

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6724 SENATE TRANSPORTATION

7/28

S B

146

IN THE SENATE

BY SZYMANSKI, FAIKS AND PEARCE

SENATE BILL NO. 146

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act allowing gaming devices on ferries."

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

* Section 1. AS 19.65 is amended by adding new sections to read:

Sec. 19.65.030. GAMING DEVICES AUTHORIZED. (a) The Department of Revenue may license a vessel of the Alaska marine highway system to operate gaming devices in the portion of the vessel that is licensed under AS 04 to sell alcohol *Persons under 21 yrs of age are prohibited from entering*

(b) A license issued under (a) of this section is not valid when the vessel is in a jurisdiction outside of the state unless that jurisdiction also allows the licensed activity.

(c) The commissioner of revenue may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement this section.

Sec. 19.65.040. PROHIBITIONS ON GAMING DEVICE OPERATION; PENALTIES. (a) An employee of the Alaska marine highway system may not allow a person under 21 years of age to use a gaming device authorized under AS 19.65.030. A person under 21 years of age may not use a gaming device authorized under AS 19.65.030.

(b) A person may not manipulate or attempt to manipulate the outcome or payoff of a gaming device authorized under AS 19.65.030 by physically tampering or otherwise interfering with the proper functioning of the device.

(c) Violation of this section is a class A misdemeanor.

Sec. 19.65.050. The Department of Transportation and Public Facilities shall deposit receipts from the operation of gaming devices

1 under AS 19.65.030 in the general fund. The commissioner of adminis-
2 tration shall separately account for money deposited under this sec-
3 tion. The legislature may appropriate money in the account for the
4 operation of the Alaska marine highway system.

5 Sec. 19.65.060. DEFINITION FOR AS 19.65.030 - 19.65.060. In
6 AS 19.65.030 - 19.65.060 "gaming device" means equipment or a mechan-
7 ical, electromechanical, or electronic contrivance, component, or
8 machine that affects the result of a wager by determining wins or
9 losses in connection with a game in which, by the skill of the player
10 or by chance, or both, the player may receive free games or credit
11 that can be redeemed for cash; "gaming device" does not include a
12 machine that directly dispenses coins or cash.

13 * Sec. 2. AS 11.66.280(2) is amended to read:

14 (2) "gambling" means that a person stakes or risks some-
15 thing of value upon the outcome of a contest of chance or a future
16 contingent event not under the person's control or influence, upon an
17 agreement or understanding that that person or someone else will
18 receive something of value in the event of a certain outcome; "gambl-
19 ing" does not include

20 (A) bona fide business transactions valid under the
21 law of contracts for the purchase or sale at a future date of
22 securities or commodities and agreements to compensate for loss
23 caused by the happening of chance, including contracts of indem-
24 nity or guaranty and life, health, or accident insurance; [OR]

25 (B) playing an amusement device that

26 (i) confers only an immediate right of replay not
27 exchangeable for something of value other than the privilege
28 of immediate replay; and

29 (ii) does not contain a method or device by which

the privilege of immediate replay may be cancelled or revoked; or

(C) an activity authorized by the commissioner of revenue under AS 05.15 or AS 19.65.030;

* Sec. 3. AS 11.66.280(3) is amended to read:

(3) "gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine; "gambling device" does not include

(A) lottery tickets, policy slips, or other items used in the playing phases of lottery or policy schemes; [OR]

(B) an amusement device as described in (2)(B) of this section; or

(C) a gaming device authorized under AS 19.65.030;

* Sec. 4. AS 11.66.280(4) is amended to read:

(4) "gambling enterprise" means a gambling business that

(A) includes five or more persons who conduct, finance, manage, supervise, direct, or own all or part of the business;

(B) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross income of \$2,000 or more in any single day; and

(C) is not

(i) a vessel of the Alaska marine highway system lawfully conducting an activity licensed under AS 19.65.030;

or

(ii) a municipality or a qualified organization under AS 05.15.210, except that, for purposes of this subparagraph [PARAGRAPH], no application for a license under AS 05.15 is

1 required to be considered a qualified organization;
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Original sponsors: Szymanski, Faiks,
and Pearce

IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 146 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act allowing gaming devices on ferries."

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

* Section 1. AS 19.65 is amended by adding new sections to read:

Sec. 19.65.030. GAMING DEVICES AUTHORIZED. (a) The Department of Revenue may license a vessel of the Alaska marine highway system to operate gaming devices in a portion of the vessel that persons under 21 years of age are prohibited from entering.

(b) A license issued under (a) of this section is not valid when the vessel is in a jurisdiction outside of the state unless that jurisdiction also allows the licensed activity.

(c) The commissioner of revenue may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement this section.

Sec. 19.65.040. PROHIBITIONS ON GAMING DEVICE OPERATION; PENALTIES. (a) An employee of the Alaska marine highway system may not allow a person under 21 years of age to use a gaming device authorized under AS 19.65.030. A person under 21 years of age may not use a gaming device authorized under AS 19.65.030.

(b) A person may not manipulate or attempt to manipulate the outcome or payoff of a gaming device authorized under AS 19.65.030 by physically tampering or otherwise interfering with the proper functioning of the device.

(c) Violation of this section is a class A misdemeanor.

Sec. 19.65.050. The Department of Transportation and Public Facilities shall deposit receipts from the operation of gaming devices

under AS 19.65.030 in the general fund. The commissioner of administration shall separately account for money deposited under this section. The legislature may appropriate money in the account for the operation of the Alaska marine highway system.

Sec. 19.65.060. DEFINITION FOR AS 19.65.030 - 19.65.060. In AS 19.65.030 - 19.65.060 "gaming device" means equipment or a mechanical, electromechanical, or electronic contrivance, component, or machine that affects the result of a wager by determining wins or losses in connection with a game in which, by the skill of the player or by chance, or both, the player may receive free games, credit, or tokens that can be redeemed for cash; "gaming device" does not include a machine that directly dispenses coins or cash.

* Sec. 2. AS 11.66.280(2) is amended to read:

(2) "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that that person or someone else will receive something of value in the event of a certain outcome; "gambling" does not include

(A) bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities and agreements to compensate for loss caused by the happening of chance, including contracts of indemnity or guaranty and life, health, or accident insurance; [OR]

(B) playing an amusement device that

(i) confers only an immediate right of replay not exchangeable for something of value other than the privilege of immediate replay; and

(ii) does not contain a method or device by which

the privilege of immediate replay may be cancelled or revoked; or

(C) an activity authorized by the commissioner of revenue under AS 05.15 or AS 19.65.030;

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(3) "gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine; "gambling device" does not include

(A) lottery tickets, policy slips, or other items used in the playing phases of lottery or policy schemes; [OR]

(B) an amusement device as described in (2)(B) of this section; or

(C) a gaming device authorized under AS 19.65.030;

* Sec. 4. AS 11.66.280(4) is amended to read:

(4) "gambling enterprise" means a gambling business that

(A) includes five or more persons who conduct, finance, manage, supervise, direct, or own all or part of the business;

(B) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross income of \$2,000 or more in any single day; and

(C) is not

(i) a vessel of the Alaska marine highway system lawfully conducting an activity licensed under AS 19.65.030; or

(ii) a municipality or a qualified organization under AS 05.15.210, except that, for purposes of this

subparagraph [PARAGRAPH], no application for a license under AS 05.15 is required to be considered a qualified organization;

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A M E N D M E N T

OFFERED IN THE SENATE

BY JONES

TO: SB 146

Page 2, line 10, before "credit":

Delete "or"

Insert ", "

Page 2, line 10, after "credit":

Insert ", or tokens"

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE March 23, 1989
IN ACCORDANCE WITH UNIFORM RULE 23

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035
1/30/89

FURTHER SA
FIN

DATE TURNED INTO OFFICE March 31, 1989

Mr. President:

TRANSPORTATION

Committee considered SB 146

allowing gaming devices on ferries

and recommended:

replace with CS SB 146 (Trsp) same title

attached amendment(s) and

new title

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]
Chairman signature and recommendation

Committee backup attached

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

BILL VERSION: SB 146

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "allowing gaming devices on ferries"
 Sponsor: Szymanski, Faiks & Pearce
 Requestor: Szymanski, Faiks & Pearce
 Agency Affected: DOT&PF - AMHS
 BRU: Marine Operations
 Components: SF Vessel Operations and Overhaul

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.0	37.0	38.0	39.0	40.0
TRAVEL						
CONTRACTUAL		30.0	-	-	-	-
SUPPLIES		10.0	-	-	-	-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		75.0	37.0	38.0	39.0	40.0

CAPITAL		0	0	0	0	0
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REVENUE		150.0	155.0	160.0	165.0	170.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND		75.0	37.0	38.0	39.0	40.0
FEDERAL FUNDS						
OTHER						
TOTAL		75.0	37.0	38.0	39.0	40.0

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See attachment

Prepared by: Tom Shanley Phone: 465-3955
 Division: Alaska Marine Highway System Date: 3/29/89

Approved by Commissioner: [Signature] Date: 3/29/89
 Agency: Department of Transportation and Public Facilities

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

DOT&PF FISCAL ANALYSIS FOR

SENATE BILL NO. 146

EXPENDITURES

Personnel Services - added cost would be overtime needed to supervise the gaming devices on the three vessels. Estimate \$12.0 per ship - no added position would be created.

Contractual - there will be approximately \$10.0 cost to upgrade electrical service to handle the 12 machines on each vessel.

Supplies - miscellaneous supplies such as mounting devices to make the games sea worthy.

Revenue - there is no sure way to predict the revenue. We doubled the revenue we are currently making on the 25 video games that are installed at this time. \$150.0 should be a conservative figure.

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

BILL VERSION: CS SB 146 (Trap)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 04/03/89
Title: "An Act allowing gaming devices on ferries"
Sponsor: Szymanski, Faiks, & Pearce
Requestor: _____

Agency Affected: DOTPF - AMHS
BRU: Marine Operations
Components: Southeast Vessel Operations and Overhaul

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		36.0	36.0	36.0	36.0	36.0
TRAVEL						
CONTRACTUAL		30.0				
SUPPLIES		10.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		76.0	36.0	36.0	36.0	36.0
CAPITAL		-0-				
REVENUE		150.0	155.0	160.0	165.0	170.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		76.0	36.0	36.0	36.0	36.0
FEDERAL FUNDS						
OTHER						
TOTAL		76.0	36.0	36.0	36.0	36.0

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached.

Prepared by: G. W. Davidson, System Director Phone: 465-3950
Division: Alaska Marine Highway System Date: _____
Approved by Commissioner: Mark S. Hickey Date: 4/5/89
Agency: Department of Transportation & Public Facilities

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL ANALYSIS**CS Senate Bill 146 (Trsp)**

An effective date of July 1, 1989 is assumed. Twelve gaming devices would be installed on each of three mainline vessels of the Alaska Marine Highway System (AMHS) fleet in the Southeast System.

Expenditures:

Personal Services - No additional positions would be required. Overtime would be increased by \$12.0 on each of the three ships to allow for supervision and attendance of the gaming devices.

Contractual Services - A one-time expenditure of \$30.0 will be required to upgrade the electrical service on the three vessels. Recurrent costs beyond FY 90 will be negligible with the current scope of the project.

Supplies - Start-up supplies, including mounting devices for seaworthiness on each machine. Recurrent costs beyond FY 90 will be negligible with the current scope of the project.

Capital Costs:

Costs of the equipment would be borne by a private vendor solicited on a competitive basis for a partnership basis similar to the current arrangement for video games. A maximum of twelve machines on each of the three vessels will be installed to avoid major rewiring or remodeling costs.

Revenues:

Revenue estimates shown are conservative based on the trends experienced by the 25 video games currently installed on AMHS ships.



