

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

8672

11234 SENATE LABOR & COMMERCE



3100 Channel Drive, Suite 300 • Juneau AK 99801
(907) 463-3488 • Fax (907) 463-3489

February 12, 2003

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1082

Dear Senator Therriault:

As the Executive Director of the Juneau Chamber of Commerce, I would like to add the support of our organization for a change in Alaska statutes that will allow additional private yachts to travel into Alaskan waters without a marine pilot aboard.

Although Juneau is enjoying a stable economy at this time based on a combination of government and private employment and summer tourism positions, other areas of Southeast are not as lucky. In communities where timber and fish were once the mainstays, the tourism industry is becoming an important partner. In Juneau, a community which hosts nearly one million visitors a year, we have long understood the value of these independent travelers to our economy.

As you may know, a private sector group in Juneau is in the permitting stage for construction of a new dock to provide additional moorage space for yachts, small cruise ships and lightering vessels. There is no better way to gauge business opportunities than by those who are willing to invest in the infrastructure of our community.

The Chamber supports the efforts by Alaska Yacht Services and Provisioning to change this state law which significantly discourages yacht visitation. Without an amendment to the current marine pilot regulation that states that "all pleasure craft foreign flagged must hire a state marine pilot onboard," Southeast Alaska is missing out on a wonderful economic opportunity. Please consider this change in direction that will help stimulate the economy for many small businesses in Juneau, as well as throughout Southeast and coastal Alaska.

I thank you for your consideration of this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jamie Parsons", written over a horizontal line.

Jamie Parsons
Executive Director
Juneau Chamber of Commerce

CC: Governor Murkowski

**GOLDBELT**
SEADROME
MARINE COMPLEX

February 7, 2003

The Honorable Gene Theriault
Senate President
State Capitol
Juneau, AK 99801-1182

Dear Senator Theriault:

I am writing in support of the proposed change to the marine pilotage law concerning foreign flagged yachts. As manager of the Seadrome Marine Complex a docking facility owned by Goldbelt in downtown Juneau, I have observed vessels that become very frustrated with the current regulations and head for friendlier ports. Our customer base is made up of small cruise vessels, day boats and yachts. This past year, approximately 25% of our moorage business came from yachts and transient vessels. Most of these vessels travel from the east coast specifically to visit Alaska while others are on their maiden voyage after leaving one of the boat builders in the Puget Sound area.

We have noticed a steady increase of yachts visiting Alaska over the past five years and hear about many more that decide not to make the trip because of the costly pilotage requirements. Although I have no way of knowing the potential market that is discouraged from visiting Alaska because of the current regulations, my feeling is that it is considerable. The limited availability of pilots is also problematic for vessels such as yachts with an ever-changing schedule.

The independent yacht visitor has a comparably greater positive economic impact by spending days if not weeks in Alaska and spreading their purchasing power over numerous businesses and communities. This positively impacts a wide variety of businesses from groceries to carpet cleaners and flower shops and fuel companies.

I urge you to consider an exemption or similar action to allow this market to reach its potential in Alaska. Many businesses and communities throughout the region will realize the benefits.

Best regards,

Jeff White
Manager
Seadrome Marine Complex

Summit Restaurant/Inn at the Waterfront
455 South Franklin Street
Juneau, AK 99801
Phone 907-586-2050 Fax 907-586-2999
E-mail: AN1898INN@AOL.COM

February 12, 2003

Senator Gene Therriault
Senate President
State Capital
Juneau, AK 99811-3100

Dear Senator Therriault:

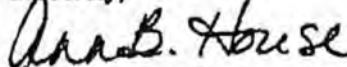
As the long time owner of a small hotel and restaurant in downtown Juneau, I am supporting a change in Alaska's Marine pilotage laws to allow large pleasure yachts to operate without additional marine pilots while in Alaska. I cannot stress strongly enough the impact the private yacht traffic has on my business.

The Summit Restaurant and the Inn at the Waterfront is one of the few businesses on the South end of Franklin Street that stays open throughout the winter months to better help serve our visitors and legislative friends from all over the state. Many companies in the downtown area enjoy business brought from all sectors of our cruise ship industry. As you may know when passage is booked on one of the larger cruise ships, all meals are included. (As are the midnight buffets the ships are so famous for!). For this reason, the independent visitor traffic is of the utmost importance to my economic viability.

The amount of money that is spent these yachts in a community can be staggering. I have witnessed this first hand on numerous occasions. It would seem that the legislature should do all it can to attract these desirable tourist to Alaska; ones that spend freely and leave no negative impacts behind.

Thank you for your consideration to these charges that will have a very positive impact on my small business.

Sincerely,



Ann B. House
Owner

Miss Scarlett's Greenery

124 Seward Street Juneau, Alaska 99801 907-586-1766 Fax: 907-586-6545 800-586-1767

February 10, 2003

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1082

Dear Senator Therriault:

As the co-owner of a local, family owned business that depends on Juneau's summer visitors for our economic viability, I would like to add my voice of support to a change in Alaska's marine pilotage laws to allow large pleasure yachts to operate without additional pilots aboard while in our waters.

