

HB

217

**Alaska State Legislature
House of Representatives**

Alaska State Capitol
Juneau, Alaska 99801-1182
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Representative Lindsey Holmes
District 26

**SPONSOR STATEMENT
CS for HB 217 (JUD): Tourism Disclosures and Notices**

HB 217 addresses important concerns that Alaskan small businesses have regarding the disclosure section of Ballot Measure 2: "The Cruise Ship Initiative". The goal of the disclosure section originally was to increase disclosure requirements to promote fair competition between local businesses. As written, the law on disclosure will not promote competition, and has the potential to be punitive to local Alaskan businesses that offer tours to cruise line passengers. HB 217 will amend the language from the initiative to promote competition between all Alaskan tour businesses, and still require honest disclosure by the cruise lines.

HB 217 would maintain the requirement that sales agents onboard cruise ships inform passengers that the tours sold onboard have a percentage of the sale kept by the cruise line. Under HB 217 the sales agents would also have to let passengers know that different tours also may be available at future ports of call, and then provide the contact information for the visitor's bureaus in each port as a tool to book those tours independently. The bill also adds a new requirement that cruise lines disclose additional information about money paid for retail businesses that are promoted onboard. HB 217 would also make the penalties for violations consistent with the standard for other unfair trade practices, thereby increasing the penalties.

Additionally, HB 217 amends the commission rate disclosure of the original language to require cruise lines to disclose when commission rates are excessively high, while maintaining the privacy of the exact commission rate for any business. This would protect the proprietary information of our local Alaskan tour companies, and still hold cruise lines accountable to maintain reasonable commission rates, protecting consumer rights.

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**CHANGES IN CS
CS for HB 217 (JUD): Tourism Disclosures and Notices**

The CS for HB 217 that passed out of the House Judiciary Committee makes important changes to the bill.

- a. Changes disclosure requirements from orally and in writing, to just in writing.**
- b. Adds a section requiring additional disclosure of money received to promote shoreside retailers.**
- c. Changes description of onboard sales from "paid promotion" to "wholesale/retail relationship". This is logical because it more accurately describes the business arrangements between cruise lines and tour vendors.**
- d. Changes disclosure about alternative tours to remove "for a lower price" and add "different prices and different features". This is an important change because not all alternative tours are cheaper, and may have very different features.**
- e. Removes requirement for a list of alternative tours to be provided. This requirement was redundant with the information that Visitor's Bureaus can provide.**
- f. Changes commission disclosure threshold from 33% to 20%. This change recognizes compromise on what comprises a notably high commission, and is more fair to all tour vendors.**
- g. Changes penalty section to conform to standard penalties for other unfair trade practices. This makes the statute more consistent with existing law, and increases the penalties to make them meaningful.**

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 28, 2007

SUBJECT: Sectional summary of CSHB 217(JUD) relating to onboard disclosures (Work Order No. 25-LS0696N)

TO: Representative Lindsey Holmes
Attn: James Waldo

FROM: *JB*
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 45.50.474(a) to add disclosure requirements and to delete the requirement that the disclosures be made orally. The new disclosure requirements relate to commissions over a certain level, other available port of call alternatives, and contact information for visitors bureaus.

Section 2. Amends AS 45.50.474(b) to change the required disclosures. Requires written disclosure at the point of sale that relate to the relationship between the cruise ship and the shoreside vendor, the availability of port of call alternatives, contact information on visitors bureaus, and seller commissions over a certain level.

Section 3. Amends AS 45.50.474(c) to delete the penalty described in that section for a violation of AS 45.50.474.

Section 4. Contains the typeface and contrasting color requirements for disclosures that were formally located in AS 45.50.474(a) and (b).

Section 5. Gives the bill an immediate effective date.

If I may be of further assistance, please advise.

TLB:med
07-278.med



Alaska

May 9, 2007

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Capitol Building
Juneau, Alaska 99801

RE: House Bill 217 - Tourism Disclosures and Notices

Dear Senator Elton,

On behalf of the Alaska Chapter of the National Federation of Independent Business, I wish to express our support for House Bill 217. The Alaska Chapter of the National Federation of Independent Business is the largest small-business advocacy group in the state.

House Bill 217 resolves a basic unfairness created in the disclosure section of the cruise ship initiative passed last summer. Not only is this corrective legislation supported by NFIB, the initiative sponsors encouraged its passage. The current law requires disclosure of proprietary information of small and independent Alaska shorside businesses. HB 217 provides better disclosure to the consumer without requiring disclosure of proprietary pricing decisions by Alaska's businesses.

It is important to small and independent businesses that we resolve this problem prior to the beginning of the season.

We appreciate your introduction of HB 217 and your willingness to address this important issue affecting small and independent Alaskan businesses.