Alaska State Legislature

Senator Mike Szymanski

While in Session:

P.O. Box V
State Capitol, Room 11
Juneau, Alaska 99811
(907) 465-4978/4979
FAX (907) 465-2652

POSITION PAPER:

SB 146

During Interim:

3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617

165 E. Parks Highway
Legislative Information Office
Wasilla, Alaska 99687
(907) 376-MIKE

The State of Alaska is currently challenged by a fiscal crisis which will affect the quality and availability of services that the state can provide to its residents. In order to balance the State's budget and develop a sustainable level of funding, the Legislature has two options: cut the budget and develop sources of revenue. Senate Bill 146 proposes to accomplish the latter; to develop a new source of revenue for the state by allowing gambling machines to be placed on state ferries.

SB 146 would permit the Department of Revenue to license a vessel of the Alaska Marine Highway System to operate gaming machines in the portion of the vessel that is licensed to sell alcohol. The intent of the bill is to make gaming devices, such as video poker games and electronic slot machines, available for the entertainment of ferry passengers patronizing the vessels' bar areas. According to estimates by DOTPF, twelve machines, which are similar to arcade-type video games, have the potential to generate net revenues of approximately \$75,000 a year.

The Alaska Marine Highway System has four mainliner ferries, the M/V Matanuska, the M/V Malaspina, the M/V Columbia and the M/V Taku, which run between Seattle and ports in Southeast Alaska. The annual passenger traffic on the mainliner vessels is approximately 234,000 people, many of whom are tourists. Since many commercial cruise lines currently offer gaming machines on their tour ships, allowing passengers to enjoy gaming machines on the state ferries would help to upgrade the ferries' entertainment services and enhance the visitors' travel experience. Ferry gaming could also become a focal point for marketing the Alaska Marine Highway System to the travel industry.

Since gaming areas will be limited to the portion of the ferry licensed to serve alcohol, minors will be prohibited access to the machines. Locating the gaming machines in the licensed areas will also enable ferry staff to supervise the gaming areas and provide adequate security against machine tampering and unauthorized use.

SB 146 has the potential to alleviate some of the impact of budget shortfalls currently facing the state. In this time of financial crisis, we need to examine and consider all options for raising additional revenue. Allowing gaming machines to be placed on state ferries may enable the Alaska Marine Highway System to become more cost-effective in its operations and competitive in the travel market.

Senate District E

Mat-Su • So. Anchorage • Bird/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

Department of Transportation & Public Facilities



POSITION PAPER

BILL NO: SB No. 146

APPROVED: *[Signature]*

TITLE: Gambling Devices on State Ferries DATE: March 29, 1989

The Alaska Marine Highway System (AMHS) supports Senate Bill No. 146 to allow electronic gaming devices on board the vessels of the fleet. There is no doubt this form of entertainment would be enjoyed by a large percentage of our passengers and could generate much needed additional revenue.

There are a few suggestions we would like to make which, if accepted, would give us more flexibility in implementation, as well as future alterations. Because this concept has not been tried before we can only speculate what the results will be. There will be by necessity a learning curve and it is in this context that we would like to be able to use slightly different approaches if it appears needed.

Page 1, Lines 9-11 - change to:

Sec. 19.65.030. Gaming Devices Authorized. (a) The Department of Revenue may license a vessel of the Alaska Marine Highway System to operate gaming devices in a portion of the vessel that is not accessible to minors.

The most likely place to locate the machines is in the cocktail lounges but it might be advantageous to move them to a different location and we would like to have that flexibility.

Page 2, Lines 10-12 - change to read:

...or by chance, or both, the player may receive free games, credit or tokens that can be redeemed for cash.

The concept in the bill is similar to the system used in the State of Montana which works well. We agree a similar system could be the place to start but would like to have the authority to dispense tokens, but not cash if it looked more effective operationally.

Other than these changes we feel it is a workable and positive approach to improving the profitability of the AMHS vessels.

The fiscal note was approached from the standpoint of implementing gaming devices in the most inexpensive possible way. This pilot project would install at least twelve machines on the M/V MALASPINA, MATANUSKA and the COLUMBIA in the cocktail lounges.

Twelve machines were selected because this is the most which can be installed without major rewiring and remodeling costs and is adequate to determine the feasibility of gambling on a pilot basis. As currently envisioned the capital cost would be funded by a vendor who would work on a partnership basis similar to the video games that are currently being used. This business would be solicited on a competitive basis. After implementation, or during the planning stages, another approach might be used if it were found to be more cost effective. Should this pilot project be successful enough to warrant the installation of substantially more machines higher costs for modification of the vessels and perhaps additional crew for security would be required.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 24, 1989

SUBJECT: Gambling on Ferries
(Work Order No. 6-0363E)

TO: Senator Mike Szymanski

FROM: Terri Lauterbach
Legislative Counsel *TL*

Following is a sectional analysis of this work order:

Sec. 1.

AS 19.65.030. This section authorizes the Department of Revenue to license a state ferry to operate gaming devices in the part of the vessel that is licensed to sell alcohol. The license would not be valid when the vessel is in another jurisdiction that does not allow gambling.

AS 19.65.040. This section prohibits use of gaming devices by persons under the age of 21. It also prohibits tampering with gaming devices.

AS 19.65.050. This section directs the commissioner of transportation and public facilities to deposit ferry gambling receipts in the general fund where they will be separately accounted for by the commissioner of administration. The legislature may then appropriate the money for operation of the ferry system or for any other purpose.

AS 19.65.060. This section provides a definition of "gaming device." It includes all devices that allow a player to win a free game or to receive credits that can be redeemed for cash. It does not include devices that directly dispense cash.

Secs. 2 - 4. These sections amend criminal laws relating to illegal gambling to clarify that they do not apply to gambling authorized under sec. 1 of the bill.

Please let me know if I can be of further assistance.

TL:kb
wkk1/074

-Sectional analysis

S B

168

Introduced: 2/8/89
Referred: Community and Regional
Affairs, State Affairs and
Finance

6-0672E

IN THE SENATE

BY FAHRENKAMP

SENATE BILL NO. 168

IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing gambling enterprises in municipalities [and on state ferries]; and providing for an effective date."

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

* Section 1. POLICY. Gambling enterprises licensed [by the state or] by municipalities offer a substantial contribution to the welfare and prosperity of the state and an opportunity to offset declining revenue. The success of the limited gambling operations authorized by this Act is dependent upon strict regulation and control of all persons, locations, practices, and activities related to operation of licensed gambling enterprises. Strict regulation and control will ensure that gambling is conducted honestly and free from criminal and corrupt persons, practices, and influences. All premises where gambling is conducted must be licensed by [either the state or] a municipality. To further local control over the conduct of gambling, residents of each municipality authorized to operate or license gambling operations under this Act must vote to approve gambling before it can occur in the municipality.

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

CHAPTER 16. LEGALIZED GAMBLING.

Sec. 05.16.010. GAMBLING PERMITTED. (a) Gambling is permitted within the limitations of this section.

(b) A person under 21 years of age may not gamble.

(c) Only numbers wheels and card and dice games may be operated for the purposes of gambling.

(d) A person licensed to operate a gambling enterprise or an employee of a gambling enterprise may not extend credit to a patron of a gambling enterprise.

(e) A person may not receive a license to operate a gambling enterprise or be employed by a gambling enterprise if that person has been convicted of a felony or an offense defined in AS 11.66.200 - 11.66.280 or a comparable provision of a municipal ordinance or state or federal law.

(f) Only a person who has successfully completed a course of study in a curriculum for employees of a gambling enterprise at a school licensed by a state where gambling is legal may be employed by a gambling enterprise.

(g) An employee of a gambling enterprise may not gamble while on duty for the gambling enterprise.

(h) Within the boundaries of a municipality, gambling may be conducted under AS 29.35.600 - 29.35.690.

(i) On a vessel of the Alaska marine highway system, gambling may be conducted under the terms of licenses issued by the department under AS 05.16.020.

(j) Gambling is not authorized under this section in areas outside the boundaries of a municipality, except as provided in (i) of this section.

Sec. 05.16.020. LICENSED GAMBLING ON STATE FERRIES. (a) The department shall issue a license for a gambling enterprise on vessels of the Alaska marine highway system if the commissioner of transportation and public facilities applies for a license.

(b) The proceeds of a gambling enterprise licensed under this section shall be paid into the general fund. The commissioner of administration shall separately account for money that the Department

of Transportation and Public Facilities deposits in the general fund under this subsection. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Transportation and Public Facilities to carry out the purposes of this section.]

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Sec. 05.16.030. PROCEEDS FROM MUNICIPALITIES. The commissioner of administration shall separately account for money received under AS 29.35.620(a) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to administer this chapter except that one-half percent of the annual estimated balance in the account may be used by the legislature to make appropriations for the treatment and counseling of persons identified as compulsive gamblers.

Sec. 05.16.040. COOPERATION WITH MUNICIPALITIES. The department shall cooperate with municipalities in the administration and regulation of gambling within municipalities authorized to license or operate gambling enterprises under AS 29.35.600 - 29.35.690.

Sec. 05.16.050. REGULATIONS. The department shall adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary to carry out this chapter, including regulations governing

(1) exclusion of a person convicted of a felony, or of a state, municipal, or federal gambling offense from participation as an employee or a patron of a gambling enterprise;

(2) the method and manner of conducting gambling and the equipment that may be used;

(3) the maximum amount of a wager permitted in games licensed under this chapter;

(4) procedures for resolution of disputes between patrons of gambling enterprises and licensees;

(5) the form and content of reports by municipalities on their administration and regulation of gambling.

Sec. 05.16.060. ANNUAL REPORT. The department shall make a report to the governor and the legislature by March 1 of each year on its administration of this chapter, the regulation of gambling by municipalities, and its recommendations for legislation necessary for the regulation of gambling in this state.

Sec. 05.16.000. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

(2) "gambling" means that a person stakes or risks something of value upon the outcome of a game or a future contingent event not under the person's control or influence, upon the agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome; "gambling" does not include activities authorized under AS 05.15;

(3) "gambling enterprise" means a business licensed to conduct gambling.

* Sec. 3. AS 11.66.280(2) is amended to read:

(2) "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that that person or someone else will receive something of value in the event of a certain outcome; "gambling" does not include

(A) bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities and agreements to compensate for loss caused by the happening of chance, including contracts of indemnity or guaranty and life, health, or accident insurance; or

(B) playing an amusement device that

(i) confers only an immediate right of replay not exchangeable for something of value other than the privilege of immediate replay; and

(ii) does not contain a method or device by which the privilege of immediate replay may be cancelled or revoked;

(C) an activity authorized by the commissioner of revenue under AS 05.15 or AS 05.16; or

(D) an activity licensed under AS 29.35.600 - 29.35.690;

* Sec. 4. AS 11.66.280(4) is amended to read:

(4) "gambling enterprise" means a gambling business that

(A) includes five or more persons who conduct, finance, manage, supervise, direct, or own all or part of the business;

(B) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross income of \$2,000 or more in any single day; (AND)

(C) is not a municipality or a qualified organization under AS 05.15.210 except that, for purposes of this paragraph, no application for a license under AS 05.15 is required to be considered a qualified organization; and

(D) is not licensed under AS 05.16 or AS 29.35.600 - 29.35.690;

* Sec. 5. AS 29.10.200 is amended by adding a new paragraph to read:

(5) AS 29.35.600 - 29.35.690 (gambling).

* Sec. 6. AS 29.35 is amended by adding new sections to read:

ARTICLE 9. GAMBLING WITHIN MUNICIPALITIES.

