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CS FOR HOUSE BILL NO. 243(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to taxes on motor fuel used in or on boats and watercraft; and
2 providing for an effective date."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 **PURPOSE.** It is the purpose of the legislature to encourage municipalities to assume
7 responsibility for port and harbor facilities within their boundaries that are currently
8 maintained by the state and to impose taxes on motor fuel used in or on boats and watercraft
9 to produce revenues to maintain those port and harbor facilities.

10 * **Sec. 2.** AS 29.45 is amended by adding a new section to read:

11 **Article 5A. Municipal Motor Fuel Tax.**

12 **Sec. 29.45.750.** Tax on transfers or consumption of motor fuel used in or
13 on boats and watercraft. A municipality may levy and collect a tax of three cents
14 a gallon on motor fuel

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(1) sold or transferred within the municipality that is to be used in or on boats and watercraft of all descriptions; or

(2) consumed by a user in or on boats and watercraft of all descriptions.

* Sec. 3. AS 43.40.010(a) is amended to read:

(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 and seven-tenths cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions

is

(A) in a qualified municipality that levies a tax of three cents a gallon specifically on the sale or transfer of motor fuel used in and on watercraft, two [FIVE] cents a gallon; for purposes of this subparagraph, a qualified municipality is one

(i) that has assumed possession of and responsibility for operation and maintenance of all state port and harbor facilities within its boundaries except those owned by a public corporation of the state or owned by a state agency and used for state purposes;

(ii) within which the state does not retain operation or maintenance responsibility for port or harbor facilities except those port or harbor facilities owned by a public corporation of the state or owned by a state agency and used for state purposes; or

(iii) within which the state has never had port or harbor facilities or operation or maintenance-responsibility for port or harbor facilities;

(B) except as provided in (A) of this paragraph, five cents a gallon;

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

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

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

7 (B) notwithstanding (A) of this paragraph, through June 30,
8 2004, the tax on motor fuel sold or otherwise transferred within the state is
9 eight cents a gallon less than the tax on other motor fuel not described in (1) -
10 (3) of this subsection if the motor fuel

11 (i) is at least 10 percent alcohol by volume, has been
12 produced from the processing of lignocellulose derived from wood, and
13 was produced in a facility that processes lignocellulose from wood, but
14 this reduction in the rate of tax applies to motor fuel sold or transferred
15 that contains alcohol that was produced only during the first five years
16 of the facility's processing of lignocellulose from wood; or

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

23 * Sec. 4. AS 43.40.010(b) is amended to read:

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

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

28 (2) the tax on motor fuel used in and on watercraft of all descriptions
29 is

30 (A) in a qualified municipality that levies a tax of three
31 cents a gallon specifically on the user's consumption of motor fuel used in

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and on watercraft, two [FIVE] cents a gallon; for purposes of this subparagraph, a qualified municipality is one

(i) that has assumed possession of and responsibility for operation and maintenance of all state port and harbor facilities within its boundaries except those owned by a public corporation of the state or owned by a state agency and used for state purposes;

(ii) within which the state does not retain operation or maintenance responsibility for port or harbor facilities except those port or harbor facilities owned by a public corporation of the state or owned by a state agency and used for state purposes; or

(iii) within which the state has never had port or harbor facilities or operation or maintenance responsibility for port or harbor facilities;

(B) except as provided in (A) of this paragraph, five cents a gallon;

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

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

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

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

(i) is at least 10 percent alcohol by volume, has been produced from the processing of lignocellulose derived from wood, and

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

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

* Sec. 5. This Act takes effect July 1, 2000.

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Seward Boat Owners Association, Inc.

January 24, 2000

Dear Representative Halcro;

The members of the Seward Boat Owners Association will actively support bills that will transfer 80% of the Marine Motor Fuel Tax back to communities that own their own harbors – provided that funds are used for harbor maintenance.

The legislature has historically appropriated 83%¹ of the Marine Motor Fuel Tax to capital works projects in the harbors of Alaska. The money has been used to fund major maintenance projects. The remaining 17% has been used to cover administrative costs and fund DOT&PF's critical Coastal Engineering Section.

As local communities have taken over ownership of the harbors from the State, they must also have access to the revenue stream that has provided for the major maintenance of those harbors.

The members will actively support legislation that accomplishes this. Elements critical to our support include:

A proviso that the money transferred to the local community be used exclusively for harbor maintenance. Craft this provision such that it is not in the intent section that is traditionally vetoed by the Governor. This proviso is critical to our members' support of any bill.