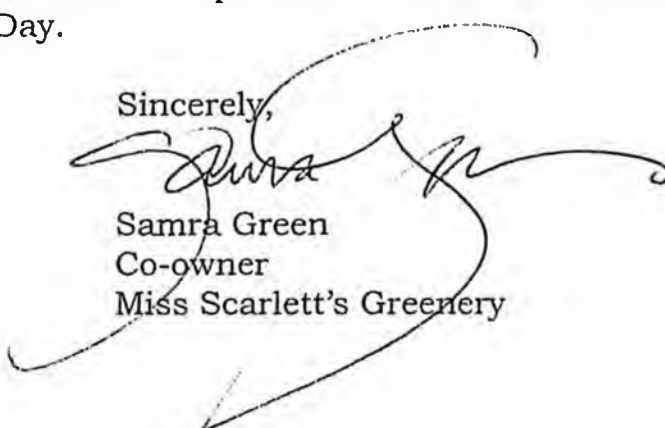
Although Miss Scarlett's Greenery enjoys a steady local business during most of the year, I can truthfully state that the income we derive from independent yacht traffic is crucial to our bottom line. It makes the difference between having a great season and having one in which we wonder how we'll make it through the very slow fall and winter until the legislature arrives.

We are one of many small businesses in Southeast that wouldn't typically come to mind when you think of these affluent visitors. But we supply a product that can only be enjoyed while fresh, not unlike produce, dairy and meat, which must be purchased while in port.

Please bear in mind the impact your decision will have on our livelihood. Alaska is the destination of a lifetime for many of the customers we come in contact with each summer. The government should be doing all it can to attract these desirable visitors to our state, especially during these times of economic uncertainty.

Thank you for your consideration of this issue. Please let me know if you would like any further information regarding our reliance on this important sector of the tourism industry-but please call after Valentine's Day.

Sincerely,



Samra Green
Co-owner
Miss Scarlett's Greenery

**Douglas Island Pink and Chum, Inc.**

2697 Channel Dr. • Juneau, Alaska 99801

Telephone: (907) 463-5114 • Fax: (907) 463-3213

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1082

February 10, 2003

Dear Senator Therriault:

As the Executive Director of the Douglas Island Pink and Chum Corporation (DIPAC) in Juneau, I am writing to support a change in Alaska law that will allow large private yachts to travel into Alaskan waters without an additional marine pilot aboard.

As the main producer of enhanced salmon for the communities of northern Southeast, we are very aware of and concerned about issues affecting sport fishing in the inside waters. We produce salmon for sport and commercial fishermen, as well as the expanding local salmon charter business. Although most of our operating funds are earned in a traditional manner through cost recovery of our fish, a percentage of our expenses are covered each year by money brought in through the tourism attraction attached to our hatchery. We host over 100,000 visitors at our facility each summer, with a growing number originating from non-cruise ship travel.

We in Juneau understand the economic opportunity associated with independent travelers to Alaska. The cruiseships provide the majority of our client base, but locals, their relatives and other tourists visiting Juneau have a significant impact. The money spent in our community by developing the private yacht industry is welcome and needed. I am in total support of any changes in statute which will increase the traffic to our area by these desirable tourists. It is my understanding that the current law has never been enforced, and this is all the more reason to investigate changes at this time

Thank you for your consideration of these changes in statute which benefit all the coastal communities in Southeast Alaska

Sincerely,

A handwritten signature in black ink that reads "Don Carter". The signature is written in a cursive, flowing style.

Don Carter

Executive Director

**SEDA****SITKA ECONOMIC DEVELOPMENT ASSOCIATION**

329 Harbor Drive, Suite 212 * Sitka, Alaska 99835 * (907) 747-2660 * fax (907) 747-7888 * www.sitka.net

February 12, 2003

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1182

Senator Con Bunde, Chair
Senate Labor & Commerce
State Capital
Juneau, AK 99801-1182

RE: Senate Bill 20 – Alaska Board of Marine Pilots

Dear Senators Therriault and Bunde:

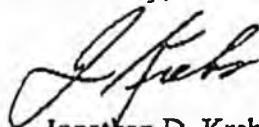
The Sitka Economic Development Association would like to encourage your amendment of Senate Bill 20 to allow an exemption of private boats up to 500 tons from requiring a pilot be aboard the boat.

Over the last 10 years, Sitka has made a concerted effort to build the number of visits of private yachts to Sitka. This is good economic development and has provided needed dollars to Sitka's economy. Without the exclusion, these boats have made it quite clear they won't travel Southeast Alaska waters if they have the heavy expense of having a pilot aboard for the voyage. In addition, many boats of this size don't have the space for a pilot.

