

HB

208

Alaska State Legislature
House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-3438 (phone)
1-888-478-3438 (toll free)
1-907-465-4565 (fax)



Interim Address:
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0100
(fax) 1-907-269-0105

Representative Harry T. Crawford, Jr.

East Anchorage District 21

E-mail: Representative_Harry_Crawford@legis.state.ak.us

Website www.akdemocrats.org

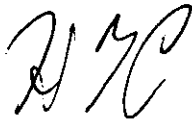
MEMORANDUM

To: Rep Bob Herron, Co-chair
House Community and Regional Affairs Committee

From: Representative Harry Crawford

Re: Scheduling Request, House Bill 208

Date: April 1, 2009



Please schedule a hearing for HB 208 at your earliest convenience. This is the bill entitled "An act relating to taxes for certain activities on large passenger ships; and providing for an effective date."

The bill will repeal the portion of the 2006 Cruise Ship initiative that taxes onboard gambling.

Please contact me if you have any questions or require any additional information.

Chapter 35. Gaming and Gambling on Passenger Vessels.

Section	Section
200. Gambling activities aboard commercial vessels purportedly authorized by federal law	220. Disposition of receipts
210. Tax on gambling activities authorized by AS 43.35.200	

Editor's notes. — Section 11, 2006 Primary Election Ballot Measure No. 2, part of the initiative that enacted AS 43.35.200 — 43.35.220 (formerly AS 05.16), provides that “[I]t 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.”

Secs. 43.35.010 — 43.35.070. Amount of tax; administration; distributor fees; operation by a minor; distribution of tax; orders and regulations; gambling not legalized. [Repealed, § 2 ch 39 SLA 1998.]

Sec. 43.35.080. Penalties. [Repealed, § 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290.]

Sec. 43.35.090. Definitions. [Repealed, § 2 ch 39 SLA 1998.]

Secs. 43.35.100 — 43.35.150. License tax; regulations and orders; manner of paying tax; refund to local governments; gambling not legalized; violations and penalties. [Repealed, § 2 ch 39 SLA 1998.]

Sec. 43.35.200. Gambling activities aboard commercial vessels purportedly authorized by federal law. AS 43.35.200 — 43.35.220 apply 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. 1175(c)(2), and to any other gambling activities taking place aboard large passenger vessels in the state (§ 2, 2006 Primary Election Ballot Measure No. 2)

Revisor's notes. — Formerly AS 05.16.010. Renumbered in 2008, at which time “AS 43.35.200 — 43.35.220 apply” was substituted for “This chapter applies”.

Sec. 43.35.210. Tax on gambling activities authorized by AS 43.35.200. The tax imposed on the operator of gaming or gambling activities aboard large passenger vessels in the state a tax of 33 percent 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. (§ 2, 2006 Primary Election Ballot Measure No. 2)

Revisor's notes. — In 2006, “a” was deleted following “operator of” in the first sentence to correct a grammatical error in 2006 Ballot Measure No. 2. Formerly AS 05.16.020. Renumbered in 2008.

Sec. 43.35.220. Disposition of receipts. The proceeds from the tax on gaming and gambling operations aboard commercial passenger vessels in the state’s marine waters shall be deposited in a special “commercial vessel passenger tax account” in the general fund (§ 2, 2006 Primary Election Ballot Measure No. 2)



Representative Harry Crawford
House District 21

HB 208

An Act relating to taxes for certain activities on large passenger ships; and providing for an effective date

Sponsor Statement

Alaskan law does not allow for-profit gambling. The intent of HB 208 is for the state to honor that choice by not deriving any benefit from gambling. There is significant concern that taxation of cruise ship onboard gambling could be used as a loophole to allow other gambling ventures including full-scale casinos to open in Alaska.

In other states, tribal and other private organizations have been able to build casinos based upon loopholes in their state statutes which allowing limited gaming such as Monte Carlo Nights. Alaska banned Monte Carlo Nights to prevent this from happening here.

Cruise ships spend much of their time within state waters. When Gov. Hickel moved to limit onboard gambling in the 1990's he was usurped by a federal law passed by Senator Stevens. Through 2006, gambling occurred onboard as long as vessels were out of port, but the state had no regulatory or financial role.

With the passage of the cruise ship initiative in 2006, Alaska began collecting a 33% tax on cruise gambling profits. Last year this amounted to about \$6 million, or 9% of total revenue from the initiative.