Sec. 29.35.600. AUTHORIZATION. Subject to AS 05.16.010, a municipality may operate or license a person in the municipality to operate a gambling enterprise if

(1) the municipality adopts an ordinance permitting gambling enterprises in the municipality and the ordinance is ratified by a majority of the voters of the municipality; the governing body of the municipality may require that voter approval of an ordinance proposed under this paragraph be by more than a majority of the voters of the municipality;

(2) the economy of the municipality depends substantially on tourism;

(3) the municipality has a substantial history of gambling during the gold rush era of 1890 to 1910; and

(4) the gambling enterprise enhances the historic character of the municipality.

Sec. 29.35.610. REGULATION OF GAMBLING. (a) The municipal ordinance providing for licensing and regulation of gambling enterprises within a municipality authorized to license or operate gambling enterprises under AS 29.35.600 shall

(1) establish a commission responsible for municipal licensing and regulation of gambling enterprises consisting of at least seven members including

(A) a member of the governing body;

(B) a person experienced in law enforcement;

(C) a person trained in accounting or bookkeeping;

(D) a person active in the tourism industry;

(E) a historian or other person familiar with the history of the municipality; and

(F) two public members;

(2) establish qualifications for persons employed by the commission;

(3) provide for issuance, renewal, suspension, and revocation of licenses for gambling enterprises and for the immediate suspension or revocation of a license for a violation of AS 05.16.010, AS 29.35.600 - 29.35.690, or a municipal gambling ordinance;

(4) establish

(A) dates and hours of operation for gambling enterprises;

(B) locations in the municipality where gambling enterprises may be located;

(C) the games permitted;

(D) the number of gaming tables permitted on the premises of a gambling enterprise;

(E) the maximum amount of wagers permitted in games;

(F) a schedule of fees for licenses;

(G) allowable rates of return on investment for gambling enterprises;

(H) auditing procedures for gambling enterprises;

(5) provide for the distribution of gambling proceeds including the amounts or proportions allocated to the gambling enterprise and to winners;

(6) require disclosure of the identity of persons having a financial interest in a gambling enterprise and the nature of the interest;

(7) require detailed financial records of gambling enterprises.

(b) The municipality may operate or license a person in the municipality to operate only numbers wheels and card and dice games

for the purposes of gambling.

(c) The municipality may establish by ordinance whether alcoholic beverages may be sold on the premises of a gambling enterprise.

(d) A member of a commission responsible for municipal licensing and regulation of gambling enterprises and employees of the commission may not participate in or have a financial interest in a gambling enterprise.

(e) The municipality shall make a report to the Department of Revenue by February 1 of each year on its administration and regulation of gambling during the preceding year in the form prescribed by the department.

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Sec. 29.35.620. PROCEEDS. (a) A municipality that operates or licenses a person to operate a gambling enterprise under AS 29.35.600 shall collect three and one-half percent of the gross proceeds from the gambling enterprise and pay that amount to the Department of Revenue for deposit in the general fund.

(b) If the municipality operates a gambling enterprise, the municipality shall receive all of the proceeds from the gambling enterprise, except the amount paid to the Department of Revenue under (a) of this section.

(c) If the municipality licenses a person in the municipality to operate a gambling enterprise, the municipality and the licensee may divide the proceeds from the gambling enterprise under the terms of the license after subtracting the amount paid to the Department of Revenue under (a) of this section.

Sec. 29.35.630. REVENUE DERIVED FROM GAMBLING ENTERPRISES. The fees, proceeds, and other revenue that a municipality receives from gambling enterprises may be used for public purposes as the municipality may determine by ordinance.

Sec. 29.35.640. APPLICATION. AS 29.35.600 - 29.35.690 apply to home rule and general law municipalities.

Sec. 29.35.690. DEFINITION. In AS 29.35.600 - 29.35.690 "gambling" and "gambling enterprise" have the meanings given in AS 05.16.-900.

* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

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SENATE COMMITTEE REPORT

FURTHER

SA
FIN

3/15/89

DATE TURNED INTO OFFICE March 31, 1989

Mr. President:

TRANSPORTATION

Committee considered SB 168

authorizing gambling enterprises in municipalities and on state ferries; efd

and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

Pres: FIS

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Gahrmanberg

F. J. ... do pass

Harman (Do Pass)
Chairman signature and recommendation

Committee Backup attached

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

BILL VERSION: SB 168
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DOT&PF - AMHS
Title: "...gambling enterprise in
municipalities & on state ferries... BRU: _____
Sponsor: Fahrenkamp Components: Southeast Vessels
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		1,500.0	1,500.0	1,500.0	1,530.0	1,560.0
TRAVEL		30.0	30.0	30.0	31.0	32.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		1,530.0	1,530.0	1,530.0	1,561.0	1,592.0
CAPITAL		270.0				
REVENUE		*	*	*	*	*

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,800.0	1,530.0	1,530.0	1,561.0	1,592.0
FEDERAL FUNDS						
OTHER						
TOTAL		1,800.0	1,530.0	1,530.0	1,561.0	1,592.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

* Not determined at this time.

FY 93 and FY 94 each increased by approximately 2% over previous year to allow for inflation.

See attached comments.

Prepared by: John Halterman, Assistant Director Phone: 465-3950
Division: Alaska Marine Highway System Date: _____

Approved by Commissioner: Mark S. Hickey Date: 3/2/89
Agency: Department of Transportation and Public Facilities

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DOT/PF Fiscal Note

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act authorizing gambling in municipalities and on state ferries
Sponsor: Fahrenkamp
Requestor: Community & Regional Affairs

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 17, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: February 17, 1989
Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Analysis

This legislation would impact the Department of Revenue by:

1. Section 2

A) which requires the Department to issue a license to and regulate gambling on vessels on the Alaska Marine Highway System, upon application by the Commissioner of DOTPF.

B) which provides the Department will regulate legalized gambling activities in communities which have allowed, by ordinance, for those activities to be conducted and who have established a commission responsible for licensing and regulating gambling in the community.

2. Section 6

A) which requires the Department to collect a 3 1/2% fee applied against gambling gross proceeds. The fee is collected from the municipality and deposited in the general fund.

Fiscal Impact

The Department has no basis on which to estimate revenues or expenses for this legislation. Legalized gambling of the type allowed in this bill is not permitted by present law. It cannot be assumed that any community will pass an ordinance to allow gambling.

Recommendation

1) The regulation of legalized gambling should not be placed within the Department of Revenue. It would detract management attention away from its highest priority - the administration of tax enforcement and investment programs.

2) There would be unnecessary duplication of effort and expense in having DOR license and regulate DOTPF ferries conducting gambling activities. Perhaps DOTPF could better carry out this function.

3) The Department of Revenue has no agency position on the merits of this proposal itself.



FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "...gambling enterprise in municipalities & on state ferries..."
 Sponsor: Fahrenkamp
 Requestor: _____

Agency Affected: DOT&PF - AMHS
 BRU: _____
 Components: Southeast Vessels

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		1,500.0	1,500.0	1,500.0	1,530.0	1,560.0
TRAVEL		30.0	30.0	30.0	31.0	32.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		1,530.0	1,530.0	1,530.0	1,561.0	1,592.0
CAPITAL		270.0				
REVENUE		*	*	*	*	*

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,800.0	1,530.0	1,530.0	1,561.0	1,592.0
FEDERAL FUNDS						
OTHER						
TOTAL		1,800.0	1,530.0	1,530.0	1,561.0	1,592.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* Not determined at this time.

FY 93 and FY 94 each increased by approximately 2% over previous year to allow for inflation.

See attached comments.

Prepared by: John Halterman, Assistant Director Phone: 465-2050
 Division: Alaska Marine Highway System Date: _____

Approved by Commissioner: Mark S. Hickey Date: 3/2/89
 Agency: Department of Transportation and Public Facilities

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act authorizing gambling ...
 in municipalities and on state ferries.."
 Sponsor: Senator Bettve Fahrenkamp
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Carol Carroll

Prepared by: Carol Carroll, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/2/89

Approved by Commissioner: [Signature] Date: 3/2/89
 Agency: Community & Regional Affairs

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act authorizing gambling in municipalities and on state ferries
Sponsor: Fahrenkamp
Requestor: Community & Regional Affairs

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 17, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: February 17, 1989
Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

February 17, 1989

Prepared by: Steven E. Kettel

Analysis

This legislation would impact the Department of Revenue by:

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B) which provides the Department will regulate legalized gambling activities in communities which have allowed, by ordinance, for those activities to be conducted and who have established a commission responsible for licensing and regulating gambling in the community.

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A) which requires the Department to collect a 3 1/2% fee applied against gambling gross proceeds. The fee is collected from the municipality and deposited in the general fund.

Fiscal Impact

The Department has no basis on which to estimate revenues or expenses for this legislation. Legalized gambling of the type allowed in this bill is not permitted by present law. It cannot be assumed that any community will pass an ordinance to allow gambling.

Recommendation

1) The regulation of legalized gambling should not be placed within the Department of Revenue. It would detract management attention away from its highest priority - the administration of tax enforcement and investment programs.

2) There would be unnecessary duplication of effort and expense in having DOR license and regulate DOTPF ferries conducting gambling activities. Perhaps DOTPF could better carry out this function.

3) The Department of Revenue has no agency position on the merits of this proposal itself.



Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, RESOURCES COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
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Senate

WHILE IN JUNEAU
PO. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
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MEMORANDUM

TO: Senator Al Adams, Chairman
Senate Community & Regional Affairs Committee

FROM: Senator Bettye Fahrenkamp

DATE: February 21, 1988

RE: SB 168 An Act authorizing gambling enterprises in municipalities and ferries; and providing for an effective date.

INTRODUCTION

Casino style gambling on a limited, historical basis would be allowed under SB 168. Municipalities with a history of gaming during the gold rush era, such as Fairbanks, Nome, and Skagway, would be eligible if their economies depend substantially on tourism. Local residents would have to vote to approve any gaming enterprises. Municipalities could require more than a simple majority vote. The bill also would allow gambling on state ferries.

Gaming enterprises can make a contribution to the prosperity of the state and municipalities in a time of declining and uncertain state revenue. Limited, historic gaming would enhance Alaska as a tourist destination and create jobs. We already allow gaming such as bingo, Monte Carlo nights, and pool classics.

Gaming under SB 168 is limited in the following ways:

- * A municipality must adopt an ordinance regulating gaming and have it ratified by a majority of voters within its boundary. The municipality may require more than a simple majority.

- * The municipality must have an economy substantially dependent on tourism.

- * Only cards, dice, and number wheels would be allowed, the kinds of games played at the turn of the century in Alaska. No slot machines would be allowed by this measure.

- * A gaming enterprise within a municipality must enhance the historic character of the municipality. No glitz and glitter, no chrome and glass.

* Gaming enterprises may not extend credit to their patrons. Large cash or credit transactions provide an opportunity for loan sharks and quick buck artists.

Municipalities may decide to run gaming operations themselves, or license the operation, and must pay three and one half percent of gross revenues to the Department of Revenue. Participating municipalities must form a commission to regulate gaming.

Gaming on ferries would also be allowed and revenue would be deposited in the general fund.

Gaming enterprises can be conducted honestly, free from criminal and corrupt persons and practices. I don't believe limited, historical gaming will result in the high roller style gaming found in Las Vegas and Atlantic City, but rather the type found in Dawson City.

In recognition that a small percentage of gamblers can become compulsive, one half of one percent of state income from gaming may be appropriated by the legislature for treatment and counseling.



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

SUBJECT: Section-by-Section Summary of SB 168
TO: Senate Community & Regional Affairs Committee
FROM: Senator Betty ~~Johnson~~ Fahrenkamp
DATE: February 21, 1989

This memorandum is a section-by-section summary of SB 168, An Act authorizing gambling enterprises in municipalities and on state ferries; and providing for an effective date.

Section 1 of the bill states the policy which the Legislature seeks to implement by enacting this bill.

Section 2 of the bill amends AS 05 by adding a new chapter.