Placing a pilot on a private pleasure yacht for safety reasons would be duplicating what insurance companies are already doing to assure the safe operation of a boat. Insurance companies require the owner of a large yacht to name the captain of the vessel and then evaluate the experience and/or skills this person has to operate such a boat. Once the insurance company has sufficient confidence the named captain can indeed operate the boat, the policy will then name that person as the only master of the boat.

The importance of the private yacht industry to Sitka can't be overstated. Please give serious consideration to the exemption being requested.

Sincerely,



Jonathan D. Krebs, CEcD
Executive Director

Cc: SEDA Board of Directors
John Litten



Motor Yacht Mi Gaea

20 February 2003

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1082

Dear Senator,

As the Master of the Motor Yacht Mi Gaea, I had the opportunity to operate the yacht for her owners in the beautiful waters of Southeast Alaska during the summer of 2002. This is my second voyage in Alaskan waters, and by far, the most extensive. During this second trip, I became aware of the little known regulation regarding the compulsory use of a marine pilot aboard yachts while cruising Alaskan waters. Further, I understand that there is currently an effort underway to modify the regulations by providing for an exemption to the pilotage requirements for qualified yachts and captains. It is this subject I wish to address.

The Motor Yacht Mi Gaea is a Cayman Islands registered private yacht, 158 feet in length and 476 Gross Registered Tons displacement. We carry as many as 12 guests in the owner's party and a full time crew of 12. The past summer we spent approximately 50 days underway with owners and their guests, and all of the fuel, provisions, supplies, and equipment required to supply the vessel for that period were purchased in Alaska. In addition, we hired aircraft, fishing guides, buses, rental cars, and frequented many restaurants.

Also associated with many of the larger private yachts are the private aircraft that bring the guests to the vessels. This generates revenue in aircraft fuel, landing fees, and fees charged by Fixed Base Operators at airports.

I conservatively estimate that this yacht and her guests spent in excess of \$200,000.00 in the 3 months we were in Alaska. In my experience, this revenue and the activities that generated it are of low impact to an area. We certainly don't generate the revenues the cruise ships do, but neither do we bring the hordes of people that inundate some of your port cities at times.

I would like to plan more visits to Alaska, and encourage my fellow captains to do so as well. However, the pilotage requirement for yachts as currently written, will prevent me and many of my colleagues from doing so.

MI GAEA LTD.

Box 268, Bank of Nova Scotia Building, Georgetown, Grand Cayman, British West Indies
Satcom Tel: (871/874) 331-948222 • Satcom Fax: (871/874) 331-948234
U.S.A. Contact Address : 5 Hog Island Road, Philadelphia, PA 19153
Email: Captain@MiGaea.com



Page 2

The nature of the operation of yachts is simply not compatible with the pilotage system. Our owners and guests make or change plans with very short notice, sometimes only hours. I don't believe that the pilotage system of any area can respond that quickly. I might add that with the exception of the Panama Canal, yachts are generally not required to carry pilots.

My suggestion is to pattern an exemption for yachts similar to what the State of Washington has done. Prior to entry into the pilotage area, a yacht captain is required to identify his experience in the waters of the Puget Sound, identify communications and navigation equipment aboard, and identify crew members and their experience. This, in addition to the required Alaska State Water Pollution insurance coverage, which has its own equipment requirements, should provide for safe navigation and the continuation of this valuable commerce.

Most Sincerely,

A handwritten signature in black ink that reads "Mark A. Howard". The signature is written in a cursive, flowing style.

Mark A. Howard, Master
Motor Yacht Mi Gaea
United States Merchant Marine No. 881 518



M/Y ALLIANCE

PACCAR Inc
P.O. Box 1518
Bellevue, WA 98009
(425) 453-2529

Skip Sethmann, Captain

Loyd Harris, Engineer

February 6, 2003

Senator Gene Therriault
Senate President
State Capitol
Juneau, AK 99801-1082

Dear Senator Therriault:

I am writing to you in my position as the captain of the M/Y Alliance, a 136ft American flagged private yacht homeported in Seattle. Although my vessel is exempted from the current Alaska marine pilotage laws, I would like to add my support to the effort underway to expand this exemption to allow larger foreign flagged yachts into Alaska waters without an additional marine pilot.

I have two years of experience cruising in Alaska, and have sailed in nearly every body of water in the world. With a crew of four and eight guests, the economic impact of a visit from our yacht is a significant one. We regularly take on 12,500 gallons of fuel during a typical season. Our crew and guest eat in local restaurants on an average of 5 nights during a 3 week trip and shop heavily whenever we are in port. I would estimate our spending during a normal cruising season to be in excess of \$100,000. in the communities visited by our vessel.

I have recently had contact with other captains and owners who are in the process of making alternative cruising plans because of the restrictive pilotage regulations in Alaska. It is unreasonable to expect them to accommodate an additional and unknown crewperson for the length of time they generally spend on a cruise in Southeast. Owners typically keep their yacht and crew on 24 hour standby, as to be available to ship out within a period of a few days or less. This also contributes to the impracticality of hiring a marine pilot. It is my understanding that the pilot organization in Southeast prefers to schedule their trips many weeks, if not months, in advance. It must be very hard to accommodate our yachts that are required to notify them only 48 hours in advance of entering a pilotage region.