Sincerely,

Dennis L. DeWitt
Alaska State Director
National Federation of Independent Business

cc: Senate Judiciary Committee
Representative Lindsey Holmes

April 02, 2007

Representative Lindsey Holmes
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Holmes,

The Alaska State Chamber of Commerce supports and endorses your efforts to clarify the requirements recently adopted under the cruise ship initiative. The vendor disclosure provision of the cruise ship initiative unfairly penalizes those that benefit most directly from the cruise and visitor industries. HB 217 seeks to rectify the vendor disclosure portion of the passed initiative.

The disclosure provision of the initiative requires Alaska businesses that sell day excursions and products to cruise passengers to reveal their confidential pricing structure. As an Alaska business association, we are concerned with this provision. It is patently unfair in that it requires just one segment of the business community to disclose their proprietary pricing information. No other industry is required to disclose its pricing structure. The provision requiring cruise lines to disclose in big type the commission they earn for selling bus tours, flight-seeing tours and other ground tour packages places these shore-side vendors at a serious competitive disadvantage.

Good business in Alaska should be based on an even playing field for all Alaskan businesses. Under the current passed initiative, some businesses maybe unfairly penalized by providing proprietary business information required under the initiative. The Alaska State Chamber of Commerce lauds your efforts to change this provision of the initiative.

We look forward to a better business climate in Alaska, and we believe HB 217 moves Alaska's businesses in the right direction.

Yours in economic prosperity,


Wayne A. Stevens
President/CEO



April 6, 2007

Dear Legislator:

The Anchorage Chamber of Commerce today reviewed and supports HB217 regarding the disclosure section of Ballot Measure 2: "The Cruise Ship Initiative".

The tourism industry is important to our state's economy and economic well-being. Of the Anchorage Chamber's 1,200 members, more than 75 percent have fewer than 25 full-time, year-round employees. Many members are directly involved in the industry; many more benefit indirectly.

Ballot Measure 2 as written is punitive to Alaska businesses that offer tours to cruise line passengers because it exposes the price structures of these businesses, leading to unfair price undercutting. The ramifications of such legislation may be detrimental to more Alaska businesses.

To that end, the Anchorage Chamber of Commerce Board of Directors believes HB217, that allows a choice between disclosing commission rates (as under current law) or alternative methods provided in the bill is consistent with the intention of Ballot Measure 2, and we encourage you to support HB217.

Please contact us at president@anchoragechamber.org or (907) 677-7109 with any comments or questions.

Sincerely,

William J. Evans
Anchorage Chamber of Commerce
Board Chairman, 2006-07

Stacy Schubert, IOM
Anchorage Chamber of Commerce
President

cc. Representative Lindsey Holmes



2006 - 2007

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Suzanne Rust
K2 Aviation

Jerry Scholand
Alaska B & B Association

Bob Wysocki
Huna Totem Corporation

**Resolution
In support of HB 217**

"An Act relating to required onboard disclosures and displays about tours, flightseeing operations, other shoreside activities, and visitors bureaus; and providing for an effective date."

WHEREAS, the visitor industry is an important economic engine of Alaska's private sector; and,

WHEREAS, travel and tourism expenditures in Alaska represent more than \$1.5 billion annually; and,

WHEREAS, the visitor industry represent more than 40,000 jobs annually; and,

WHEREAS, the visitor industry has substantial opportunity for continued growth; and,

WHEREAS, the cruise industry delivers almost 1,000,000 visitors annually to Alaska; and,

WHEREAS, a vital part of the cruise and tour visitor's experience is shore excursions and land tours; and,

WHEREAS, the Cruise Ship Ballot Initiative passed in August of 2006, requires disclosure of commissions and proprietary business information; and,

WHEREAS, this aspect of the Cruise Ship Ballot Initiative will harm Alaskan owned and operated tour businesses; and,

WHEREAS, This legislation, HB 217, corrects serious flaws in the law created by the over-broad ballot initiative and it provides consumers with useful information, but not proprietary information about individual Alaskan tour operators;

THEREFORE, BE IT RESOLVED, that the ALASKA TRAVEL INDUSTRY ASSOCIATION BOARD OF DIRECTORS is in support of the passage of HB217 because it implements an alternative means of communicating the cruise line and shore excursion operator business relationship.

Signed: _____
Ron Peck, President & COO, Alaska Travel Industry Association



**ANCHORAGE CONVENTION & VISITORS BUREAU
BOARD OF DIRECTORS**

RESOLUTION 2007-01

A Resolution in support of House Bill 217

WHEREAS, Alaska's tourism industry and small businesses contribute heavily to the state's economic well-being; and,

WHEREAS, the disclosure law as written in Ballot Measure 2 has the potential to be extremely punitive to Alaska businesses that offer tours to cruise line passengers; and,

WHEREAS, the required disclosure would expose the price structures of these businesses, leading to unfair price undercutting; and,

WHEREAS, House Bill 217 would offer an alternative to businesses, especially those that contract with the cruise lines, to provide an alternative method of disclosure.