CHAPTER 16. LEGALIZED GAMBLING.

Sec. 05.16.010 GAMBLING PERMITTED establishes the conditions under which gambling is permitted.

A person under 21 years of age may not gamble. Only card and dice games and numbers wheels are permitted. A person who operates a gambling enterprise, or an employee of a gambling enterprise may not extend credit to a patron of a gambling enterprise. A person may not receive a permit to operate a gambling enterprise or be employed by a gambling enterprise if the person has been convicted of a state or federal felony or gambling offense. Only a person who has completed classes on gambling at a school in a state where gambling is legal may be employed by a gambling enterprise. An employee of a gambling enterprise may not gamble while on duty for the gambling enterprise.

Gambling is allowed within municipalities, with the municipal government regulating gambling enterprises. No gambling is allowed outside of municipalities, except the Department of Revenue may license gambling enterprises on state ferries.

- Sectional analysis -

Sec. 05.16.020 LICENSED GAMBLING ON STATE FERRIES requires the Department of Revenue to issue a license for a gambling enterprise on state ferry vessels, if the commissioner of transportation and public facilities requests a license. The proceeds of a gambling enterprise on a state ferry may be used to fund the operations of the Alaska Marine Highway System.

Sec. 05.16.030 PROCEEDS FROM MUNICIPALITIES provides for the distribution of the net proceeds of a gambling enterprise. Half of the net proceeds of a gambling enterprise shall be paid to the Department of Revenue. Money received by the department shall be placed into the general fund. This money may be appropriated to the department for implementation of this chapter, except that one-half percent may be used for treatment and counseling of compulsive gamblers.

Sec. 05.16.040 COOPERATION WITH MUNICIPALITIES requires the Department of Revenue to cooperate with municipalities in the regulation and administration of gambling within municipalities.

Sec. 05.16.050 REGULATIONS provides that the Department of Revenue may adopt regulations necessary to implement AS 05.16. Among the regulations which the department may adopt are regulations relating to issuance renewal, suspension, and revocation of licenses, financial records of gambling enterprises, investigations of licensees and their employees, exclusion of certain persons from a gambling enterprise, conduct of gambling, accounting procedures, license fees, amounts of wagers, disclosures of financial interests in gambling enterprises, rates of return, dispute resolution procedures, bonds, and reports by municipalities.

Sec. 05.16.060 ANNUAL REPORT requires the Department of Revenue to make a report to the Governor and the Legislature by March 1 of each year.

Sec. 05.16.900 DEFINITIONS defines "department", "gambling", and "gambling enterprise".

Section 3 of the bill amends the definition of gambling in the criminal code so that it does not include gambling conducted under a license issued to a gambling enterprise by a municipality.

Section 4 of the bill amends the definition of gambling enterprise in the criminal code so that it does not include a gambling enterprise licensed by a municipality.

Section 5 of the bill adds regulation of gambling to the list of limitations on powers of home rule municipalities under AS 29.10.200.

Section 6 of the bill amends AS 29.35 by adding new sections related to the regulation of gambling enterprises within municipalities.

Sec. 29.35.600 AUTHORIZATION authorizes a municipality to operate or license a person to operate a gambling enterprise within the municipality if the municipality adopts an ordinance regulating gambling enterprises, and the ordinance is ratified by a majority of the voters of the municipality or by more than a majority of the voters, and if the economy of the municipality depends substantially on tourism, the municipality has a history of gambling, and the gambling enterprise enhances the historic character of the municipality,

Sec. 29.35.610 REGULATION OF GAMBLING establishes the requirements for a municipality that regulates gambling.

The municipality must adopt an ordinance regulating gambling. The ordinance must establish a commission responsible for licensing and regulating gambling enterprises, establish qualifications for members of the commission, provide for issuance, renewal, suspension, and revocation of licenses for gambling enterprises, establish the terms and conditions under which gambling is permitted, provide for distribution of the proceeds of a gambling enterprise, require disclosure of persons having a financial interest in a gambling enterprise, and require detailed records.

Gambling within a municipality is limited to card and dice games and numbers wheels. The municipality may regulate the availability of alcoholic beverages at a gambling enterprise. Members and employees of the municipal gambling commission may not participate in or have a financial interest in a gambling enterprise.

A municipality that regulates gambling must submit a report each year to the Department of Revenue.

Sec. 29.35.620 PROCEEDS provides for the distribution of proceeds of gambling enterprise licensed by a municipality. Three and one-half percent of the gross proceeds of a gambling enterprise shall be paid to the Department of Revenue for deposit into the general fund. The municipality shall receive all of the proceeds of a municipally operated gambling enterprise less the 3½ percent paid to the Department of Revenue. The municipality shall receive that portion of the proceeds of a gambling enterprise licensed by the municipality and operated by someone other than the municipality, that the municipality and the licensee may agree upon, provided that 3½ percent of the gross receipts is paid to the Department of Revenue.

Sec. 29.35.630 REVENUE DERIVED FROM GAMBLING ENTERPRISES provides that a municipality may dedicate the revenue derived from a gambling enterprise to a public purpose.

Sec. 29.35.640 APPLICATION provides that AS 29.35.600 - 29.35.690 apply to home rule and general law municipalities.

Sec. 29.35.690 DEFINITION defines the terms "gambling" and "gambling enterprise".

Section 7 of the bill provides that the bill takes effect immediately.

Offered: 1/9/89
IN THE SENATE Labor & Commerce and
Finance
IN THE HOUSE Labor & Commerce and
Finance

EXECUTIVE ORDER NO. 74

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interests of efficient administration to transfer the function of regulating games of chance and contests of skill from the Department of Revenue to the Department of Commerce and Economic Development.

* Sec. 2. AS 05.15.010 is amended to read:

Sec. 05.15.010. DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT [REVENUE] TO ADMINISTER CHAPTER. The Department of Commerce and Economic Development [REVENUE] shall administer this chapter.

* Sec. 3. AS 05.15.140(a) is amended to read:

(a) The commissioner may not issue or renew a permit except upon satisfactory proof that the applicant is a municipality or qualified organization, the activity may be permitted under this chapter, and the issuance of a permit is not detrimental to the best interests of the public. Upon request of the commissioner [OF REVENUE], the applicant shall prove conclusively each of these requirements before a permit may be issued or renewed.

* Sec. 4. AS 05.15.210(6) is amended to read:

(6) "commissioner" means the commissioner of commerce and economic development [REVENUE];

* Sec. 5. AS 05.15.210(8) is amended to read:

(8) "department" means the Department of Commerce and Economic Development [REVENUE];

* Sec. 6. AS 11.66.280(2) is amended to read:

(2) "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an

1 agreement or understanding that that person or someone else will
2 receive something of value in the event of a certain outcome;
3 "gambling" does not include

4 (A) bona fide business transactions valid under the law
5 of contracts for the purchase or sale at a future date of secu-
6 rities or commodities and agreements to compensate for loss
7 caused by the happening of chance, including contracts of indem-
8 nity or guaranty and life, health, or accident insurance; or

9 (B) playing an amusement device that

10 (i) confers only an immediate right of replay not
11 exchangeable for something of value other than the privilege
12 of immediate replay; and

13 (ii) does not contain a method or device by which
14 the privilege of immediate replay may be cancelled or
15 revoked;

16 (C) an activity authorized by the commissioner of
17 commerce and economic development [REVENUE] under AS 05.15;

18 * Sec. 7. AS 44.33.020 is amended by adding a new paragraph to read:

19 (31) regulate games of chance and contests of skill under
20 AS 05.15.

21 * Sec. 8. TRANSITION. Regulations relating to games of chance and
22 contests of skill, adopted by the Department of Revenue under authority of
23 AS 05.15 before the effective date of this Order, remain in effect until
24 regulations relating to that function are adopted by the Department of
25 Commerce and Economic Development under AS 05.15 as amended by this Order,
26 and take effect. The Department of Commerce and Economic Development shall
27 administer those Department of Revenue regulations until its own take
28 effect.

29 * Sec. 9. This Order takes effect July 1, 1989.

Sec. 05.15.100. Issuance of permits and licenses. (a) The commissioner may issue a permit to a municipality or qualified organization. The permit gives the municipality or qualified organization the privilege of conducting bingo, raffles and lotteries, pull-tab games, ice classics, rain classics, goose classics, mercury classics, salmon classics, dog mushers' contests, fish derbies, and contests of skill.

(b) The commissioner also may issue a permit giving a municipality or qualified organization the privilege of conducting an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each.

(c) The commissioner may issue an operator's license to a natural person to conduct an activity permitted under this chapter on behalf of a municipality or a qualified organization. The commissioner may also issue an operator's license to a municipality or a qualified organization to conduct an activity on behalf of another municipality or qualified organization. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976; am § 2 ch 27 SLA 1982; am § 2 ch 59 SLA 1983; am § 1 ch 93 SLA 1986; am § 2 ch 94 SLA 1986; am §§ 11, 12 ch 99 SLA 1988)

Effect of amendments. — The first 1986 amendment inserted "goose classics, mercury classics," in subsection (a) and inserted a comma following "derbies."

The second 1986 amendment in subsection (a) inserted "salmon classics," in the second sentence.

The 1988 amendment, in subsection (a), deleted "of revenue" following "commissioner" in the first sentence and, in the second sentence, inserted "qualified" and "pull-tab games," and made a minor punctuation change; and added subsection (c).

Sec. 05.15.112. Member in charge. (a) Each municipality or qualified organization that receives a permit under this chapter shall designate a member in charge.

(b) The member in charge is responsible for preparation, maintenance, and transmittal of all records and reports required of the permittee. The member in charge shall be a member of the qualified organization or the board of directors of the qualified organization or an employee of the municipality.

(c) The member in charge shall monitor the operator's performance under and compliance with contracts for the conduct of activities on behalf of the authorizing permittee.

(d) The municipality or qualified organization shall designate alternate members in charge who are responsible for the duties of the member in charge in the absence of the member in charge. (§ 13 ch 99 SLA 1988)

Sec. 05

(a) A municipality or qualified organization may apply for a permit to conduct an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each.

(b) The commissioner also may issue a permit giving a municipality or qualified organization the privilege of conducting an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each.

(c) A person may apply for an operator's license to conduct an activity permitted under this chapter on behalf of a municipality or a qualified organization. The commissioner may also issue an operator's license to a municipality or a qualified organization to conduct an activity on behalf of another municipality or qualified organization. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976; am § 2 ch 27 SLA 1982; am § 2 ch 59 SLA 1983; am § 1 ch 93 SLA 1986; am § 2 ch 94 SLA 1986; am §§ 11, 12 ch 99 SLA 1988)

(d) A municipality or qualified organization that receives a permit under this chapter shall designate a member in charge. The member in charge is responsible for preparation, maintenance, and transmittal of all records and reports required of the permittee. The member in charge shall be a member of the qualified organization or the board of directors of the qualified organization or an employee of the municipality. The member in charge shall monitor the operator's performance under and compliance with contracts for the conduct of activities on behalf of the authorizing permittee. The municipality or qualified organization shall designate alternate members in charge who are responsible for the duties of the member in charge in the absence of the member in charge. (§ 13 ch 99 SLA 1988)

Sec. 05

qualified organization that receives a permit under this chapter shall designate a member in charge.

(b) The member in charge is responsible for preparation, maintenance, and transmittal of all records and reports required of the permittee. The member in charge shall be a member of the qualified organization or the board of directors of the qualified organization or an employee of the municipality.

(1) apply for a permit to conduct an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each.

(2) pay for the permit.

(3) discuss the permit with the commissioner.

(4) submit the permit to the commissioner.

(5) post a bond in the amount of up to a certain amount.