As this law has never been enforced, it is serving only to impede commerce in Alaska. Thank you for your consideration of these changes. I look forward to visiting your beautiful state again in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Skip Sethmann".

Captain Skip Sethmann



February 5, 2003

Senator Gene Theriault
Senate President
State Capitol
Juneau, AK 99801-1182

Dear Senator,

Delta Marine, located in Seattle, Washington is a manufacturer of custom luxury yachts with a complete refit & repair division. Our operation builds and services yachts of up to 225-foot and 1300 gross tons for a global clientele.

Many of our customers look forward to cruising Alaska when departing from Delta. However, several recent customers have decided to cancel their Alaska trips due to the stringent pilotage requirements of the State of Alaska. This affects Delta and our community as well as the waterfront communities of Alaska.

The following are three cases in particular that I wanted to bring to your attention:

- The 151' *Sally Ann* (498 gross international tonnage), after completing a five-year circumnavigation in 2001, returned to Delta for some routine maintenance work. The last leg of their amazing journey was to take them to Alaska. However, due to the rigorous pilotage requirements of the State of Alaska they canceled their trip and headed south instead.
- The 165' *Georgia* (381 gross international tonnage), is yet another a foreign flagged yacht that had plans to cruise Alaska. This story is unique, as this yacht sailed from the Mediterranean for a complete re-paint at Delta in 2002, as well as the opportunity to cruise the beautiful waters of the North Pacific. Once here, they were made aware of the strict pilotage requirements and too, canceled their plans to cruise to Alaska.
- Finally, the 126' *Andrea* (456 gross international tonnage), is a tough, seaworthy expedition yacht due to be delivered by Delta late this spring. Delta has quickly become known around the world for building these types of yachts and this client has come from Europe to Seattle to build. Although they would like to spend the summer cruising Alaska, taking this yacht to the far places it was built to see, they are planning to cancel their cruise to Alaska, again due to the strict Alaska pilotage requirements.

This is an issue that will continue to affect Delta, our customers, and the coastal communities of Alaska. We believe that changes to the law should be addressed as part

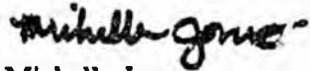
DELTA MARINE INDUSTRIES
1608 SOUTH 96TH STREET
SEATTLE, WASHINGTON 98108 USA
T: 206.763.1383 F: 206.762.1627

of your current work on SB 20, the Board of Marine Pilots extension legislation. The requirement for pilotage of yachts should be thoroughly reviewed, with a goal of eliminating or narrowing this requirement.

The large yachts Delta builds and services are well maintained and well run. As a group, these yachts have an outstanding safety record. Removal of the pilotage requirement for these private pleasure craft is consistent with both maintaining environmental protection and encouraging economic opportunity, as well as standardizing marine pilotage law along the entire coastline from Washington to Alaska.

Your attention and efforts are appreciated. If I can be of any further assistance or answers any questions please let me know.

Sincerely,



Michelle Jones
Marketing Manager

STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS
2911 2nd Avenue, Suite 100
Seattle, Washington 98121
(206) 515-3904
(206) 515-3969 FAX

PETITION FOR VESSEL EXEMPTION FROM PILOTAGE REQUIREMENTS

_____ (DATE) _____ NEW _____ RENEWAL

1. Applicant:

Name _____

Address _____

Telephone _____

2. Owner of vessel, if different from applicant:

Name _____

Address _____

Telephone _____

3. Name of vessel and country of registry:

4. Type and use of vessel, including length (LOA) and gross tonnage (international):

5. Length of time sought for exemption when vessel will be exclusively in the waters of the Puget Sound Pilotage District and lower British Columbia:

6. Purpose of visit:

7. Names and addresses of captain, crew and passengers: (use additional sheets if necessary)

8. Experience of master and crew in waters of Puget Sound and lower British Columbia: (attach any government licenses)

9. Identities of the captain and/or crew who speak English:

10. Type and quantity of fuel and any other potentially environmentally damaging substances on board:

11. Brief description of navigational aids on board:

12. Brief description of communications equipment: (list accessible VHF channels)

13. List any propulsion, navigation or communication equipment not currently operational:

C Staying the Course

Despite wavering economies and the threat of global terrorism, 2002 luxury yacht order book is up 18.4% • Italy tops country listings • 11.4 miles of yachts under construction • Benetti tops builder list • Big gains by Germany, New Zealand, Australia, Denmark • 507 yachts over 80' under construction

THE LUXURY YACHT INDUSTRY IS DEMONSTRATING extraordinary resiliency in the face of threats from a sagging U.S. economy and global terrorism.

While the industry backed off from its red-hot 31% rate of growth in last year's order book, it still turned in a surprisingly robust 18.4% increase in total business. While gains were posted in nearly every quarter, the strongest corporate and national performers were tried-and-true companies and countries.