NOW THEREFORE be it resolved that the Board of Directors of the Anchorage Convention & Visitors Bureau supports House Bill 217 as a measure that will both protect and enhance Alaska tourism businesses.

Approved on this, the 30th day of March, 2007.

ATTESTED BY:


Dave Karp
Chair


Bruce Bustamante
President & CEO

Alaska State Legislature
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Representative Lindsey Holmes
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The following additional letters of support were received for HB 217:

1. **Betsey Burdett of Southeast Exposure (Ketchikan)**
2. **Ethan Tyler of Kenai Fjords Tours/Prince William Sound Cruises and Tours (Anchorage)**
3. **Bart Henderson of Chilkat Guides (Haines)**
4. **Fred Drake of Snorkel Alaska (Ketchikan)**
5. **Rob Scheer of Experience Alaska Tours (Ketchikan)**
6. **Rob Scheer of The Great Alaskan Lumberjack Show (Ketchikan)**
7. **Len Laurance of Alaska Rain Forest Sanctuary (Ketchikan)**
8. **Karen Hess of Chilkat River Adventures (Haines)**
9. **Brien Salazar of Taquan Air (Ketchikan)**
10. **Kris Singstad of Alaska Canopy Adventures (Ketchikan)**
11. **Mike Cooney of Alaska Canopy Adventures (Ketchikan)**
12. **Carole Tallman of Four Seasons Marine Services (Auke Bay)**
13. **Loren Gerhard of Four Seasons Marine Services (Auke Bay)**
14. **Kerry and Joyce Town of Canal Marine and Oceanside RV (Haines)**
15. **Vyonne Zartman (Haines)**
16. **Laurie Booyse of Allen Marine Tours (Ketchikan)**
17. **John Dunlap of Allen Marine Tours (Sitka)**
18. **Jim Collins of Allen Marine Tours (Auke Bay)**
19. **Greg Cushing of Allen Marine Tours (Sitka)**
20. **Amanda Painter of Allen Marine Tours (Ketchikan)**
21. **Dot Wilson of Coastal Helicopters**

22. **Mike and Sydnie Wallisch of Alaska Adventures Unltd. & Southeast Sportfishing
(Sitka)**
23. **Bob and Christy Fowler of the Pioneer Bar and Bambo Room Restaurant
(Haines)**
24. **Steve Judd of Alaska Tour & Travel (Anchorage)**
25. **Chris Anderson of Glacier Brewhouse and Orso (Anchorage)**
26. **Bruce Bustamante of Anchorage Convention and Visitor's Bureau (Anchorage)**
27. **Drew Green of A.J. Juneau Dock (Ketchikan)**
28. **Jack Cadigan of Cadigan Enterprises**
29. **Stan Stephens of Stephens Cruises and Wildlife Tours (Valdez)**
30. **Kelli Dindinger of Alaska Travel Adventures (Juneau)**
31. **Janis Horton of Chilkoot Lake Tours (Haines)**
32. **Anna Neidig ATIA (Anchorage)**
33. **C.D. & Kathleen McCurry of Copper Moose B&B Copper Center**
34. **Scott Laird of USTravel**
35. **Shirley Laird of ATIA (Anchorage)**
36. **Tory Korn of Cape Fox Tours (Ketchikan)**
37. **Kari Christman of Era Helicopters (Wasilla)**
38. **Jim Shook (Haines)**
39. **Chris von Imhof of Alyeska Resort (Girdwood)**
40. **John Lucas of Wings Airways**
41. **Kari Erickson of Gray Line of Alaska (Ketchikan)**
42. **Mark Miller (Anchorage)**
43. **Jeremy Gieser of Gastineau Guiding (Juneau)**
44. **Sherry Aitken (Sitka)**

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

BALLOT LANGUAGE

This initiative would impose a \$46 per person per voyage tax on large cruise ships to pay for vessel services. It would provide for the proceeds from the tax to be deposited in the state general fund and, subject to appropriation by the legislature, distributed to municipalities. It would levy a tax on cruise ship gambling activities in state waters. It would change the way cruise ship corporate income tax is calculated. It would require cruise ship operators to gather and report more information, and get a new type of permit for sewage, graywater or other wastewater before discharging in state marine waters. It would assess a \$4 per passenger berth fee and require large cruise ships to have state-employed marine engineers (Ocean Rangers) licensed by the Coast Guard to observe health, safety and wastewater treatment and discharge operations. It would authorize citizen lawsuits against an owner or operator of a large cruise ship, or against the Department of Environmental Conservation, for an alleged violation of any permit condition, provision of environmental statutes or performance of duties. It would also enable a person who provides information leading to enforcement of the law to receive 25 to 50 percent of fines imposed. It would impose additional requirements on disclosures about on-ship promotions of shore-side businesses.

SHOULD THIS INITIATIVE BECOME LAW?