(c) The commissioner may issue a permit giving a municipality or qualified organization the privilege of conducting an activity involving the use of playing cards, dice, and numbers wheels. Each year, a municipality or qualified organization may apply for a permit under this subsection for either a single event lasting no more than three consecutive days, or for no more than three events lasting no more than one day each.

- Related statutes

or until the end of a hearing or other proceeding begun during suspension. The authority of the commissioner to suspend a permit is not subject to the Administrative Procedure Act (AS 44.62). (§ 5 ch 27 SLA 1960)

Editor's notes. — This section is set out to incorporate editorial changes made by the Revisor of Statutes.

Sec. 05.15.180. Limitations on authorized activity. (a) Except as provided in AS 05.15.100(b), this chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the commissioner.

(b) With the exception of raffles, lotteries, bingo games, pull-tab games, rain classics, goose classics, mercury classics, salmon classics, and other activities authorized under AS 05.15.100(b), an activity may not be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

(c) The operation of activities licensed under AS 05.15.100(b) is limited as follows:

- (1) cash prizes may not be awarded;
- (2) only money substitutes such as chips or scrip may be used by a player in the activity;
- (3) the money substitutes may be exchanged only for prizes other than money and may not be otherwise exchanged or sold; and
- (4) additional limitations may be established by the commissioner under adopted regulations.

(d) The total value of door prizes offered or awarded under authority of a permit issued to a municipality or qualified organization under this chapter may not exceed \$20,000 a month or \$240,000 a year.

(e) The total value of all door prizes offered or awarded at a single facility or bingo hall or parlor by an operator on behalf of authorizing permittees or by a permittee in conjunction with other permittees may not exceed \$20,000 a month or \$240,000 a year.

(f) A person under the age of 19 years may not play a bingo game.

(g) A municipality or a qualified organization may award a maximum of \$1,000,000 in prizes each year in activities authorized under this chapter; however, if a municipality or a qualified organization contracts with an operator to conduct on its behalf activities authorized under this chapter, the municipality or qualified organization may award a maximum of \$500,000 in prizes each year. In this subsection "activities authorized under this chapter" means all activities subject to this chapter other than bingo. (§ 2 ch 27 SLA 1960; am § 3

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§ 05.15.181

AMUSEMENTS AND SPORTS

§ 05.15.184

ch 66 SLA 1976; am §§ 5, 6 ch 59 SLA 1983; am § 2 ch 93 SLA 1986;
am § 3 ch 94 SLA 1986; am §§ 20, 21 ch 99 SLA 1988)

Effect of amendments. — The first
1986 amendment inserted "goose classics,
mercury classics," in subsection (b).

The second 1986 amendment in subsec-
tion (b) inserted "salmon classics," and

"not" preceding "be licensed" and substi-
tuted "an" for "no."

The 1988 amendment inserted "bingo
games, pull-tab games" in subsection (b)
and added subsections (d)-(g).

Sec. 05.15.181. Pull-tab manufacturer's license. (a) A person
may not manufacture pull-tabs in the state unless the person has
received a pull-tab manufacturer's license issued by the department.

(b) The department may issue a pull-tab manufacturer's license to a
person who pays an annual fee of \$500.

(c) Each series of pull-tabs manufactured in the state shall be
sealed and have a serial number label issued by the National Associa-
tion of Fundraising Ticket Manufacturers or other serial number label
approved by the department.

(d) A pull-tab manufacturer may distribute pull-tabs only to a li-
censed pull-tab distributor unless the pull-tab manufacturer is also a
licensed pull-tab distributor.

(e) Each pull-tab manufacturer shall report to the department by
the last business day of the month on each series of pull-tabs distrib-
uted during the preceding month, including the serial number of each
series distributed and the name of the distributor to whom the series
was distributed. (§ 22 ch 99 SLA 1988)

Sec. 05.15.183. Pull-tab distributor's license. (a) A person may
not distribute pull-tab games unless the person has received a pull-tab
distributor's license issued by the department.

(b) The department may issue a pull-tab distributor's license to a
person who pays an annual fee of \$1,000.

(c) Pull-tabs may be distributed only from a location in the state. A
person may not distribute pull-tabs directly to another person in the
state from a location outside of this state.

(d) A pull-tab distributor shall report to the department by the last
business day of each month on each pull-tab series distributed in the
preceding month. The report must include the name of the permittee
to whom each series of pull-tabs is distributed and the serial number
of each series. (§ 22 ch 99 SLA 1988)

Sec. 05.15.184. Pull-tab tax. A pull-tab distributor shall collect a
tax of three percent of an amount equal to the gross receipts less
prizes awarded on each series of pull-tabs distributed. The pull-tab
distributor shall pay to the department the tax collected in the preced-
ing month at the time that the report under AS 05.15.183(d) is filed
with the department. (§ 22 ch 99 SLA 1988)

Department of Transportation & Public Facilities



POSITION PAPER

BILL NO: SB 168

APPROVED: *M-k S. HZ*

TITLE: Authorizing Gambling in
Certain Places

DATE: March 17, 1989

An Act authorizing gambling enterprises in municipalities and on state ferries; and providing for an effective date.

We have reviewed the legislation and offer the following comments:

05.16.010(c) - This section limits gambling equipment to "numbers wheels and card and dice games". We have done a preliminary analysis of placing gambling equipment on the mainline vessels. This was based upon the installation of electronic gambling devices, which would require a minimal number of additional crew members, if any, to maintain the machines. We suggest this section be amended to allow the placement of this type of equipment on board the vessels of the Marine Highway System.

05.16.020(b) - This section appears to limit the appropriation of gambling revenues only to defray the cost of operating gambling on board the vessels. We suggest language be added to make those revenues available to meet the overall operating expenses of the Marine Highway System.

With these modifications the department could rework the Fiscal Note to something which would probably show a positive cash flow. The department would then not oppose this Bill.

For further

*DOT/PP Fiscal Note and
Analysis*

at 465-3900

ANALYSIS OF SENATE BILL NO. 168

The analysis assumes three mainline vessels would each have one roulette wheel, one dice table and one card table. Each game would require two staff per week to run the game. The analysis also assumes these facilities would be located in the existing bar space, or other public area, eliminating the need to reduce staterooms. Does not include cost to modify vessel for the quarters for this additional crew. It further assumes that the pay scale for the dealers would be roughly equivalent to that of the bartender.

No attempt has been made to estimate the potential revenue from casino operations, although we will be working on developing such an estimate. Our primary thrust has been to review the possibility of placing electronic gaming devices on the vessels, it is from this source that the estimated capital cost is derived. It must be understood these are very preliminary estimates, which could change drastically once more information is known. In addition, the crewing levels and compensation are subject to collective bargaining agreements and are subject to change depending upon the outcome of negotiations.

2 crews each consisting of:

- 6 "dealers" @ \$48,500/year with benefits
- 2 "reliefs" @ \$48,500/year with benefits

8 crew x \$48,500/year x 2 crews/vessel x 2 vessel years of operation

* $8 \times \$48,500 \times 2 \times 2 = \$1,552,000$

* Vessel year

2 vessels operating 10 months/year = 20 months

1 vessel operating 4 months/year = 4 months

24 vessel months = 2
vessel years

Travel:

Travel costs depend upon crew change ports and the location of the specific crew members. Assuming approximately 756 "crew weeks" and that travel costs would only be incurred for 20% of those weeks the total cost would be approximately \$30,000.

Capital Cost:

Each ship at approximately \$90,000 x 3 = \$270,000

S B

180

Original sponsor(s): SEN. COGRILL, Frank

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 180 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exemptions from the motor
7 fuel tax, and extending the exemption from the re-
8 quirement of obtaining a certificate of use to fuel
9 used to generate electrical energy in public utility
10 power plants and to heat commercial premises; and
11 providing for an effective date."

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

13 * Section 1. AS 43.40 is amended by adding a new section to read:

14 Sec. 43.40.015. EXEMPTION FROM COLLECTION OF TAX. (a) A dealer
15 who has a reasonable belief at the time of sale or transfer that fuel
16 that is sold or transferred is not to be used as motor fuel need not
17 collect the motor fuel tax.

18 (b) If the tax is not collected, the dealer shall obtain a
19 certificate of use from the buyer or transferee stating that the fuel
20 that has been or will be purchased or received is not intended for use
21 as motor fuel. The department may not collect the motor fuel tax from
22 a dealer for fuel for which a certificate of use has been properly
23 obtained under this subsection. Except as provided in (c) of this
24 section, an annual certificate of use is required for exemptions
25 listed under AS 43.40.100(2). The dealer shall retain a copy of each
26 certificate of use obtained under this subsection for examination or
27 audit on request by the department. The form of a certificate of use
28 may be prescribed by regulation adopted by the department.

29 (c) A certificate of use is not required for fuel exempted

1 under

2 (1) AS 43.40.100(2)(C);

3 (2) AS 43.40.100(2)(F);

4 (3) AS 43.40.100(2)(J); or

5 (4) AS 43.40.100(2)(K) as determined by the department by

6 regulation.

7 * Sec. 2. AS 43.40.035(a) is amended to read:

8 (a) A person who resells fuel on which the tax under AS 43.40.-
9 010(a) or (b) was previously paid is entitled to a credit or refund of
10 the tax if (1) the resold fuel is not motor fuel and the requirements
11 of AS 43.40.015 [AS 43.40.010(1)] have been fulfilled; or (2) the
12 amount of tax previously paid exceeds the tax due on the resale. The
13 amount of the credit or refund under this section is equal to the
14 amount of tax previously paid on the resold fuel less the amount of
15 tax prescribed by AS 43.40.010(a) or (b).

16 * Sec. 3. AS 43.40.010(1) is repealed.

17 * Sec. 4. This Act takes effect July 1, 1990.
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Introduced: 2/17/89
Referred: Transportation and
Finance

6-0817E

1 IN THE SENATE

BY COGHILL AND FRANK

2 SENATE BILL NO. 180

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exemptions from the motor
7 fuel tax, and extending the exemption from the re-
8 quirement of obtaining a certificate of use to fuel
9 used to heat commercial premises; and providing for
10 an effective date."

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

12 * Section 1. AS 43.40 is amended by adding a new section to read:

13 Sec. 43.40.015. EXEMPTION FROM COLLECTION OF TAX. (a) A dealer
14 who has a reasonable belief at the time of sale or transfer that fuel
15 that is sold or transferred is not to be used as motor fuel need not
16 collect the motor fuel tax.

17 (b) If the tax is not collected, the dealer shall obtain a
18 certificate of use from the buyer or transferee stating that the fuel
19 that has been or will be purchased or received is not intended for use
20 as motor fuel. The department may not collect the motor fuel tax from
21 a dealer for fuel for which a certificate of use has been properly
22 obtained under this subsection. Except as provided in (c) of this
23 section, an annual certificate of use is required for exemptions
24 listed under AS 43.40.100(2). The dealer shall retain a copy of each
25 certificate of use obtained under this subsection for examination or
26 audit on request by the department. The form of a certificate of use
27 may be prescribed by regulation adopted by the department.

28 (c) A certificate of use is not required for fuel exempted
29 under

1 (1) AS 43.40.100(2)(F);

2 (2) AS 43.40.100(2)(J); or

3 (3) AS 43.40.100(2)(K) as determined by the department by
4 regulation.

5 * Sec. 2. AS 43.40.035(a) is amended to read:

6 (a) A person who resells fuel on which the tax under AS 43.40.-
7 010(a) or (b) was previously paid is entitled to a credit or refund of
8 the tax if (1) the resold fuel is not motor fuel and the requirements
9 of AS 43.40.015 [AS 43.40.010(1)] have been fulfilled; or (2) the
10 amount of tax previously paid exceeds the tax due on the resale. The
11 amount of the credit or refund under this section is equal to the
12 amount of tax previously paid on the resold fuel less the amount of
13 tax prescribed by AS 43.40.010(a) or (b).