In terms of overall product categories, sailing yachts were up 12.5% and motor yachts 19.5%. In both motor and sailing yacht categories; however, the strongest segments were the upper and lower ranges. Sailing yacht orders between 90 and 99 feet were up 100%, while the 150-foot-plus sail segment jumped five orders or 50%. In the motor yacht sector, the 80- to 89-foot range leaped 38 orders, or 36.9%, while the 150-foot-plus range rose 11 orders to a total of 73, a jump of 17.7%.

The only drop in any segment was among 100- to 119-foot sailing yachts, which decreased by three orders, or 17.6 percent.

Reinforcing the industry trend toward ever-larger yachts, this year's order book reflects a two-foot increase in the average size of luxury yachts now under construction to 119.4

feet. This is due in no small measure to the 160-meter project started and stopped under a veil of secrecy by Lürssen and Blohm & Voss for a Brunei owner. Now code named *Platinum*, the structurally complete 525 footer has a new owner and will be finished in the Middle East.

In The Wake Of September 11th

In trying to gain perspective on the underlying strength of

the luxury yacht industry, numerous builders interviewed for this report said the majority of clients with whom they were working prior to the terrorist attacks of September 11th are moving forward with their projects. Feadship, for example, reported two new orders in the second week following the World Trade Center and Pentagon attacks. Paolo Vitelli, chairman of the Azimut-Benetti Group, reported that none of the negotiations underway at the time were broken off after the attacks, and that none of his clients had asked for a deposit to be returned.

"The strategy of the terrorists has not shown any effect," he said, adding his clients have openly expressed their support for a business-as-usual climate. "Things must move forward," Vitelli said, "or otherwise we're simply playing their game."

Henk deVries III, managing director of Feadship's DeVries Shipyard, draws a similar analysis. Following the attacks, deVries said he informally checked in with all his

Top 15 Builders

Yard Name	Number of Projects	Total Length	Average Length	2001 Rank
1. Azimut/Benetti	56	6,008'	107'	1
2. Lürssen	8	2,429'	304'	4
3. Ferretti	27	2,421'	90'	2
4. Feadship	13	2,353'	181'	3
5. SNP Rodriguez	22	1,957'	89'	5
6. Amels	10	1,890'	189'	7
7. Horizon	17	1,558'	92'	-
8. Royal Denship	11	1,470'	134'	-
9. Heesen	10	1,285'	129'	9
10. Trinity	8	1,218'	152'	8
11. Perini Navi	6	1,154'	192'	11
12. San Lorenzo	12	1,044'	87'	13
13. Destiny	10	1,025'	103'	-
14. Westport	8	936'	117'	-
15. Sunseeker	10	933'	93'	10

By the Editors of ShowBoats International
Data Compiled By Jamie Welch

Builder	Size Type	Name/Launch	Design Team	Yacht Country/Engines
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ARGENTINA				
Tarrab	87	MY Beautiful Lady/Jan 2002	Tarrab	US/CAT

AUSTRALIA				
Aluminum Marine89	MY	Powercat/2002		
Australian MY	98	MY Seastar 97/2002	Shead/Bonville	MTU
	145	MY Seastar 145/May 2002	Shead/Bonville	US/MTU
• Brisbane	132	MY 2003	Cohen	
Shipyards	165	MY 2003	Cohen	
	264	MY	Cohen	
• McConaghy	85	SY Maxi/2002	Reichel-Pugh	US/Yanmar
	85	SY Maxi/2002	Reichel-Pugh	Yanmar
Oceanfast	177	MY Perfect Prescription/Mar 2003	Oceanfast/Heywood	US/MTU
	185	MY Mercedes III/June 2003	Oceanfast/Bannenberg	US/CAT
	228	MY Horman Expedition Yacht/Dec 2003	Oceanfast/Sorgiovanni	Australia/CAT
Warren	85	MY Superova ST/Nov 2001	Lowe/Sorgiovanni	MTU
	85	MY Superova HT/Feb 2002	Lowe/Sorgiovanni	MTU
	114	MY 35M/Dec 2002	Curran/Lowe/Sorgiovanni	MTU

BRAZIL				
Inace	83	MY Amarella/Mar 2002	Inace/Kirschstein	Italy/CAT
	90	MY Zembra/Sept 2002	Inace/Kirschstein	US/CAT
Metalnave	144	MY 144 MY/Dec 2001	Murray/Reverberi	US/CAT