- Yes
 No

LEGISLATIVE AFFAIRS AGENCY SUMMARY

Part of this bill is about cruise ship taxes. It imposes a \$46 a person tax on cruise ship passengers. That money goes into a special account in the state's general fund. The legislature may appropriate part of that money to the vessel's ports of call. But, towns that receive that money cannot impose local cruise ship head taxes. The bill also taxes gambling on cruise ships. The tax is 33 percent of the cruise ship's adjusted gross income from the gambling. The bill changes the state's corporate

income tax law so it could be applied to cruise ships.

The bill also changes environmental laws that apply to cruise ships. It requires wastewater discharge permits for cruise ships. It sets minimum standards and conditions for use of those permits. It prohibits wastewater discharges without a permit. It changes the monitoring and record keeping requirements for wastewater discharges. It establishes a new ocean ranger program. A ranger is a marine engineer. It requires each cruise ship to have a ranger on board. The ranger is an independent observer. The ranger monitors compliance with pollution laws. The bill imposes a four-dollar fee per berth for operating the ranger program. It gives private citizens the right to sue for discharge violations. It also establishes financial penalties for violations of environmental laws.

Finally, the bill regulates sales on cruise ships. Persons paid to mention or promote a business in a state port must say they are paid. Written materials must also say that the person is paid. Persons selling tours and other shore-side activities on board a cruise ship must disclose how much they are paid for each sale. A seller must give the address and phone number of the shore-side business if asked. It makes violation of these laws an unfair trade practice.

STATEMENT OF COSTS AND REVENUES FOR BALLOT MEASURE 2 - INITIATIVE 03CTAX - Prepared by the Alaska Department of Revenue

As required by AS 15.58.020(b), the Alaska Department of Revenue has prepared the following statement of costs to the Department of implementing the law proposed in Ballot Measure 2 - Initiative 03CTAX.

COSTS

In order to administer the tax collection process required by this initiative, the Department of Revenue would require six new positions, at an estimated cost of \$626,000 per year for staff and associated costs.

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

REVENUES

This initiative would impose an excise tax of \$46 per passenger per voyage on travel on commercial passenger vessels with 250 or more berths, and a "Ranger fee" of \$4 per passenger berth.

We assume that 2007 cruise ship activity will be similar to the scheduled 2006 cruise ship activity. We cannot predict whether the excise tax might impact the number of passengers.

Assuming the ships sail at 100 percent capacity, we estimate the \$46 per passenger excise tax would be applied to approximately 900,000 passengers in the 2007 season, resulting in revenue of approximately \$41 million. About \$14 million of that revenue would be shared with municipalities at which the cruise ships stopped. Twenty-five percent of the total, or approximately \$10 million, would be placed in a "Regional Cruise Ship Impact Fund," to be distributed to other affected municipalities. The \$4 per berth Ranger fee would bring in approximately \$3.6 million.

Net revenues to the state, after deducting costs for the Departments of Revenue and Environmental Conservation, and deducting the \$24 million in shared revenues cited above, would be approximately \$14.4 million.

This initiative would impose a tax of 33 percent of the adjusted gross income from operation of gaming or gambling activities on ships operating in Alaskan waters.

The Department has no data on the extent or profitability of cruise ship gaming in Alaskan waters, and therefore cannot calculate revenues from the proposed gaming tax.

This initiative would also change the way the corporate income tax is calculated for the cruise ship industry. The Department does not have adequate data to estimate the effects of this change on corporate income tax revenue.

STATEMENT OF COSTS FOR BALLOT MEASURE 2 - INITIATIVE 03CTAX- Prepared by the Alaska Department of Environmental Conservation

As required by AS 15.58.020(b), the Alaska Department of Environmental Conservation ("DEC") has prepared the following statement of costs to the Department of implementing the law proposed in Ballot Measure 2 Initiative - 03CTAX.

The initiative would require DEC to develop and maintain a new permit program for Large Commercial Passenger Vessels ("cruise ships") to replace the current program for regulating these vessels. It would also require DEC to place marine engineers ("Ocean Rangers") licensed by the Coast Guard on the cruise ships to monitor compliance with State and Federal environmental laws. Two marine engineers working alternating twelve-hour shifts would be placed on each cruise ship operating in Alaska waters.

The cost to the state during the first full year of the implementation of this initiative is estimated to be approximately \$5.6 million.

FULL TEXT OF THE PROPOSED LAW

FOR AN ACT PROVIDING FOR TAXATION OF CERTAIN COMMERCIAL SHIP VESSELS, PERTAINING TO CERTAIN VESSEL ACTIVITIES and RELATED TO SHIP VESSEL OPERATIONS TAKING PLACE IN THE MARINE WATERS OF THE STATE OF ALASKA

Be it enacted by the People of the State of Alaska:

* Section 1. AS 43 is amended by adding a new chapter to read:

Chapter 52. Excise Tax on Travel Aboard Commercial Passenger Vessels.