Alaska's taxation of for-profit gambling could be interpreted by the courts as implicit acceptance of the activity. It could potentially be used by the gaming industry to try and force Alaska to permit tremendous expansion in onshore gambling.

HB208 will repeal those portions of the initiative that contain the gambling tax. This amount of revenue allowed is not worth the potential risk to our state. Please support me in helping pass this important legislation.



Representative Harry Crawford
House District 21

Current Statutes That Will Be Repealed by HB 208

Sec. 43.35.200. Gambling activities aboard commercial vessels purportedly authorized by federal law.

AS 43.35.200 - 43.35.220 apply 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. 1175(c)(2), and to any other gambling activities taking place aboard large passenger vessels in the state.

Sec. 43.35.210. Tax on gambling activities authorized by AS 43.35.200.

There is imposed on the operator of gaming or gambling activities aboard large passenger vessels in the state a tax of 33 percent 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. 43.35.220. Disposition of receipts.

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.

**INITIATIVE PETITION BILL LANGUAGE
by Petition Sponsors**

Petition ID: 03CTAX

**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**

Posted 7/13/06

Proposed Bill:

**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. 42.52.010. 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 accommodations in the state's marine waters.

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) (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) "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.

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. 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 wastewaters 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 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 of 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.

***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 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.

Section 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.

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



Representative Harry Crawford
House District 21

There are Five major parts of the 2006 Cruise Ship Initiative

Two of them have already been modified by enacted bills:

- HB 134 passed in 2009, modified the environmental discharge rules in Sections 4-9
- HB 217, passed in 2007, modified the rules for disclosing commissions paid to cruise lines by on-shore excursions and tours (Section 10)

Two others have pending bills:

- HB 208 would eliminate Section 2, the gambling tax
- HB 167 would give a tax credit against the state corporate income tax (imposed on cruise lines by Section 3) for voluntary contributions to the state tourism marketing entity

Only one does not have an attempted change:

- Section 1, the \$50 Head Tax. A bill that would have modified this, HB 222, was withdrawn by the sponsor in 2008



Representative Harry Crawford House District 21

Why We Need HB 208; A Brief Legal History

The “big picture” legal issue here originally had to do with the limits of state power to regulate certain tribal activity. Specifically, what are the limits on tribally-managed gambling on cooperatively owned native land held in trust by the federal government? In the lower 48, this primarily means Indian reservations. Legally and administratively these areas function in many ways like small sovereign nations within a state, and there is a long legal history of establishing the limits on what a state government can require or restrict on that land.

In **Bryan v Itasca County** (MN), 1976 (US Supreme Court), a property tax case, Justice Brennan’s opinion highlighted tribal independence from state regulatory authority. It is widely cited as the foundation decision of modern Indian gaming. Beginning in the 1970s, tribes in several states started operating high stakes bingo halls in open non-compliance with state law.

The other key historical decision was **California v Cabazon Band of Mission Indians**, 1987 (US Supreme Court). This established the inherent right of tribes to conduct Indian gaming as an essential element of self government.

In response to the Cabazon case, Congress passed the **Indian Gaming Regulatory Act of 1988 (IGRA)**. This established the three “classes” of gaming that we use today. It also explicitly recognized the role of tribal gaming for local economic development and self sufficiency. The Act created a National Indian Gaming Commission, which directly regulated Class 2 gaming (bingo), and required state-tribal compacts to regulate Class 3 gaming (slots, casinos, etc). Since this act, tribal gambling revenue increased from \$100 million in 1988 to \$16.7 billion in 2006.

In the section of the IGRA dealing with Class 3 gaming, it specifies that a state-tribal compact must allow a particular sort of gambling if the state “**permits such gaming for any purpose by any person, organization, or entity.**” This language was used by the Mashantucket Pequot Tribe of Connecticut, who in 1992 expanded their small bingo hall into the Foxwoods Casino. Connecticut, at the time, allowed non-profit “Monte Carlo Nights.” Foxwoods is now the third largest casino in the world.

In 1995, the Alaska Legislature banned non-profit “Monte Carlo Nights,” largely in fear of the same sort of development here. Fur Rendezvous had previously run a large Monte Carlo night as a fundraiser. There was also a casino proposal in Klawock at the time.

With the exception of cruise ships operating offshore under federal law, there is no legal authority for any casino-style gambling in Alaska, whether for-profit or non-profit. The state’s taxation of cruise ship gambling creates a potentially dangerous loophole.