CANADA				
• Cape Scott	86	MY Amnesia M/Dec 2001		MAN
Crescent	92	MY TBA/Nov 2001	Sarin/PCI	US/MTU
	112	MY Crescent Lady/Aug 2002	Sarin/Crescent/Rose	MTU
	120	MY Crescent Lady/2002	Sarin/Crescent/Rose	MTU
McQueens	88	MY TBA/Aug 2002	Pokela	US
Queenship	87	MY Souvenir/Nov 2001	Fexas/Cole	US/CAT
	95	MY Cielo Mare/May 2002	Queenship/Apollonio/Espinosa	US/MTU
	96	MY Durand Marie/June 2003	Queenship/Apollonio/Espinosa	US/MTU
Sovereign Yachts	105	MY TBA/Jan 2003	Setzer	MTU
	120	MY Chairman/Feb 2002	Setzer/Knowles/Sovereign	MTU
	135	MY Cloud 9 /July 2002	Setzer/Sovereign	CAT
West Bay Sonship	82	MY 70-14/Nov 2001	West Bay Group	Venezuela/MTU
	82	MY 70-16/Mar 2002	West Bay Group	US/MTU
	88	MY 70-15/Feb 2002	West Bay Group	US/MTU
	88	MY 70-17/June 2002	West Bay Group	US/MTU
	89	MY 70-19/Nov 2001	West Bay Group	US/CAT
	103	MY 103-4/Sept 2002	Sarin/WBG/Vermeulen/Johnson	MTU

CHINA				
Cheoy Lee	81	MY TBA	Fexas	US/CAT
	103	MY TBA	Mulder/Robinson	US/MTU
	103	MY TBA/Fall 2001	Mulder/Puleo	US/MTU
	125	MY TBA	Mulder/Savio	US/CAT
	171	MY Seashaw I/Dec 2002	Mulder/Robinson	Singapore/MTU
Yantai Raffles	105	SY TBA/Apr 2002	Sparkman & Stephens/Mallard	US
	131	SY TBA/2003	Sparkman & Stephens/Mallard	US
	289	MY Asean Lady/Apr 2002	Mitchell/Raffles	Singapore/CAT

DENMARK				
Royal Denship	80	MY 80 Flybridge/May 2002	Dixon/Zuretti	Europe/CAT
	80	MY 80 Open/Aug 2002	Dixon/Zuretti	Europe/CAT
	107	MY Dayboat/Oct 2003	Oelno/Zuretti	MTU
	109	SY Aventura/Sept 2003	Hood/Denship/Hood	France/CAT
	110	SY 110 Sloop/Fall 2001	Castro/Zuretti	Europe/CAT
	127	SY 130 Bluebay/June 2002	Coster/Bluebay	Europe /CAT
	127	MY 125 Classic/Fall 2001	Denship/Zuretti	US/CAT
	135	MY 135 Classic/June 2002	Denship/Zuretti	Europe/CAT
	136	SY J-Boat/Nov 2003	Reichel-Pugh/Johnson	US/Lugger
	207	MY 206 Expedition/June 2002	Knudsen/Rottboll	US/CAT
	252	MY 240 Oelno/Oct 2003	Oelno/Zuretti	Deutz

EGYPT				
• Deblirs	80	MY Deblirs 80/2001	Barilani /H2	MAN
	80	MY Deblirs 80/2002	Barilani /H2	MAN

• = New Addition to Global Order Book Builders

existing and prospective clients. "All of our clients we're working with are going ahead," he said. "Even with this horrible situation, the outlook at Feadship is good."

Lürssen's sales manager, Michael Bremen, said inquiries remain at a high level. "I refuse to be a pessimist," Bremen said. Despite the recent attacks, the outlook remains good for his company. "The recession was going to happen anyway," Bremen said, adding that U.S. Dollar/Euro currency exchanges remain favorable for U.S. buyers, a condition that is likely to continue. "Saber-rattling tends to strengthen the dollar," he said.

On the production side, several builders reported their chief concern was the backlog of orders in their dealer networks and inventory. The unwillingness to start new orders on speculation is reflected in the performance of companies such as England's Sunseeker, which this year slipped five notches to 15th place in the builder standings.

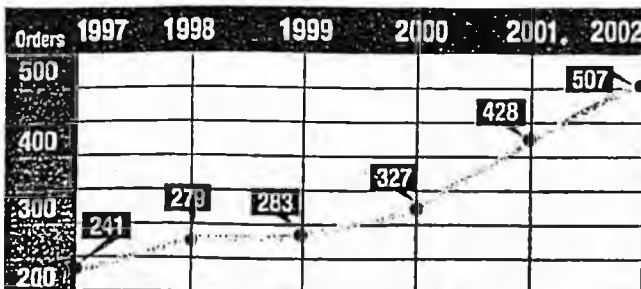
On the positive side of the production scale is the rise into the top-20 list of such companies as Lazzara Yachts and Destiny Yachts. The increased performance of these companies is due in large measure to their aggressive investment in recent years in new product development. "The time to move, the time to grow is on the downturn," said Dick Lazzara, CEO of Lazzara Yachts, which is introducing two new models, 80- and 106-footers, at the Fort Lauderdale International Boat Show. "It's time to pin our ears back and try to grow market share. We're just fortunate we started developing new products eighteen months ago. Now, every month that goes by will make us a stronger company."

