

**HJR**

**18**

# Alaska State Legislature

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## Representative Carl Gatto

### SPONSOR STATEMENT

#### HOUSE JOINT RESOLUTION 18

#### "RELATING TO THE FEDERAL MARITIME TRANSPORTATION SECURITY ACT OF 2002 AND THE STATE'S RIGHT TO TAX COMMERCIAL PASSENGER VESSELS"

HJR 18 acknowledges that the Maritime Transportation Security Act of 2002 contains provisions, specifically subsection 445, which were an attempt to codify existing common law with regard to taxation issues arising when vessels do not stop at a particular port of call. Specifically, this provision was enacted to invalidate a tax which Yakutat had levied on cruise ships which did not actually call on Yakutat as a port. However, this provision has the potential for a much broader interpretation. Despite public statements by the sponsor of the measure to the contrary, the argument has been made that this measure would invalidate a statewide head tax on commercial passenger vessels.

While this issue has not yet been litigated, the State of Alaska realizes the need to assert strongly its sovereign right to regulate commercial activity within its borders in compliance with the commerce clause requirements. This resolution asks Congress to clarify or repeal this controversial measure on the basis that it unduly impinges on state's rights to regulate commercial activity.

I urge your prompt and favorable action on this measure.

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Federal cruise tax law makes waves

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The Associated Press

ANCHORAGE--Gov. Frank Murkowski set off a squall in the Capitol last week when he said a state head tax on cruise ship passengers would run afoul of a new federal law.

But those responsible for passing that federal law, Rep. Don Young and Sen. Ted Stevens, had no intention of preventing Alaska from imposing a head tax on disembarking passengers, their aides said.

Murkowski raised the issue during an April 17 press conference.

"For those that are suggesting (a cruise ship head tax) is a desirable alternative, there is a federal law that was passed last year," Murkowski said.

He read section 445 of the national port security bill to reporters and had copies distributed.

The section says only the federal government can impose taxes on a ship "if the vessel or water craft is operating on any navigable waters subject to the authority of the United States."

There's an exception for fees to cover the costs of services to a ship.

"So our interpretation of this is that a head tax on tourism, from the standpoint of passengers, would simply run into a contradiction with federal law," the governor said.

Proposals to levy a head tax on cruise passengers have surfaced often in the Legislature and in local governments in Southeast Alaska, though cruise ship companies have pulled out of some ports that have imposed such a tax.

Juneau has a \$5-a-head tax on cruise ship passengers, raising \$3 million a year.

"This is horrible, really wrong," Juneau Democratic Rep. Beth Kerttula said, referring to the new federal law. "This is a real slap in the face to Alaskans."

Rep. Carl Gatto, R-Palmer, was eager to take on the federal government. He sponsored a bill--which

appears to be dead for this year--to impose a \$100-a-head state tax on cruise passengers. The issue was bigger than cruise ship taxes, he said. It was about defending Alaska's rights.

But a spokesman for Rep. Young, who sponsored the port security bill, said section 445 was never intended to block state or local governments from imposing a head tax on docking ships.

Rather, it was aimed at squelching a move to tax ships passing by.

In a word, said spokesman Steve Hansen, it's about Yakutat.

Yakutat had been trying to impose a head tax on ships that enter Yakutat Bay, even if they don't dock. Town officials say they've had to buy a search-and-rescue boat and monitor pollution since cruise ships started showing up in the bay.

Stevens' spokeswoman, Melanie Alvord, offered a similar interpretation of section 445, which, she said, Stevens authored.

"This provision codifies existing law that prevents local jurisdictions from taxing vessels that never call at a local port," she said.

John Manly, the governor's spokesman, said Attorney General Gregg Renkes had given the law a quick look before the press conference last week and thought it would make a state cruise ship tax illegal.

"That's the way we read it," Manly said. Renkes did not do a full analysis, Manly said.

Murkowski, who was a senator at the time, voted for the port security bill in November, as did Stevens and Young.

Manly said the governor does not favor a head tax on cruise ships.

"I think he believes we shouldn't single out a specific mode of transportation," Manly said.

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