by a user, except that

17 (1) the tax on aviation gasoline consumed is four cents a gallon;

18 (2) the tax on motor fuel used in and on watercraft of all descriptions  
19 is five cents a gallon; [AND]

20 (3) the tax on all aviation fuel other than gasoline is two and one-half  
21 cents a gallon; and

22 (4) the tax rate on motor fuel that is blended with alcohol is the  
23 same tax rate a gallon as other motor fuel; however,

24 (A) in an area and during the months in which fuel  
25 containing alcohol is required to be sold, transferred, or used in an effort  
26 to attain air quality standards for carbon monoxide as required by federal  
27 or state law or regulation, the tax rate on motor fuel that is blended with  
28 alcohol is four cents less than the tax on other motor fuel not described in  
29 (1) - (3) of this subsection;

30 (B) notwithstanding (A) of this paragraph, through June 30,  
31 2004, the tax on motor fuel consumed by a user within the state is eight

1           cents a gallon less than the tax on other motor fuel not described in (1) -  
2           (3) of this subsection if the motor fuel

3                   (i) is at least 10 percent alcohol by volume, has been  
4                   produced from the processing of lignocellulose derived from wood,  
5                   and was produced in a facility that processes lignocellulose from  
6                   wood, but this reduction in the rate of tax applies to motor fuel  
7                   consumed by a user that contains alcohol that was produced only  
8                   during the first five years of the facility's processing of  
9                   lignocellulose from wood; or

10                   (ii) is at least 10 percent alcohol by volume, has been  
11                   produced from the processing of waste seafood, and was produced  
12                   in a facility that processes alcohol from waste seafood, but this  
13                   reduction in the rate of tax applies to motor fuel consumed by a  
14                   user that contains alcohol that was produced only during the first  
15                   five years of the facility's processing of alcohol from waste seafood.

16 \* Sec. 5. AS 43.40.015(d) is amended to read:

17           (d) A certificate of use is not required

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

19           and

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

21           other than fuel sold or transferred under this exemption to a person who is engaged in  
22           construction or mining activity.

23 \* Sec. 6. AS 43.40 is amended by adding a new section to read:

24           **Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain**  
25           **fuel sold for use in jet propulsion aircraft operating in flights that continue from**  
26           **foreign countries.** (a) The provisions of this section apply to disallow the exemption  
27           for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft  
28           operating in flights that continue from foreign countries if, for motor fuel produced by  
29           a refiner,

30                   (1) the refiner determines, on or after the effective date of this section,  
31           that the refiner will expand capacity or expand the refinery to produce more residual

1 fuel oil used in watercraft;

2 (2) on or after the effective date of this section, the refiner has  
3 voluntarily committed by agreement entered into with the commissioner that, if the  
4 refiner expands its oil refining capacity in order to produce additional supplies of fuel  
5 for use in jet propulsion aircraft that qualify for the tax exemption, when the refiner  
6 expands capacity, the refiner will

7 (A) use the refiner's best efforts to advertise for, recruit, and  
8 employ in the construction activities associated with expanding refinery  
9 capacity resident workers who have experience in the specific fields in which  
10 they are hired to work;

11 (B) contract with licensed Alaska firms to prepare materials that  
12 are used in construction activities and to provide services in conjunction with  
13 activities associated with expanded refinery capacity and, in contracting with  
14 those firms, to encourage the refiner's contractors to employ and, when  
15 necessary, train state residents; and

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

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

25 (b) For purposes of this section,

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

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

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

31 (C) possesses a resident fishing, trapping, or hunting license, or

1 receives a permanent fund dividend; and

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

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

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

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

13 (C) is

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

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

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

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

22 \* Sec. 7. AS 43.40.100(2) is amended to read:

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

27 (A) fuel consigned to foreign countries;

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

30 (i) to foreign countries; or

31 (ii) that continue from foreign countries, unless

1 exemption of the motor fuel from taxation is disallowed because of  
2 the refiner's failure to comply with the provisions of a voluntary  
3 agreement under AS 43.40.092 in conjunction with expansion of  
4 refinery capacity;

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

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

9 (E) fuel used by charitable institutions;

10 (F) [FUEL WHICH IS AT LEAST 10 PERCENT ALCOHOL  
11 BY VOLUME;

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

13 (G) [(H)] fuel sold to federal, state, and local government  
14 agencies for official use;

15 (H) [(I)] fuel used in stationary power plants that generate  
16 electrical energy for private residential consumption;

17 (I) [(J)] fuel used to heat private or commercial buildings or  
18 facilities;

19 (J) [(K)] fuel used for other nontaxable purposes as prescribed  
20 by regulations adopted by the department;