14 * Sec. 3. AS 43.40.010(1) is repealed.

15 * Sec. 4. This Act takes effect July 1, 1989.
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Alaska Department of Revenue
PO Box SA
Juneau, Alaska 99811-0400

CERTIFICATE OF USE

Covering Purchases of Fuel Exempt from Motor Fuel Tax
AS 43.40.010

No. 62248

NAME OF SELLER	NAME OF PURCHASER
MAILING ADDRESS	MAILING ADDRESS
CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE

TYPE OF FUEL:

- | | | | |
|--|---|--|--|
| <input type="checkbox"/> Aviation Gasoline | <input type="checkbox"/> Highway Gasoline | <input type="checkbox"/> Marine Gasoline | <input type="checkbox"/> Gasoline Used for Heating |
| <input type="checkbox"/> Aviation Jet Fuel | <input type="checkbox"/> Highway Diesel | <input type="checkbox"/> Marine Diesel | <input type="checkbox"/> Diesel Used for Heating |

My purchases of fuel will not be subject to the Alaska Motor Fuel Tax because they will be for the following exempt use: (check one)

- | | |
|--|--|
| <input type="checkbox"/> 1. The federal government for official use. | <input type="checkbox"/> 6. A public utility plant or a non-profit power association. |
| <input type="checkbox"/> 2. A state or local government agency for official use. | <input type="checkbox"/> 7. A licensed Qualified Dealer. |
| <input type="checkbox"/> 3. An auxiliary military unit for official use. | <input type="checkbox"/> 8. Jet fuel for use in a direct flight to a foreign country, or into bulk storage tanks for both foreign and domestic uses. |
| <input type="checkbox"/> 4. A consumer for use to heat a commercial building or facility but not including fuel used in or on watercraft. (Complete reverse side.) | <input type="checkbox"/> 9. A charitable institution. |
| <input type="checkbox"/> 5. A consumer for use in a commercial stationary power plant of 100 kw or less. | <input type="checkbox"/> 10. Fuel exported as cargo. (Complete reverse side.) |

CAUTION: Generally, only the fuel uses listed above qualify for exemption. If you believe the fuel qualifies for an exemption not listed, contact the Alaska Department of Revenue.

The undersigned understands that the fraudulent use of this certificate will subject the undersigned and all guilty parties, upon conviction, to a fine not to exceed \$25,000 or by imprisonment for not more than three years, or both. The undersigned also understands that he must be prepared, upon request, to supply satisfactory evidence establishing the purpose for which the fuel was or will be used.

I declare under penalty of perjury that I have examined this certificate and to the best of my knowledge and belief it is a true, correct and complete statement showing the manner in which the fuel will be used. I also certify that this fuel will not be delivered to a common storage tank servicing both taxable and non-taxable uses except bulk purchases of jet fuel by a person who flies directly from Alaska to a foreign country.

SIGNATURE OF PURCHASER OR REPRESENTATIVE	DATE
--	------

**DO NOT SEND THIS COPY TO THE DEPARTMENT OF REVENUE
UNLESS YOU ARE A RESELLER CLAIMING A REFUND.**

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 180
PUBLISH DATE: 2/17/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to the
exemptions from the motor fuel tax
Sponsor: Coghill and Frank
Requestor: Transportation and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: February 21, 1989

Approved by Commissioner: Hugh Malone Date: February 21, 1989
Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Changes in CSB 180 (trsp)
have no fiscal impact. This
fiscal note is appropriate CM
Projections of no fiscal impact
would continue through 1996.

ANALYSIS

-- Section 1 of the bill amends AS 43.40 by adding a new section to generally provide that a dealer is not required to collect the motor fuel tax if a certificate of use is obtained from the buyer representing that the fuel is not for use as motor fuel. The certificate of use prohibits the department from trying to collect from the dealer in the event the fuel was taxable motor fuel.

-- The bill also provides that certificates of use need not be obtained in certain instances. A certificate of use need not be obtained by a dealer for fuel which is at least 10% alcohol, for fuel used to heat private or commercial buildings or facilities, and for fuel used for nontaxable purposes as determined by the department in regulations. A dealer only needs a reasonable belief that the fuel is not to be used as motor fuel in order to sell the motor fuel without collecting the tax. Reasonable belief is not defined.

The amendment essentially follows current law with one major exception. Current law provides that a certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling or for fuel which is at least 10% alcohol. Therefore, the amendment extends the exemption from obtaining the certificate of use to all fuel for heating purposes.

Section 2 amends AS 43.40.035(a). This provision gives a credit or refund to a person who resells fuel previously taxed that is not motor fuel. The amendment will allow a dealer to obtain a refund of any taxes paid on fuel for which he has obtained a certificate of use or possesses a reasonable belief that the fuel is not to be used as motor fuel.

Section 3 repeals AS 43.40.010(1). The repealed section previously provided instances where the dealer was not required to obtain certificates of use.

Section 4 provides for a July 1, 1989 effective date.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 180
PUBLISH DATE: _____

FEB 07 1991

FISCAL NOTE

REQUEST:

Revision Date: February 2, 1990
Title: An act relating to the exemptions from the motor fuel tax
Sponsor: Coghill and Frank
Requestor: Transportation and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	88-440.0	88-440.0	88-440.0	88-440.0	88-440.0	88-440.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 2, 1990

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: February 2, 1990
Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

SB 180
February 2, 1990
Prepared by Income
and Excise Audit Division
Department of Revenue

Analysis

Section 1 of the bill amends AS 43.40 by adding a new section to generally provide that a dealer is not required to collect the motor fuel tax if a certificate of use is obtained from the buyer representing that the fuel is not for use as motor fuel. The certificate of use prohibits the department from trying to collect from the dealer in the event the fuel was taxable motor fuel. Paragraphs (a) and (b) are identical to AS 43.40.010(1) which is repealed in Section 3 of the bill.

Paragraph (c) provides that certificates of use need not be obtained in certain instances. A certificate of use need not be obtained by a dealer for fuel which is at least 10% alcohol, for fuel used to heat private or commercial buildings or facilities, and for fuel used for nontaxable purposes as determined by the department in regulations. A dealer only needs a reasonable belief that the fuel is not to be used as motor fuel in order to sell the motor fuel without collecting the tax. Reasonable belief is not defined.

The amendment essentially follows current law with one major exception. Current law provides that a certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling or for fuel which is at least 10% alcohol. Therefore, the amendment extends the exemption from obtaining the certificate of use to all fuel for heating purposes.

Section 2 amends AS 43.40.035(a). This provision gives a credit or refund to a person who resells fuel previously taxed that is not motor fuel. The amendment will allow a dealer to obtain a refund of any taxes paid on fuel for which he has obtained a certificate of use or possesses a reasonable belief that the fuel is not be used as motor fuel.

Section 4 provides for a July 1, 1989 effective date which needs to be updated.

Comment

Prior to 1982, dealers were not required to collect motor fuel tax if they had a reasonable belief the fuel was to be used in a tax-free manner. Several dealers failed to collect tax in situations which the department and eventually the court held the dealer did not exercise reasonable care in determining whether tax should be collected. These decisions left dealers unprotected against customers that told a dealer they qualified to purchase fuel tax off yet used the fuel for a taxable purpose. To protect dealers, the certificate of use provisions were added to statutes in 1982. Dealers were no longer required to use their

SB 180 -
February 2, 1990
Prepared by Income
and Excise Audit Division
Department of Revenue

independent judgment to determine a sales taxability. By obtaining a certificate of use from their customer, the dealer effectively transferred responsibility for collection of the tax to the customer. This provision also assisted the Department in increasing compliance with the motor fuel tax law. Customers were not as willing to sign a statement under perjury that the fuel was to be used in a tax-exempt manner as they were in orally communicating it to the dealer.

In recent days heating fuel distributors in the interior have become reluctant to obtain certificates of use from their commercial heating fuel customers. It at times is an arduous task and in their minds a lot of unnecessary paperwork. The Department addressed the situation in 1989 with regulations which eased the certificate of use reporting burden. Under new rules, dealers were only required to obtain a certificate with the first purchase of heating fuel made by a customer. So long as that customer's operation did not change, i.e., the fuel continued to be used for heating purposes, additional certificates of use are not required to be obtained. The department believes the regulations have adequately responded to the dealers needs and that the bill will take us back to the problems we faced prior to 1982.

Fiscal Impact

Statewide, approximately 110 million gallons of tax exempt heating fuel are sold annually. It is unknown how much of this fuel may actually be converted to taxable use without the state receiving the revenues. We anticipate that between 0-5% of heating fuel may be converted to taxable use if the bill passes. Assuming that the majority of it is consumed in diesel engines on highway, the potential tax loss would be \$88,000 per 1% leakage.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3-7-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

2/17/89

DATE TURNED INTO OFFICE 2-16-90

Mr. President:

TRSP Committee considered SB 180

exemptions from the motor fuel tax, and extending the exemption from the requirement of obtaining a certificate of use to fuel used to heat commercial premises; efd

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero

appropriation no FN attached

fiscal impact

Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

Not Lunched no rec

[Handwritten signature]
Chairman signature and recommendation

Committee backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 180
PUBLISH DATE: 2/17/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to the
exemptions from the motor fuel tax
Sponsor: Coghill and Frank
Requestor: Transportation and Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
	0	0	0	0	0	0
REVENUE						
	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Steven E. Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: February 21, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: February 21, 1989
Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

page ____ of ____

- Fiscal note -

6-0817H
Chenoweth
2/9/90

Original sponsor(s): SEN. COGHILL, Frank

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 180 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exemptions from the motor
7 fuel tax, and extending the exemption from the re-
8 quirement of obtaining a certificate of use to fuel
9 used to generate electrical energy in public utility
10 power plants and to heat commercial premises; and
11 providing for an effective date."

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

13 * Section 1. AS 43.40 is amended by adding a new section to read:

14 Sec. 43.40.015. EXEMPTION FROM COLLECTION OF TAX. (a) A dealer
15 who has a reasonable belief at the time of sale or transfer that fuel
16 that is sold or transferred is not to be used as motor fuel need not
17 collect the motor fuel tax.

18 (b) If the tax is not collected, the dealer shall obtain a
19 certificate of use from the buyer or transferee stating that the fuel
20 that has been or will be purchased or received is not intended for use
21 as motor fuel. The department may not collect the motor fuel tax from
22 a dealer for fuel for which a certificate of use has been properly
23 obtained under this subsection. Except as provided in (c) of this
24 section, an annual certificate of use is required for exemptions
25 listed under AS 43.40.100(2). The dealer shall retain a copy of each
26 certificate of use obtained under this subsection for examination or
27 audit on request by the department. The form of a certificate of use
28 may be prescribed by regulation adopted by the department.

29 (c) A certificate of use is not required for fuel exempted

1 under

2 (1) AS 43.40.100(2)(C);

3 (2) AS 43.40.100(2)(F);

4 (3) AS 43.40.100(2)(J); or

5 (4) AS 43.40.100(2)(K) as determined by the department by
6 regulation.

7 * Sec. 2. AS 43.40.035(a) is amended to read:

8 (a) A person who resells fuel on which the tax under AS 43.40.-
9 010(a) or (b) was previously paid is entitled to a credit or refund of
10 the tax if (1) the resold fuel is not motor fuel and the requirements
11 of AS 43.40.015 [AS 43.40.010(1)] have been fulfilled; or (2) the
12 amount of tax previously paid exceeds the tax due on the resale. The
13 amount of the credit or refund under this section is equal to the
14 amount of tax previously paid on the resold fuel less the amount of
15 tax prescribed by AS 43.40.010(a) or (b).

16 * Sec. 3. AS 43.40.010(1) is repealed.

17 * Sec. 4. This Act takes effect July 1, 1990.
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MAPCO ALASKA PETROLEUM INC.