Sec. 43.52.010. Levy of excise tax on overnight accommodations on commercial passenger vessels. There is imposed an excise tax on travel on commercial passenger vessels providing overnight

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

accommodations in the state's marine water.

Sec. 43.52.020. Rate of tax. The tax imposed by AS 43.52.010 - 43.52.095 is levied at a rate of \$46 a passenger per voyage.

Sec. 43.52.030. Liability for payment of tax. A passenger traveling on a commercial passenger vessel providing overnight accommodations in state marine water is liable for the tax imposed by AS 43.52.010 -- 43.52.095. The tax shall be collected and is due and payable to the department

(1) by the person who provides travel aboard a commercial vessel for which the tax is payable; and

(2) in the manner and at the times required by the department by regulation.

Sec. 43.52.040. Disposition of receipts.

(a) The proceeds from the tax on travel on commercial passenger vessels providing overnight accommodations in the state's marine water shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund. The legislature may appropriate money from this account for the purposes described in (b) and (c) of this section, for state-owned port and harbor facilities, other services to properly provide for vessel or watercraft visits, to enhance the safety and efficiency of interstate and foreign commerce and such other lawful purposes as determined by the legislature.

(b) For each voyage of a commercial passenger vessel providing overnight accommodations, the commissioner shall identify the first five ports of call in the state and the number of passengers on board the vessel at each port of call. Subject to appropriation by the legislature, the commissioner shall distribute to each port of call \$5 per passenger of the tax revenue collected from the tax levied under this chapter. If the port of call is a city located within a borough not otherwise unified with the borough, the commissioner shall, subject to appropriation by the legislature, distribute \$2.50 per passenger to the city and \$2.50 to the borough. Each port of call receiving funds under this section shall use the funds in a manner calculated to improve port and harbor facilities and other services to properly provide for vessel or water craft visits

and to enhance the safety and efficiency of interstate and foreign commerce.

(c) A "Regional Cruise Ship Impact Fund" consisting of 25% of the proceeds from the tax on travel aboard commercial passenger vessels providing overnight accommodations in the state's marine water shall be established as sub-account of the funds established in (a), above, and deposited in the general fund. Subject to appropriation by the legislature and regulations adopted by the Department of Revenue, the commissioner shall distribute funds to municipalities or other governmental entities within the Prince William Sound Region, Southeast Alaska or any other distinctive region impacted by cruise ship related tourism activities but not entitled to receive funds based on port of call visitation as allowed by (b), above, provided that any funds used from this account shall be used to provide services and infrastructure directly related to passenger vessel or water craft visits or to enhance the safety and efficiency of interstate and foreign commerce related to vessel or water craft activities.

Sec. 43.52.050. Administration.

(a) The department shall

(1) administer this chapter; and

(2) collect, supervise, and enforce the collection of taxes due under this chapter and penalties as provided in AS 43.05.

(b) The department may adopt regulations necessary for the administration of this chapter.

Sec. 43.52.060. Local levies. Any municipality, whether home rule or general law, that receives passenger ship fee funds under this chapter may not impose an additional form of tax on travel on commercial passenger vessels engaged in activities involving overnight accommodations for passengers in state marine waters. Any form of tax on travel on commercial passenger vessels engaged in activities involving overnight accommodations for passengers in state marine waters enacted by a municipality, whether home rule or general law, prior to the effective date of this legislation shall expire one year after enactment of this law if that municipality elects to receive funds under this chapter.

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

Sec. 43.52.095. Definitions. In this chapter, (1) "commercial passenger vessel" means a boat or vessel that is used in the common carriage of passengers in commerce; "commercial passenger vessel" does not include

(A) vessels with fewer than 250 berths or other overnight accommodations for passengers;

(B) noncommercial vessels, warships, and vessels operated by the state, the United States, or a foreign government;

(2) "marine water of the state" and "state marine water" have the meaning given to "waters" in AS 46.03.900, except that they include only marine waters.

(3) "passenger" means a person whom a common carrier has contracted to carry from one place to another.

(4) "voyage" means any trip or itinerary lasting more than 72 hours.

* **Sec. 2.** AS 05, is amended by adding a new chapter to read:

Chapter 16. Games of Chance and Contests of Skill on Ships Operating on Waters Within the Jurisdiction of Alaska.

Sec. AS 05.16.010. Gambling activities aboard commercial vessels purportedly authorized by federal law. This chapter applies to the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended for gaming or gambling used in the waters under the jurisdiction of the State of Alaska on a voyage described in 15 U.S.C. Section 1175(c)(2), and to any other gambling activities taking place aboard large passenger vessels in the state.

Sec. AS 05.16.020. Tax on gambling activities authorized by AS 05.16.010. There is imposed on the operator of a gaming or gambling activities aboard large passenger vessels in the state a tax of 33% of the adjusted gross income from those activities. "Adjusted gross income" means gross income less prizes awarded and federal and municipal taxes paid or owed on the

income. The tax shall be collected and is due and payable to the department of revenue in the manner and at the times required by the department of revenue.