21 (K) [OR (L)] fuel used in stationary power plants of 100  
22 kilowatts [KW] or less that generate electrical power for commercial  
23 enterprises not for resale; or

24 (L) residual fuel oil used in and on watercraft if the residual  
25 fuel oil is sold or transferred in the state or consumed by a user; for  
26 purposes of this subparagraph, "residual fuel oil" means the heavy refined  
27 hydrocarbon known as number 6 fuel oil that is the residue from crude oil  
28 after refined petroleum products have been extracted by the refining  
29 process and that may be consumed or used only when sufficient heat is  
30 provided to the oil to reduce its viscosity rated by kinetic unit and to give  
31 it fluid properties sufficient for pumping and combustion;

1 \* Sec. 8. Chapter 42, SLA 1994, is repealed.

2 \* Sec. 9. CONDITIONAL EFFECT OF SECTIONS 2 AND 4. Sections 2 and 4 of this  
3 Act take effect only if, under sec. 6, ch. 127, SLA 1994, secs. 3 and 5, ch. 127, SLA 1994,  
4 take effect because the Department of Transportation and Public Facilities, before January 1,  
5 2000, increases the fee it charges under AS 02.15.090(a) for the privilege of landing aircraft  
6 at rural airports, as that term is defined in 17 AAC 40.795(2), above the amount of the fee in  
7 effect on January 1, 1994.

8 \* Sec. 10. Sections 1, 3, and 5 - 9 of this Act take effect July 1, 1997.

9 \* Sec. 11. (a) If secs. 2 and 4 of this Act take effect under sec. 9 of this Act and sec. 6,  
10 ch. 127, SLA 1994, they take effect on the later of

11 (1) the 30th day after the effective date of the landing fee increase described  
12 in sec. 9 of this Act; or

13 (2) the day after the day that sec. 9 of this Act becomes law.

14 (b) The commissioner of transportation and public facilities shall promptly notify the  
15 commissioner of revenue, the lieutenant governor, and the revisor of statutes of a landing fee  
16 increase described in sec. 9 of this Act.

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAULT


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House District 33

## House Of Representatives

### MEMORANDUM

**DATE:** May 8, 1997  
**TO:** Senator Loren Leman, Chair  
Senate Rules Committee  
**FROM:** Representative Gene Therriault   
**SUBJECT:** Scheduling of HB 63

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I respectfully request CSHB 63(2nd RLS), "An Act amending the definition of 'motor fuel' under the state's motor fuel act....., and providing for an effective date" be scheduled for a hearing, pending referral, in the Senate Finance Committee.

Attached you will find a copy of CSHB 63(2nd RLS) that I am submitting for your consideration.

Since 1995, 37.6 million gallons of tax exempt foreign-produced fuel has been brought into Alaska for use in foreign flights. Without new legislation, it is anticipated that the practice of using the foreign trade zone (FTZ) to import fuel will increase as airlines move to purchase tax exempt fuel for use in foreign flights.

CSHB 63(2nd RLS) will exempt all jet fuel used in international flights. This will provide a level playing field to Alaskan oil refiners and should stimulate growth for this Alaskan resource.

CSHB 63(2nd RLS) was amended in the House Finance Committee to repeal the tax exemption for fuel that is at least 10 percent alcohol by volume. This action leaves the Federal tax exemption of 5.4 cents per gallon for this fuel in place. The Finance Committee Substitute also exempts residual fuel oil (bunker fuel) used in watercraft, if this fuel is sold or transferred within the State of Alaska, from motor fuel taxation.

CSHB 63(2nd RLS) was amended by the House Rules Committee with a title change, as well as an additional section describing the disallowance of the jet fuel tax exemption if a refiner, having entered into a voluntary agreement to use local hire and Alaskan companies for refinery expansion, fails to comply with the agreement.

Attachments include:

1. Bill copy
2. Sponsor Statement
3. Sectional Analysis

I appreciate your consideration of my request.

attachments (3)

# Alaska State Legislature

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## House Of Representatives

House District 33

### CSHB 63(2nd RLS) 04/29/97

Modifies the existing statutes regarding taxation of motor fuel products such as jet fuel sold for use by aircraft flying to foreign destinations to also apply to jet fuel use by flights of foreign origination continuing on to a U.S. destination, subject to termination of the exemption of a refiner who expands the refinery fails to comply with terms of a voluntary agreement to use Alaska residents, contractors, and suppliers for the expansion; adds an exemption from the tax for any residual fuel oil (bunker fuel) sold or transferred in the state, deletes the tax on fuel at least 10 percent alcohol by volume; and repeals Ch. 42, SLA 1994, and Act providing for an additional tax levy on residual fuel oil used in and on certain watercraft; providing for an effective date.