Make the funds available to all communities that own their own harbors, not just to communities that have taken ownership of a State harbor.

Transfer a minimum of 80% of the Marine Motor Fuel tax generated by a community back to that community.

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¹ Source, DOT&PF and LBA
Seward Boat Owners Association, Inc.

January 25, 2000

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Currently the drafts of HB 243 and SB178 do not include these provisions. We will be happy to work with the drafters of the final bills to craft these provisions such that our members could actively support the bills.

Sincerely,

James Collman
President

Possible Amendments - HB 243

Section 3 (A) A qualified municipality is one

1. that has adopted municipal legislation that dedicates these revenues to be used in their harbors
 - ii (same as current i);
 - iii (same as current ii) but add, "or" at the end;
 - iv that owns all harbors within its boundaries;

Bill Analysis

Section 1 of the bill expresses a legislative intent to encourage municipalities to assume responsibility for harbors within their boundaries and to impose municipal motor fuel taxes to maintain those harbors.

Section 2 amends AS 29.45 by authorizing municipalities to impose taxes on motor fuel.

Sections 3 and 4 amend AS 43.40.010(a)-(b) to allow a municipal motor fuel tax on fuel used in or on watercraft to reduce the corresponding state 5 cent tax by a maximum of 3 cents. The reduction in the state motor fuel tax rate extends to sales and consumption within a qualified municipality. A qualified municipality is one that has assumed all responsibility for operation and maintenance of state harbors within its boundaries.

Section 5 provides that the bill is effective July 1, 2000.

The department is very concerned with the practical aspects of administering a motor fuel program where the state and municipal taxes on one gallon of motor fuel may attach at different points. It is also possible that municipalities may define motor fuel differently from the state definition, and the bill does not address refund situations. Overall, the bill as drafted fails to achieve conformity between the state and municipal tax systems, both in substance and procedurally such as with establishing filing and payment periods, and will create extensive and perhaps insurmountable problems for the department in trying to reconcile whether a particular gallon of fuel qualifies for a reduction and in what municipality.

ALASKA DEPARTMENT OF REVENUE
Income and Excise Audit Division

Marine Fuel Tax for Harbor Maintenance
HB 243
January 26, 2000
Page 3 of 3

FY 99 ACTUALS*

| | GALLONS | | | REVENUE | | |
|----------------------------------|------------|-------------|--------------------|-----------|-------------|--------------------|
| | GAS | DIESEL | TOTAL | GAS | DIESEL | TOTAL |
| Taxable Gallons (@ \$.05/gallon) | 10,204,183 | 122,165,135 | <u>132,369,318</u> | \$510,209 | \$6,108,257 | <u>\$6,618,466</u> |

* These numbers are preliminary unreconciled estimates. Additionally, because of timely filing credits, timing differences and the exclusion of off-highway gallons, FY 99 calculated revenue will not correspond exactly to the amount of revenue received in FY 99.

****Maximum Projected Decrease to the State**

| | PROJECTED REVENUES | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
| State Revenue @ \$.02/gallon (@95% gallons) | 2,515,017 | 2,515,017 | 2,515,017 | 2,515,017 | 2,515,017 | 2,515,017 |
| State Revenue @ \$.05 Gallon (@5% gallons) | 330,923 | 330,923 | 330,923 | 330,923 | 330,923 | 330,923 |
| Total Projected Revenue | <u>\$ (6,618,466)</u> | <u>\$ (6,618,466)</u> | <u>\$ (6,618,466)</u> | <u>\$ (6,618,466)</u> | <u>\$ (6,618,466)</u> | <u>\$ (6,618,466)</u> |
| Maximum Projected Decrease to State | <u>\$ (3,772,526)</u> | <u>\$ (3,772,526)</u> | <u>\$ (3,772,526)</u> | <u>\$ (3,772,526)</u> | <u>\$ (3,772,526)</u> | <u>\$ (3,772,526)</u> |

Assumptions include the following: (1) marine fuel consumption remains at the FY 99 level, 2) compliance with the marine fuel statutes remains the same, (3) all communities that can take advantage of the local tax option do so and (4) five percent of total fuel is sold in unorganized communities. Although the general trend in marine gallons has been down from FY 93, it appears that the trend downwards leveled off in FY 98 and increased slightly in FY 99.