Sec. 05.16.030. Disposition of receipts. (a) The proceeds from the tax on gambling operations aboard commercial passenger vessels in the state's marine water shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund.

* **Sec. 3.** AS 43.20.021 is repealed and reenacted as follows:

Sec. 43.20.021(a). Internal Revenue Code adopted by reference. (a) Sections 26 U.S.C. - 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are adopted by reference as a part of this chapter. These portions of the Internal Revenue Code have full force and effect under this chapter unless excepted to or modified by other provisions of this chapter.

(b) Nothing in this chapter or in AS 43.19 (Multistate Tax Compact) may be construed as an exception to or modification of 26 U.S.C. 883.

(c) The provision in (b), above, does not apply to commercial passenger vessels as defined in AS 43 52.095.

* **Sec 4.** AS 46.03.462 is repealed and re-enacted as follows:

Sec. 46.03.462. Terms and conditions of discharge permits. (a) An owner or operator may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless the owner or operator obtains a permit under AS 46.03.100, which shall comply with the terms and conditions of vessel discharge requirements specified in (b) of this section.

(b) The minimum standard terms and conditions for all discharge permits authorized under this provision require that the owner or operator:

(1) may not discharge untreated sewage, treated sewage, graywater, or other waste-

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

waters in a manner that violates any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge;

(2) shall maintain records and provide the reports required under AS 46.03.465(a);

(3) shall collect and test samples as required under AS 46.03.465(b) and (d) and provide the reports with respect to those samples required by AS 46.03.475(c);

(4) shall report discharges in accordance with AS 46.03.475(a);

(5) shall allow the department access to the vessel at the time samples are taken under AS 46.03.465 for purposes of taking the samples or for purposes of verifying the integrity of the sampling process; and

(6) shall submit records, notices, and reports to the department in accordance with AS 46.03.475(b), (d), and (e).

* Sec. 5. AS 46.03.463 is amended to read as follows:

Sec. 46.03.463(d) is repealed.

Sec. 46.03.463(e) is repealed and reenacted to read: An owner or operator may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless the owner or operator obtains a permit under AS 46.03.100 and AS 46.03.462, and provided that the vessel is not in an area where the discharge of treated sewage, graywater or other wastewaters is otherwise prohibited.

Sec. 46.03.463(g) is repealed.

* Sec 6. AS 46.03.465 repealed and reenacted to read as follows:

Sec. 46.03.465. **Information-gathering requirements.** (a) The owner or operator of a commercial passenger vessel shall maintain

daily records related to the period of operation while in the State, detailing the dates, times, and locations, and the volumes and flow rates of any discharges of sewage, graywater, or other waster into the marine waters of the State, provide electronic copies of such records on a monthly basis to the department no later than 5 days after each calendar month of operation in State waters.

(b) while a commercial passenger vessel is present in the marine waters of the State, the owner or operator of the vessel shall provide an hourly report of the vessel's location based on Global Positioning System technology and collect routine samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into marine waters of the State with a sampling technique approved by the department.

(c) while a commercial passenger vessel is present in the marine waters of the State, the Department, or an independent contractor retained by the Department, may collect additional samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into the marine waters of the State.

(d) the owner or operator of a vessel required to collect samples under (b) of this section shall ensure that all sampling techniques and frequency of sampling events are approved by the department in a manner sufficient to ensure demonstration of compliance with all discharge requirements under AS 46.03.462.

(e) the owner or operator of a commercial passenger vessel shall pay for all reporting, sampling and testing of samples under this section.

(f) if the owner or operator of a commercial passenger vessel has, when complying with another state or federal law that requires substantially equivalent information required under (a), (b), or (d) of this section, the owner or operator shall be considered to be in compliance with that subsection so long as the information is also provided to the department.

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* Sec. 7. AS 46.03 is amended to include new provisions as follows:

Sec. 46.03.476. Ocean Rangers. (a) An owner or operator of a large commercial passenger vessel entering the marine waters of the state is required to have a marine engineer licensed by the United States Coast Guard hired or retained by the department on board the vessel to act as an independent observer for the purpose of monitoring state and federal requirements pertaining to marine discharge and pollution requirements and to insure that passengers, crew and residents at ports are protected from improper sanitation, health and safety practices.

(b) The licensed marine engineer shall monitor, observe and record data and information related to the engineering, sanitation and health related operations of the vessel, including but not limited to registration, reporting, record keeping and discharge functions required by state and federal law.

(c) Any information recorded or gathered by the licensed marine engineer shall be promptly conveyed to the Alaska Department of Environmental Conservation and the United State Coast Guard on a form or in a manner approved by the Commissioner of Environmental Conservation. The Commissioner may share information gathered with other state and federal agencies.