Vitelli also remains bullish on the production side of his group. The Cannes Boat Show (just prior to the September 11th attacks) was excellent he said, and dealers both in Europe and the U.S. remain optimistic. For Azimut/Benetti's part, Vitelli said he is prepared to move forward with a planned Euro\$28 million investment in new construction capacity at the company's new Lusben yard in Viareggio.

Orders By Length & Year

Length	Sailing Yachts						Motor Yachts					
	'97	'98	'99	'00	'01	'02	'97	'98	'99	'00	'01	'02
60'-89'	5	7	7	14	16	17	45	75	48	62	103	141
90'-99'	7	9	8	4	5	10	20	31	36	43	36	44
100'-119'	7	7	12	14	17	14	71	58	72	71	95	103
120'-149'	6	6	12	14	16	16	32	41	39	47	68	74
150'+	5	4	3	8	10	15	43	41	45	40	62	73
TOTAL	30	33	42	54	64	72	211	246	241	273	364	435

Charting Upward Progress



Top 10 Builder Nations

Yard Name	Number of Projects	Total Length of Projects	Average Length	2001 Rank
1. Italy	170	17,686'	104'	1
2. US	99	11,235'	113'	2
3. Netherlands	61	9,267'	152'	3
4. Germany	12	3,127'	261'	5
5. New Zealand	22	2,570'	117'	7
6. Taiwan	24	2,176'	91'	-
7. Australia	14	1,937'	138'	-
8. UK	18	1,869'	104'	6
9. Canada	17	1,668'	98'	8
10. France	15	1,566'	104'	9

Gauging Brokerage/Charter Impact

While the order book reflects continued resiliency in the existing new-construction sector, weakness in both chartering and brokerage sales does not bode well for the short-term prospects of those sectors. Several brokers interviewed in the aftermath of September 11 reported that the only phone calls they received were those canceling pending deals. Charter agents and fleet managers reported charter cancellations for next summer's Mediterranean season.

But yacht broker Merle Wood of Merle Wood & Associates, said he's seen the market fluctuate wildly in the past and recover quickly. The issue is not one of not enough people of means to support the market. "Tons of people have tons more money than they had five years ago," he said. What will make the telephone start ringing again, Wood said, is when people begin to appreciate the safety and security large yachts represent. He noted that private airplane leasing and sales are already red-hot. The question many people will begin asking themselves is, "Do I want to check my family into a public resort somewhere, or do I want them to be on our own private, secure yacht?"

Others, such as Bob Saxon of Bob Saxon Associates, sees opportunities in the current upheaval. For one, he said, such periods of crisis always end up "winnowing out" the industry, ultimately leaving strong and responsive companies in a better position. His company is working quickly to "reshape the charter product" to make it more attractive to a wider audience. Noting the bankruptcy of Renaissance Cruise Lines, he is developing an all-inclusive charter package, including private air transportation, to make chartering more appealing to traditional high-end cruise line customers. "There are hundreds of thousands of stranded cruise ship passengers who are capable of purchasing a yacht charter vacation," Saxon said. Noting that the time is ripe for industry unity, Saxon said, "Everybody fears change. But the best way to cope with change is to create it yourself."

Who's On Top

Azimut/Benetti, with an astounding 64.7% jump in new orders, consolidated its position at the top of the overall builder category. A distant second is Lürssen, which increased its orders 10% to move up from fourth. Feadship, despite its 18% increase dropped to fourth behind Ferretti, which dropped from second to third in the rankings on a 3% dip in orders. When considering only custom builders, Feadship is third.

Builder	Type	Name/Launch	Design Team	Owner/Country/Engines
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DEBIRS (CONTINUED)

* Debirs (Continued)	80	MY Debirs 80/2002	Barilan/VH2	MAN
* Ocean Classic	190	MY Ocean Classic One/July 2002	Ocean Classic/Fretvokh	CAT

FINLAND

Ballic	140	SY TBA/2006	Jude/Vrolijk	Germany/CAT
	141	SY TBA/2003	Jude/Vrolijk	CAT
	147	SY TBA/2003	Reichel-Pugh/TR&JDesign	US/CAT
Nautor's Swan	80	SY Swan 80/004/May 2002	Frers/Nautor	Yanmar
	80	SY Swan 80/009/May 2002	Frers/Nautor	Yanmar
	82	SY Swan 82/003/Mar 2002	Frers/Nautor	Yanmar
	82	SY Swan 82/005/Oct 2002	Frers/Nautor	Yanmar
	99	SY Swan 100/002/July 2002	Frers/Nautor	Perkins
	113	SY Swan 112/003/June 2002	Frers/Nautor	MTU
	113	SY Swan 112/004/Sept 2002	Frers/Nautor	MTU