Tribal gambling in Alaska? Not yet, but it's one step closer

By Tom Kizzia Daily News reporter

The Venetie decision does not open the door to Native casinos in Alaska. But recognition of Indian country in Alaska would be one step toward the kind of tribal-run gambling that has become a phenomenon across the Lower 48. Indian country also would allow statewide tribal lotteries and let tribes operate lesser games, mainly pull-tabs and bingo, without state permits.

As in other areas, Congress sets the rules for gambling in Indian country. Under the Indian Gaming Regulatory Act of 1988, Native Americans can operate casino-type gambling only in states where such activity is legal.

In 1994, the Southeast Alaska village of Klawock proposed a casino on a fragment of village land held in trust by the federal government. In response, the Legislature passed a law revoking the authority for nonprofit groups to hold Monte Carlo nights with roulette, cards and other casino games. That closed the door to Klawock.

The Venetie ruling makes it possible for any tribe that can establish Indian country to qualify for a casino operation, but only if the Legislature votes to make such gambling legal in Alaska. The Legislature did not eliminate lotteries when it banned the other games, however. The state and Klawock are still negotiating over a tribal lottery, said assistant attorney general Vince Usera.

Among the unsettled issues: could a lottery ticket be purchased by credit card or mail, or would the buyer have to travel to Indian country? The issue is an important one in Alaska, where few Native communities are near the state's urban populations.

One such group, the Kenaitze tribe, has applied to the federal government for permission to set up gaming on a Native allotment off Beaver Loop Road in Kenai.

Tribes with Indian country will be free to operate "Class 2" gaming -- pull-tabs and bingo -- without restrictions by the state, Usera said.

The effects of such a change would be relatively minor, Usera said. The games would not be subject to the state's limits on prizes -- for instance, a \$1,000-a-card maximum prize for bingo -- and the state would lose some of the nearly \$2 million it now collects each year statewide in tax revenues from charitable gaming.

Meanwhile, several Native villages have started running bingo games without state permits. This creates enforcement headaches of the type the state may eventually face in Indian country on other matters. A few months ago, in Akiachak, for example, a widely advertised bingo weekend with prizes up to \$3,500 a card drew players from

neighboring villages -- and complaints to the state from state-permitted bingo operations in those villages that lost their customers.

In Tununak, two rival Native governments had bingo games. The one with a state permit wanted the state to close down the other one, Usera said. In that case, he said, a threat of legal action was sufficient.

State law allows Alaska State Troopers to close down a building used for a "nuisance" such as illegal gambling, Usera said. But whether the state can enforce such a law in Indian country is unclear, he said.

*Copyright 1997 Anchorage Daily News.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 208
() Publish Date: _____

Identifier (File Name): HB208-DOR-TAX-04-04-09 Dept. Affected: Revenue 04
Title: Cruise Ship Gambling Taxes RDU: Taxation and Treasury
Component: Taxation and Treasury
Sponsor: Representative Crawford
Requester: (H) Community & Regional Affairs Component No.: 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	----------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	(3,400.0)	0.0	(6,200.0)	(6,200.0)	(6,200.0)	(6,200.0)	(6,200.0)
-------------------------------	------------------	------------	------------------	------------------	------------------	------------------	------------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Dan Stickel, Economist
Division: Tax Division
Approved by: Ginger Blaisdell, Director
Agency: Administrative Services Division

Phone: (907) 465-3279
Date/Time: 4/3/09 2:05 PM
Date: 4/4/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB 208

ANALYSIS CONTINUATION

Bill Language

This bill would repeal the Large Passenger Vessel Gambling tax. The tax is currently levied at the rate of 33% of adjusted gross income from gaming activities conducted in state waters, with revenue going to the General Fund. This bill has an immediate effective date, but returns are currently filed on a calendar year basis. For purposes of this analysis we assume that half of the voyages in calendar year 2009 (representing FY 2010 tax revenue) will be subject to the tax.

Revenue

For calendar year 2007, the latest year for which information is available, the Large Passenger Vessel Gambling tax generated \$6.8 million. With about 980,000 passengers in 2007 this was about \$6.90 per passenger. Calendar year 2008 set a record with over 1 million passengers, but the cruise industry has recently reported weak bookings for 2009 and capacity reductions for 2010. Therefore our revenue estimates assumes 993,000 passengers in 2009 and 893,000 passengers in 2010 and beyond. Estimates assume that tax per passenger will remain at about \$6.90 per passenger.

Expenditures

Because this bill repeals only one component of the Department's commercial passenger vessel program, it will not result in cost savings to the Department.