A. L. Buki Wright, Jr.
VICE PRESIDENT — ALASKA
(907) 452-5318

JAN 2 1990

January 22, 1990

Senator Jack Coghill
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

I fully support SB 180, exempting fuel dealers from obtaining a certificate of use for fuel oil sold to heat commercial facilities. Under SB 180, dealers would be relieved of the burden of collecting numerous certificates of use for sales which are obviously nontaxable. However, the use of certificates, for sales they feel are potentially taxable, would be preserved.

At the present time, fuel dealers are not required to charge the motor fuel tax for fuel sold to heat commercial or private facilities. A certificate of use must be obtained, however, for fuel sold to heat commercial buildings. That certificate is signed by the customer certifying that he is using the fuel for a tax exempt purpose.

Under AS 43.40.010(1), motor fuel tax does not have to be collected if a dealer believes at the time of the sale that the fuel will not be used for a taxable purpose. A dealer will usually know, by sight, how the purchaser will use the fuel.

Heating fuel is exempt from motor fuel tax and should also be exempt from the requirements of the certificate of use. If a dealer has doubts about the use of the fuel, he will obtain a certificate of use for protection against the liability of paying tax at a later date.

Sincerely,

A.L. Buki Wright, Jr.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3109
(907) 465-3991

March 16, 1989

MEMORANDUM

TO: Representative Bert Sharp

ATTN: Murray Tate

FROM: Tom McKenna *TM*
Legislative Analyst

RE: Fuel Tax Exemption Procedures in Other States
Research Request 89.289

You asked us to obtain information about the processes employed by other states to grant exemptions to fuel taxes when fuel is purchased for use in heating commercial buildings or other nonhighway purposes. Alaska Statutes require that a dealer must obtain a "certificate of use" from commercial buyers stating that fuel purchased is not intended for use as a motor fuel (AS 43.40.010). You wanted to know if other states require such a certificate.

In response to your questions, I contacted fuel tax administrators in six states.¹ Certificates of use are employed in two of the states contacted. The administration of fuel tax exemptions among all of these states involves combinations of several approaches. These approaches are outlined below.

- Certificates of use are required from oil suppliers and consumers who claim exemption from Pennsylvania's Oil Franchise Tax. Ohio's Department of Taxation encourages--but does not mandate--fuel oil distributors to obtain certificates from consumers who claim exemption from the fuel tax.
- Distributors may deliver fuel for heating commercial or residential buildings without collecting taxes or processing exemption forms in five of these states. In Washington, Minnesota and Ohio distributors are not required to obtain special tax exemption documentation for fuel delivered to tanks connected to heating equipment in either commercial or residential buildings. Oregon's motor fuels tax is collected at the time fuel enters over-the-road vehicles; heating oil distributors are not directly accountable for

¹The states are Massachusetts, Minnesota, Ohio, Oregon, Pennsylvania and Washington.

Representative Sharp
March 16, 1989
Page 2

fuel tax administration. In Massachusetts, distributors who sell only (tax-exempt) heating oil are licensed by local governments and are not included in the exemption process managed through the state licensing system.

- Most of the states regulate fuel tax exemptions through some combination of licensing requirements for dealers, bulk purchasers, and multiple use consumers. Licensed entities are required to submit tax reports to document the manner in which fuels are used. Minnesota, Ohio and Massachusetts reported audit processes as major components of the processes of administering fuel tax exemptions.
- All of the states have provisions for refunds for fuels taxed when purchased and used in exempt capacities.

Descriptions of the mechanisms for granting and accounting for fuel tax exemptions are summarized below.

MASSACHUSETTS

Fuel oil dealers that sell only heating fuel are licensed and regulated by local governments in Massachusetts as these sales are exempt from the fuel tax. All other dealers are classified as "suppliers" and must be licensed. Suppliers buy fuel in bulk without an applied tax, and pay taxes depending on the nature of fuel use. These dealers are required to file monthly returns documenting all taxable and nontaxable disposal of fuels. This information includes the names of the tax-exempt purchasers, although exemption certificates are not used. The Department of Revenue systematically audits licensed dealers.²

²Jack Frangiamone, assistant chief, Massachusetts Department of Revenue, Division of Excise, personal communication, March 15, 1989.

MINNESOTA

Although dealers who distribute fuel to tanks which commercial building owners use only for heating purposes are not required to collect taxes on the fuel or provide specific exemption documentation, they must retain invoices for audits conducted by the Department of Revenue. Minnesota licenses dealers and bulk purchasers who purchase diesel fuels for multipurpose uses. These entities must file monthly tax reports documenting the type of use for all fuel consumed. When fuel consumed for off-highway use is exempted from the 20 cents per gallon excise tax, it then becomes subject to Minnesota's six percent sales tax.³

OHIO

In the absence of statutory provisions for certificates of use, Ohio employs a system in which sellers may voluntarily obtain written documentation of the intended use of diesel fuels from purchasers. Without such statements, the Department of Taxation will hold a distributor liable for assessments if a consumer uses fuel for taxable purposes after purchasing the fuel for nontaxable uses. Distributors are ultimately responsible--through monthly tax returns--for documenting the disposition of fuels through all taxable and nontaxable sales. The Department of Taxation conducts audits on the basis of perceived accounting discrepancies.⁴

OREGON

There is relatively little regulation of special fuel use in Oregon. Although Oregon's fuel tax laws (Attachment A) contain licensing requirements and mandate monthly statements from dealers, special fuels such as diesel fuels are taxed only when they go into fuel tanks of vehicles which are used on highways. Those using special fuels for nontaxable off-highway use are thus not ordinarily taxed. The Department of Motor Vehicles is charged with fuel tax collection and audit responsibilities. According to Jay Morganson, fuel tax auditor for the Department of Motor Vehicles, the department is largely uninformed about the types of off-highway use for which special fuel sales are made, since fuel dealers (other than service stations) have no tax collecting responsibilities.

³Larry Tremble, Minnesota Petroleum Tax Office, personal communication, March 15, 1989.

⁴Jim Jarsabeck, Ohio Department of Taxation, Motor Fuels Division, personal communication, March 15, 1989.

PENNSYLVANIA

The state of Pennsylvania requires certificates of use for verification of exemptions from one of two elements of its tax structure that apply to heating fuels. The state imposes an Oil Franchise Tax on oil companies for the privilege of doing business in the state. Under this tax, oil companies are taxed for all fuel that is used to propel vehicles designed for highway use. Companies are entitled to obtain exemptions from taxation upon receipt of an exemption certificate from the purchaser of the fuel.⁵ The certificate must specify the type of use for which the fuel is intended. According to Paul Sload of the Pennsylvania Bureau of Motor Fuel Taxes, small distributors often elect to be classified as oil companies.⁶ These distributors may then purchase oil from larger companies without initially paying the franchise tax, and receive tax exemptions for fuel sold for nonhighway use. Consumers who use fuel sold by these companies for nonhighway uses (including commercial building heating) must file certificates of use to verify their intentions of off-highway fuel use.

The second element of the Pennsylvania tax structure is a Fuel Use Tax which is a more general tax applied to all fuel going into highway gas tanks. Any entity that makes bulk purchases of fuel intended for use in an over-the-road vehicle, must obtain a "fuel dealers' user's license." As in other states, licensees must file monthly reports describing the extent of taxable and nontaxable fuel use.

⁵The tax is structured to shift the burden of administering tax exemptions from government to the oil companies.

⁶According to Mr. Sload, most distributors elect to be classified as oil companies. Without oil company status, a distributor either has to guarantee that 100 percent of its product is sold for off-highway use, or pay tax on all fuel purchased.

Representative Sharp
March 16, 1989
Page 5

WASHINGTON

Except for dealers who deliver only into tanks connected to heating equipment, fuel oil dealers in Washington are required to be licensed. Licensed dealers are subject to audit by the state, and must retain invoices from fuel sold for non-taxable purposes. Consumers who regularly make bulk purchases of "special fuels" such as diesel (or heating fuel No. 2) for nonhighway uses must obtain a "special fuel user license" in order to be exempt from taxes at the time of purchase. All licensees must file reports with the Department of Licensing either quarterly or yearly, depending on the magnitude of their tax liabilities. These reports must document the quantity and purpose of all special fuel uses. Unlicensed entities may claim tax refunds for nonhighway use of special fuels by submitting a refund claim form. The law relating to Washington's Special Fuel Tax is provided in Attachment B.⁷

If you have questions, please call me.

Attachments

⁷Ildefonso L. Origenes, assistant administrator, Fuel Tax Section, Washington Department of Licensing, personal communication, March 7, 1989.

Representative Bert Sharp
Alaska State House of Representatives
Juneau, Alaska
February 5, 1990

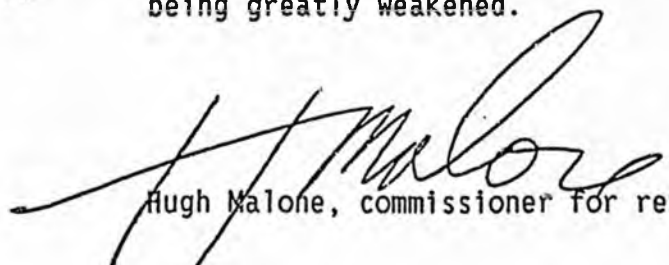
Dear Representative Sharp;

HB 183 would repeal the requirement that a motor fuel dealer obtain a certificate of use. This repeal would be effective in those cases where the dealer has a reasonable belief that the fuel will be used for non-taxable (exempt) uses.

I would urge you most strongly to delete that provision from the bill. If certificates of use are not obtained by the dealer, the state has essentially no way to determine whether the fuel was used for an exempt purpose. There would no longer be any "paper trail" that was certified to by the buyer of the fuel. As a practical matter, it would be impossible to audit or even determine the use of the fuel.

This would create a large "loophole" for dishonest fuel buyers to run through, and there would be no way to stop them. This would create powerful incentives for buyers who respect the law to follow suit, since they would be placed at a competitive disadvantage if they paid the tax and their competitors did not.

I strongly recommend that the certificate of use program be continued. I believe that repealing it will result in this revenue source being greatly weakened.



Hugh Malone, commissioner for revenue

cc Royce Weller
Steve Kettel
405q

Express FUELS

•• A DIVISION OF MAPCO ALASKA PETROLEUM

January 22, 1990

Senator Jack Coghill
PO Box V, Room 30C
Junuea, Alaska 99811

Dear Senator Coghill:

We would like to let you know of our support for SB #180, concerning Certificates of Use for heating oil sold to heat commercial facilities.

As you already know, motor fuel tax is not collected on heating oil if it is not to be used for taxable purposes. This is based upon the dealers belief of what the fuel will be used for. In almost every case, a dealer will know by sight what the purchaser will use the fuel for.

Therefore, we believe that fuel oil dealers should only be required to obtain a Certificate of Use if there is a doubt as to what the fuel will be used for.

SB #180 would relieve the dealers of the burden of collecting Certificates of Use for those sales which are obviously untaxable, yet would preserve the use of the Certificates for those sales which we feel could be potentially taxable.

We hope you will support this piece of legislation.

Sincerely,

Charlie Croan
Charlie Croan, *ab*
Operations Manager

CC/abh

NENANA FUEL CO.

P.O. Box 268
Nenana, Alaska 99760
Dial 832-5476

January 22, 1990

Senator Jack Coghill
PO Box V, Room 30C
Juneau, Alaska 99811

Dear Senator Coghill:

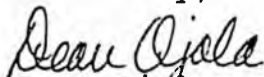
We would like to take this opportunity to express our support for SB180 exempting fuel oil dealers from obtaining a Certificate of Use for fuel oil sold to heat commercial facilities.

As it stands now, motor fuel tax need not be collected if a dealer has reasonable belief that at the time of the sale the fuel is not to be used for taxable purposes. Since heating fuel is exempt from the motor fuel tax, it should also be exempt from the requirements of the Certificate of Use.