46.03.481. Citizens suits. (a) Any citizen of the State of Alaska may commence a civil action

(1) against an owner or operator of a large passenger vessel alleged to have violated any provision of this chapter, or

(2) against the department where there is an alleged failure to perform any act or duty under this chapter which is not discretionary. No civil action may be commenced under this section, however, prior to 45 days after the plaintiff has provided written notice of the intent to sue to the Attorney General of Alaska.

(b) Subject to appropriation, as necessary, up to 50% and not less than 25% of any fines, penalties or

other funds recovered as a result of enforcement of this chapter shall be paid to the person or entity, other than the defendant, providing information sufficient to commence an investigation and enforcement of this chapter under this provision.

* Sec. 8. AS 46.03.480 is amended as follows:

Sec. 46.03.480 is amended by adding a new section to read:

(d) An additional fee in the amount of \$4.00 per berth, is imposed on all large commercial passenger vessels, other than vessels operated by the state, for the purpose of operating the Ocean Ranger program established in AS 46.03.476; said program shall be subject to legislative appropriation.

Sec. 46.03.480(d) shall be repealed and reenacted as 46.03.480(e).

* Sec. 9. AS 46.03.760 is amended as follows:

Sec. AS 46.03.760 is amended by adding a new section to read:

(f) An owner, agent, employee or operator of a commercial passenger vessels as defined in AS 43.52.095 who falsifies a registration or report required by AS 46.03.460 or 46.03.475 or who violates or causes or permits to be violated a provision of AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under AS 46.03.250 - 46.03.314, 46.03.460 - 46.03.490, or AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$5000 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics

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of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality; for a violation relating to AS 46.14, the court, in making its determination under this paragraph, shall also consider the degree to which the discharge causes harm to persons or property; this paragraph may not be construed to limit the right of parties other than the state to recover for personal injuries or damage to their property;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future noncompliance.

Sec. 46.03.760(f) shall be repealed and reenacted as 46.03.760(g).

* Sec. 10. AS 45.50.474 is repealed and reenacted to read as follows:

Sec. 45.50.474. Required disclosures in promotions and shore side sales on board cruise ships. (a) A person may not conduct a promotion on board a cruise ship that mentions or features a business in a state port that has paid something of value for the purpose of having the business mentioned, featured or otherwise promoted, unless the person conducting the promotion clearly and fully discloses orally and in all written materials used in the promotion that the featured businesses have paid to be included in the promotion. All such written notice of disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated to draw attention to the disclosure.

(b) A person or other entity aboard a cruise ship conducting or making a sale of tours, flightseeing operations or other shore-side activities to be delivered by a vendor or other entity at a future port of call shall disclose, both orally and in writing,

the amount of commission or percentage of the total sale retained or returned to the person making the sale. The person or entity aboard a cruise ship making or attempting to make a sale of services or goods provided by a shore-side vendor shall disclose the address and telephone number of the shore side vendor if asked by a consumer. All such written notice of disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated to draw attention to the disclosure.

(c) Each violation of this section constitutes an unfair trade practice under AS 45.50.471, and shall result in a penalty of not more than \$100 for each violation. In this section, "cruise ship" means a ship that operates at least 48 hours in length for ticketed passengers, provides overnight accommodations and meals for at least 250 passengers, is operated by an authorized cruise ship operator, and is certified under the International Convention for the Safety of Life at Sea or otherwise certified by the United States Coast Guard.

* Sec. 11. Severability. It is the intention of the people of Alaska that any portion of this legislation that is declared unlawful shall be stricken in a manner that preserves the remaining portion of the remaining legislation to the maximum extent possible.

* Sec. 12. Effective Date. This Act takes effect 90 days after enactment.

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CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

STATEMENT IN SUPPORT

The cruise lines should follow Alaska's taxation and pollution rules like everyone else. This initiative protects our fisheries and helps pay for cruise ship impacts on Alaskan communities by establishing/requiring:

1. **\$50 passenger tax** - Alaskans pay tourism taxes when traveling Outside and independent tourists pay taxes on rental cars and lodging in Alaska. Cruise passengers willingly pay similar fees throughout the world. A typical cruise, including tickets, airfare, shopping, tours, gambling, and alcohol, costs over \$3000. A \$50 fee won't make people choose a cruise to New Jersey - therefore there will be no negative impact on Alaska's tourism economy. Federal law requires the funds be spent "servicing the industry," for example, maintaining ports and harbor infrastructure. This tax will help SUPPORT the Alaska tourism economy. Communities preferring their own tax program can opt out of the statewide program.

2. **Meet Alaska Water Quality Standards** - Alaskans need clean water and healthy fish. Cruise ships are the only major polluters not required to have a discharge permit and meet ALL Alaska water quality standards. Everyone else has a permit; no new permitting program is necessary. Nearly every major cruise line has felony convictions for dumping, tampering with pollution control equipment, or falsifying documents to the Coast Guard. This initiative places an independent marine engineer observer on every ship (paid through the passenger tax) to monitor discharges, inspect equipment, and verify logbook entries. The cruise lines have proven they cannot be trusted to help keep Alaska's waters clean and productive.