SPONSOR: Representative Gene Therriault

#### Sectional Analysis:

- Section 1: Amends AS 43.40.015(d) by deleting the reference to fuel which is at least 10 percent alcohol by volume.
- Section 2. Adds a new section AS 43.40.092 addressing the disallowance of the motor fuel tax exemption for fuel used in jet propulsion aircraft operating in flights continuing from foreign countries. The exemption would be disallowed if the refiner, in expanding refinery capacity for fuel used in jet propulsion aircraft, or expands the refinery to produce more residual fuel (bunker fuel), fails to comply with terms of the voluntary agreement. If the refiner chooses to enter into same agreement (with the Commissioner of Revenue), the refiner must use best efforts to use experienced Alaskan resident workers, use Alaska firms for materials, and supplies for the construction of the expansion. This section also defines the terms used in the voluntary agreement.
- Section 3. Amends AS 43.40.100(2)(B) to expand the current tax exemption for fuel sold for use by jet propulsion aircraft operating in flights that continue from foreign countries, unless disallowed by violation of the refiner's voluntary agreement with the commissioner.

Deletes current tax exemption for fuel that is at least 10 percent alcohol by volume (AS 43.40.100(2)(F)).

Expands the description (KW) to its complete spelling of kilowatts in AS.43.40.100(2)(L).

Amends AS 43.40.100 by adding residual oil used in watercraft, if that same fuel is sold or transferred within the State, to the list of exemptions from motor fuel taxation.

Re-letters G to K under AS 43.40.100 Definitions, to adjust for changes.

Section 4: Repeals Chapter 42, SLA 1994. This legislation established a two tiered tax levied on residual oil that was sold for passenger watercraft use. This two tiered tax structure has proven to be ineffective.

Section 5: Establishes an effective date of July 1, 1997.

# Alaska State Legislature

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House District 33

## House Of Representatives

**CSHB 63(2nd RLS)** Extending the motor fuel tax exemption of fuel sold for use in jet propulsion aircraft to fuel used in those aircraft for flights that continue from a foreign country, and exempting from motor fuel tax residual fuel oil used in and on watercraft if it is sold or transferred in the state, disallowing same exemption if the refiner fails to comply with terms under a voluntary agreement for expansion of said refinery; deleting the current tax exemption for fuel that is at least 10 percent alcohol by volume.

**SPONSOR:** Representative Gene Therriault

### SPONSOR STATEMENT:

CSHB 63(2nd RLS) extends the motor fuel tax exemption to include fuel used in aircraft for flights that continue from a foreign country. Currently, the State of Alaska provides a tax exemption for fuel used only in flights to foreign countries. Federal law preempts state taxation of imported aviation fuel transported through a foreign trade zone (FTZ) for use in aircraft during foreign flights. The federal definition of "foreign flight" includes flights originating from and flights continuing to a foreign country. As a result, jet fuel produced in Alaska is taxed 3.2 cents per gallon more than similar fuel produced at foreign refineries.

Two tankers filled with 20.7 million gallons of tax exempt foreign-produced fuel were brought into Alaska during 1995. Last year just under 38 million gallons were imported into the FTZ. Without new legislation, it is anticipated that the practice of using the FTZ to import fuel will increase as airlines move to purchase the tax exempt fuel for use in foreign flights.

CSHB 63(2nd RLS) is needed to provide a level playing field to Alaskan producers by allowing the tax exemption for all fuel used in foreign flights.

The original version of HB 63 was amended by the House Transportation Committee to also exclude residual fuel oil (commonly known as bunker fuel) used on passenger watercraft from motor fuel tax. The committee substitute will also repeal the 1994 legislation (Ch 42 SLA 94) that established a two tiered tax structure on residual (bunker) fuel oil for passenger watercraft.

CSHB 63(2nd RLS) was amended by the House Finance Committee by expanding the definition of motor fuel tax and motor fuel; repealing the motor fuel tax exemption

for fuel that contains an alcohol additive (gasohol), and deleting the word "passenger" as well as all references to "passenger watercraft".

CSHB 63(2nd RLS) was also amended by the House Rules Committee in two ways:

1. The title was narrowed to specific items to include the exemption from the motor fuel tax for fuel sold in flights of foreign origination, subject to the termination of the exemption if the refiner fails to comply with terms of a voluntary "local hire" agreement signed with the commissioner for expansion of the refinery. It includes an exemption from the tax for any residual fuel oil and deletes the tax on fuel at least 10 percent alcohol by volume.

2. Adds a new section defining the specific requirements of the voluntary agreement between the refiner who is expanding the refinery and the Commissioner of Revenue.