SB180 would relieve fuel oil dealers of the burden of collecting Certificates of Use for those sales which are obviously untaxable.

We hope you will support this piece of legislation.

Sincerely,



Dean Ojala
Terminal Manager

DO/abh

of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) *[Repealed, § 46 ch 113 SLA 1980.]* (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. *[Repealed, § 46 ch 113 SLA 1980.]*

Sec. 43.40.100. Definitions. In this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

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

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

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

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

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities;

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department; or

(L) fuel used in stationary power plants of 100 kw or less that generate electrical power for commercial enterprises not for resale;

(3) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department;

(4) "user" means a person consuming or using motor fuel, who either
 (A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10 — 12 ch 82 SLA 1982; am § 4 ch 87 SLA 1983)

Revisor's notes. — Paragraphs (3) and (4) were renumbered in 1983 to achieve alphabetical order.

Effect of amendments. — The 1980 amendment added subparagraph (F) in paragraph (2).

The 1982 amendment, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the subparagraphs (A) and

(B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

The 1983 amendment added paragraph (2)(L).

Secs. 43.40.110 — 43.40.120. Additional tax levy on transfers or consumption of motor fuel. [Repealed, § 8 ch 158 SLA 1970.]

Chapter 43. Disaster Taxes.

Secs. 43.43.010 — 43.43.060. Disaster relief tax. [Repealed, § 1 ch 48 SLA 1969.]

Secs. 43.43.110 — 43.43.160. Disaster Severance tax. [Repealed, § 2 ch 247 SLA 1970.]

Chapter 45. School Tax.

[Repealed, § 3 ch 166 SLA 1976; § 2 ch 64 SLA 1980; § 46 ch 113 SLA 1980.]

Chapter 50. Tobacco Tax.

Article

1. Cigarette Tax Act (§§ 43.50.010 — 43.50.180)
2. Additional Cigarette Tax (§ 43.50.190)

Collateral references. — 51 Am. Jur. 2d, Licenses and Permits, §§ 5, 16; 71 Am. Jur. 2d, State and Local Taxation, § 615. 53 C.J.S., Licenses, § 30.

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

To: Senator Lloyd Jones

From: Senator Jack Coghill

Re: SB 180

Date: February 24, 1989

A handwritten signature in black ink, appearing to read "Jack Coghill", with a horizontal line underneath.

I would like to request you to schedule SB 180, "an Act relating to the exemptions from the motor fuel tax, and extending the exemption from the requirement of obtaining a certificate of use to fuel sold to heat commercial premises; and providing for an effective date" for a hearing in the Senate Transportation Committee as soon as possible.

Currently in statute, we have an exemption from the motor fuel tax for fuel used to heat private or commercial buildings or facilities (AS 43.40.100(2)(J)). However, in order for a fuel dealer to obtain the exemption for a commercial building, the dealer must obtain a certificate of use (AS 43.40.010(1)). Dealers do not have to obtain a certificate of use for fuel used to heat private residences, but they have to for fuel used to heat commercial buildings.

SB 180 eliminates the certificate of use requirement for fuel used to heat a commercial building. I have enclosed a copy of a memo from Legal Services, copies of the relevant statutes and regulations and a letter from Petro Star Inc. If you have any questions after reviewing the material, please feel free to contact me.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 25, 1989

SUBJECT: SB 180: Motor fuel tax (AS 43.40) -
exemption relating to fuel used in commercial
premises

TO: Senator Jack Coghill

FROM: Jack Chenoweth
Legislative Counsel

This bill is not easy to explain. Suffice to say that the net effect--the bottom line--is to respond to Walt Schlotfeldt's request by exempting from the certificate of use requirements fuel used to heat commercial premises.

There is a motor fuel tax (AS 43.40). There is an exemption from the tax for fuel used to heat "private or commercial buildings or facilities" (AS 43.40.100(2)(J)). The fuel dealer may claim the tax exemption for fuel required for heat in a private dwelling (AS 43.40.010(1) in current law), but in order to claim the exemption for a commercial building, the dealer must obtain a certificate of use (AS 43.40.010(1) in current law).

This bill eliminates the certificate of use requirement for fuel used to heat a commercial building.

The requirements and exceptions are all wrapped up together in AS 43.40.010(1) in current law. AS 43.40.010(1) is a drafter's nightmare. Rather than make it more complex, I decided to start over.

This bill (in bill section 3) repeals AS 43.40.010(1) and replaces the material in it with a new section, AS 43.40.015 (bill section 1). AS 43.40.015(a) and (b) merely repeat the substance of the repealed provisions in a tidier, less convoluted format. Note that AS 43.40.015(b) continues the certificate of use requirement. AS 43.40.015(c) sets out exemptions from obtaining a certificate of use in order to secure the tax exemption. The specific provisions iden-

- Sectional analysis -

Senator Jack Coghill

Page 2

February 25, 1989

tified in paragraphs (c)(1) and (c)(3) appear in current law: (c)(1) is a cross-reference to "fuel which is at least 10 percent alcohol by volume", and (c)(3) makes a reference to the exemption authorized by AS 43.40.100(2)(K). These are just merely carried forward without change from the existing law.

The exception addressed in AS 43.40.015(c)(2) of this bill is an exception from the certificate of use requirement for all "fuel to heat private or commercial buildings or facilities." In other words, if this bill is enacted as drafted, dealers like your constituent would no longer be required to secure a certificate of use to support a tax exemption claim for fuel used not only for private buildings, as authorized under current law, but also for fuel delivered to heat commercial buildings.

Bill section 4 gives the change a July 1, 1989 effective date, in other words, at the start of the next fiscal year.

Bill section 2 makes a technical change to account for the repeal of AS 43.40.010(1) and the substitution of AS 43.40.015.

If this memorandum or the bill prompts questions, please contact me.

JBC:kb
wkk2/1052

Enclosure

PETRO STAR INC.



Telephone (907) 488-0730
Telecopier (907) 488-9057
TELEX 36-686

P.O. Box 56239
North Pole, Alaska 99705
Walt Schlotfeldt
President

January 30, 1989

Honorable Jack Coghill
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear ^{Jack}~~Senator~~ Coghill:

The motor fuel tax regulations which we must live with (15 AAC 40) have two problems: (1) we must receive certificates of use for commercial buildings which will obviously use the fuel for heating; and (2) we also must receive certificates of use for commercially owned residential buildings.

These regulations need to be changed. We are not required to receive certificates of use (15 AAC 40.040(k)) for fuel sold to private residences, but we must for all commercial buildings including commercially owned residences. Contrary to this, the tax is not collected for any heating purposes (AS 40.43.40.010(1), and heating fuel is specifically not defined (AS 40.43.40.100(2)(j)) as a "motor fuel". If we are not to collect tax on any "fuel used to heat private or commercial buildings or facilities" (AS 40.43.40.100(2)(j)), why must we obtain certificates of use for fuel sold to heat commercial buildings or commercially owned private residences (15 AAC 40.030)?

In addition to requiring certificates of use for customers who purchase heating fuel, we must report monthly all non-taxable fuel sales (15 AAC 40.070(a)(5)), including heating fuel sales made during the month.

I would like to request that you not simply change the regulations which apply to certificates of use currently required for fuel used to heat buildings or facilities. Please take this one step further and simply take heating fuel completely out of the Motor Fuel Tax laws and regulations. Heating fuel is not taxable, nor should we or our customers have to report through certificates of use and monthly reports sales of heating fuel. Heating fuel is already precluded from the definition of "Motor Fuel" (AS 40.43.40.100), therefore, it should not even be dealt with in the statute or the accompanying regulations. Perhaps AS 40.43.40.010(1) should be amended to read: "If a dealer

Backup letter

has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is to be used as motor fuel..." Then the law would apply only to taxable fuels and not include heating fuel. We would then presumably do away with a lot of paperwork in the form of certificates of use and monthly reports of all tax-exempt sales of heating fuel.

Your assistance in this matter is appreciated.

Sincerely;



Walt Schlotfeldt

WPS:pm
W.90112-2

PETRO STAR INC.

Telephone (907) 400-0730
Teletypewriter (907) 400-9057
TELEX 200-6140

P.O. Box 56239
North Pole, Alaska 99705
Walt Schlotfeldt
President

March 6, 1989

Mr. Royce B. Weller
Special Assistant Commissioner
Department of Revenue
Box 8
Juneau, Alaska 99811

Dear Mr. Weller:

I am writing in regard to the certificates of use requirement for heating fuel for commercial facilities. Collection of a motor fuel tax on diesel fuel is the responsibility of the dealer, for he is the only one who can determine what the use of the fuel will be. No matter what auditing procedures are used, this will be the case. The person making the delivery, in almost every case, knows by sight what the fuel will be used for, therefore, if the dealer feels that the use of the fuel will be as prescribed by the motor fuel tax laws and that the tax should be collected, he will charge for the tax. If he does not charge the tax, he will surely get a certificate of use to protect himself from the liability of potentially paying the tax at a future time.

Since heating fuel is exempt from the tax, it should also be exempted from the requirements of the certificates of use. Certificates of use should only be used in those cases where the purchaser of the fuel could potentially use the fuel as a motor fuel. This, then, would protect the dealer and place the burden of future tax liability on the purchaser. To require the dealer to obtain a certificate of use from all heating fuel users is overkill, and is causing the dealers to incur additional administrative expense both in ensuring that all certificates are received from their customers and in corresponding with the customers about their certificates. Certificates of use are also not very popular with our customers, who already feel the burden of paperwork reporting requirements within their own businesses.

- Letter to Revenue -

Mr. Royce B. Weller
March 6, 1989
Page 2

If certificates of use were not required on commercial facilities, but only in the case where the dealer suspected use as diesel fuel, then the auditor would have a clear list of those individuals who may have used the fuel for taxable purposes and not paid the tax. As it is, auditors must review all sales to determine if there are those customers who perhaps should have paid the tax, and generally, for those who the dealer suspects are using the fuel for taxable reasons, we hold a certificate of use on file. Therefore, the certificates of use should only be required for those commercial customers who the dealer suspects are using the fuel for taxable purposes. This would ease the burden of the auditor in tracking sales in which the tax is uncollected. In order to ensure that the dealer is truly receiving certificates in those cases where he suspects the fuel is used for taxable reasons, the auditor could review the invoices, which generally have a high degree of description as to the customer's name, delivery location and tank size and other information including the customer's name. I have enclosed some copies of our delivery invoices for your perusal so that you can see what I mean. This is specifically what the auditors currently do to determine if the dealer has collected the tax or certificates of use from the appropriate customers.

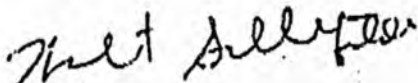
I think it is in the Department of Revenue's best interests to have dealers receive certificates of use only for those sales made which the dealer, who, again, is the only person who truly sees the use of the fuel, suspects is taxable.

We are not asking that our monthly reports of volume sold, taxable and untaxable under the various categories, be discontinued. These reports are, I believe, the basis for your reporting to the Federal Government. I believe that SB-180 and HB-183 would relieve us of the burden of collecting certificates of use for those sales which are obviously untaxable, yet would preserve the use of the certificates for those sales which we feel could potentially be taxable. If the same elimination of the requirement to obtain certificates of use can be accomplished through your regulations, that would be satisfactory to me, and would meet the needs which we have identified.

Mr. Royce B. Weller
March 6, 1989
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If I can provide any further information or answer any questions, please call me. In the event I am unavailable, you may wish to contact Bob Meath, Sourdough Fuel (456-7798), should you have any questions. I look forward to hearing from you.

Sincerely,



Walt Schlotfeldt
President

Enclosures

WPS:pm
W.90227-3