3. **End tax evasion** - All legal gambling operations in Alaska, except those on cruise ships, pay 1/3 of their profits to charity or in tax. Lucrative cruise line casino operations in Alaska pay nothing. Alaska corporations pay Corporate Income Tax. The cruise industry lobbied for and was granted a specialized income tax exemption for revenue from foreign

registered ships. Under the initiative, the cruise lines will pay the same taxes that local businesses and U.S. registered vessels pay on their income and gambling profits.

4. **Support local businesses** - Since 1994, Alaska law has required oral and written disclosure to passengers by cruise lines when they receive commissions for promoting shore-based tours/businesses. Cruise line promotions are presented as "advice" when they are really "advertisements." This is unfair to local businesses that can't afford the steep, advertising commission. This initiative will require cruise lines to disclose the size of their commissions which will help local businesses compete for tourism dollars. No local businesses will have to report anything.

The cruise lines are "selling" Alaska - while impacting our docks, roads, public facilities, wildlife, and the quality of our lives. This initiative will do nothing to turn visitors away; it will help keep our tourism industry sustainable while protecting the needs of all Alaskans. The Miami/Vancouver-based cruise lines make billions in profits by registering their ships in third world countries to avoid paying U.S. income taxes and wages. The cruise lines can easily afford to play by Alaska's rules like everyone else.

Please vote YES on Ballot Measure 2!

RESPONSIBLE CRUISING IN ALASKA

Gershon Cohen
Haines, Alaska

Joe Geldhof
Juneau, Alaska

Ballot Measure 2

CRUISE SHIP TAXATION, REGULATION AND DISCLOSURE

STATEMENT IN OPPOSITION

**Vote "No" on Ballot Measure 2
It just doesn't make sense!**

Dear fellow Alaskans,

Ballot Measure 2 is a direct attack on Alaska's economy. It will hurt our tourism industry -- a growing industry and the 4th largest employer of Alaskans. Additional taxes, lost jobs and more lawsuits in Alaska are not the answer. **Ballot Measure 2 deserves a "No" vote on August 22nd.**

The Alaska State Chamber of Commerce, Anchorage Chamber of Commerce, City of Fairbanks, Associated General Contractors of Alaska, Southeast Conference, Alaska Travel Industry Association, Resource Development Council, Juneau Chamber of Commerce, City of Skagway and the Ketchikan Chamber of Commerce and several hundred others all oppose Ballot Measure 2 because it's bad for Alaska.

Measure 2 will:

Mandate four additional new taxes including a state wide head tax of \$50 per person, \$100 per couple, and \$200 for an average family of four. Rising oil prices are driving up the cost of living, which has reduced all travelers' budgets. Imposing more taxes and fees on top of the other additional travel costs will keep tourists away and hurt our economy instead of helping it.

Force the disclosure of confidential business information about Alaska's local small businesses to competitors including those in the lower 48. No other business in Alaska is required to disclose this type of information. Forced disclosure would reduce the pre-purchase of tours and excursions, hurting Alaska businesses.

Raise costs and discourage tourism to Alaska. Tourists already pay millions of dollars in taxes and fees on their plane tickets, hotels, restaurants, tours and shopping. Additionally, there are more than 26,000 local jobs provided

by the tourism industry contributing tens of millions of dollars to our strong economy. Measure 2 would increase costs, discourage tourism and reduce spending at our local businesses.

Open the door and create new motives for lawyers to file predatory lawsuits. Lawyers will be allowed to file suit and collect up to 50% of any fines collected. Out-of-state attorneys will line up and flood Alaska's court systems with frivolous lawsuits. The Measure would even allow individuals to sue the state of Alaska.

Increase the amount of bureaucratic red tape, bureaucracy and size of state government in Alaska. Measure 2 creates a new layer of state bureaucracy, red tape, paperwork and unnecessary government regulations that don't provide any additional benefits to Alaskans or the environment. Increasing the number of state bureaucrats, cost of state government and the amount of red tape doesn't solve anything.

Tourism is over a \$2 billion dollar industry in Alaska. Attacking the tourism industry through Measure 2 and attempting to pass more taxes, unnecessary and redundant government regulations, and tourism disincentives is the wrong move.

Threatening Alaska's economy, over 26,000 local jobs and thousands of small businesses across the state isn't the answer.

Also endorsing this letter: Mayor Bob Weinstein, City of Ketchikan; Chris Anderson, ORSO and Glacier BrewHouse - Anchorage

Vote "No" on Ballot Measure 2.

**Carol Fraser
Aspen Hotels of Alaska**

**Steve Frank
Rivers Edge Resort in Fairbanks**

**Marc Langland
President Fiscal Policy Council of Alaska**