FRANCE

CIM	115	SY Maxi 115/Mar 2002	Berret-Racoupeau	France/MAN
CMN	105	SY Lady Barbarella/June 2002	CPA	Luxembourg/CAT
	140	MY Heloval/Sept 2002	CMN/Brechech/Stirling	France/CAT
CNB	95	SY Grand Bleu V/Nov 2002	Briand/Vripack	Europe/Cummins
Guy Couach	92	MY TBA/Nov 2001	Guy Couach	Europe/MTU
	92	MY TBA/May 2002	Guy Couach	Europe/MTU
	92	MY TBA/Aug 2002	Guy Couach	Europe/MTU
	92	MY TBA/Dec 2002	Guy Couach	Europe/MTU
	95	MY TBA/Dec 2001	Guy Couach	Europe/MTU
	120	MY TBA/2002	Guy Couach/Owner	Europe/MTU
* JFA	82	SY Crlu/Fall 2001	Vrolijk/GCA	Spain/Yanmar
	82	SY Sea Tenareze/2002	Joubert/JFA/Kubis	UK
	122	MY Vripack 122/2003	Vripack/Gibraltar	CAT
* Multiplast	110	SY Cruising Cav/2003	Ollier/The "A" Group	US
Ocea	132	MY TBA/2003	Nivel/Tarrade/Baudouin	

GERMANY

Abeking	130	SY TBA/Dec 2001	Tripp/Winch	MTU
& Rasmussen	188	MY TBA/Oct 2002	A&VStarkey/Pinto	CAT
	188	MY Excellence II/Dec 2001	A&VStarkey	US/CAT
	192	MY TBA/Oct 2003	A&R	CAT
Lürssen	192	MY TBA/2004		US/CAT
	200	MY TBA/2004		MTU
	238	MY TBA/2004	Oelno/Starkey	MTU
	239	MY TBA/2002		MTU
	335	MY TBA/2002		MTU
	360	MY TBA/2002		Wansila
	410	MY TBA/2002		US/MTU
	455	MY TBA/2002		US/MTU

ITALY

Alfamarine	135	MY TBA/Sept 2002	Baggalupo/Spagnolo/Alfamarine	UK/MTU
Arno	80	MY Leopard 24/2002		MTU
(Rodriguez Group)	80	MY Leopard 24/2002		MTU
	80	MY Leopard 24/2002		MTU
	80	MY Leopard 24/2002		MTU
	88	MY Leopard 27/2002		MTU
	88	MY Leopard 27/2002		MTU
	88	MY Leopard 27/2002		MTU
	88	MY Leopard 27/2002		MTU
* Astondoa	82	MY Astondoa 82 GLX/2002		MTU
(Rodriguez Group)	82	MY Astondoa 82 GLX/2002		MTU
	82	MY Astondoa 82 GLX/2002		MTU
Azimut	80	MY #20/Fall 2001	Azimut/Righini/Galeazzi	Venezuela/CAT
	80	MY #21/Fall 2001	Azimut/Righini/Galeazzi	US/CAT
	80	MY #22/Nov 2001	Azimut/Righini/Galeazzi	US/CAT
	80	MY #23/Dec 2001	Azimut/Righini/Galeazzi	Germany/CAT
	80	MY #24/Jan 2002	Azimut/Righini/Galeazzi	Venezuela/CAT
	80	MY #25/Feb 2002	Azimut/Righini/Galeazzi	Mexico/MTU
	80	MY #26/Mar 2002	Azimut/Righini/Galeazzi	Europe/MTU
	80	MY #27/Apr 2002	Azimut/Righini/Galeazzi	Cyprus/MTU
	80	MY #28/May 2002	Azimut/Righini/Galeazzi	Europe/MTU

* = New Addition to Global Order Book Builders

ITALY (CONTINUED)

CNB (Wally)	94	SY Magic Carpet II/July 2002	Frers/Wally	UK/Cummins	
	94	SY WY 94.2 Fr/Aug 2003	Frers/Wally	Germany/Cummins	
	98	SY WY 98 Fr/Aug 2003	Frers	Argentina/Yanmar	
	100	SY WY 100/June 2002	Frers/Wally/Foster	Japan/CAT	
	105	SY WY 105/June 2002	Frers/Castellini	Italy/CAT	
Codecasa	138	MY F64/Apr 2002	Codecasa/Della Role	CAT	
	164	MY F65/Dec 2003	Codecasa/Della Role	CAT	
	203	MY C108/July 2003	Codecasa/Della Role	CAT	
CRN (Ferretti Grp)	151	MY Magnifica/Aug 2002	CRN/Nuvolari&Lenard	Europe/CAT	
Ferretti Custom Line	94	MY Custom Line #15/Sept 2003	Ferretti/Zuccon	US/MTU	
	101	MY Navetta 30 #2/Jan 2002	Ferretti/Zuccon	Europe/MAN	
	101	MY Navetta 30 #3/Apr 2002	Ferretti/Zuccon	Europe/MAN	
	101	MY Navetta 30 #4/June 2002	Ferretti/Zuccon	Europe/MAN	
	101	MY Navetta 30 #5/Sept 2002	Ferretti/Zuccon	US/MAN	
	112	MY Custom Line 112 #5/June 2003	Ferretti/Zuccon	Europe/MTU	
	112	MY Custom Line 112 #6/Dec 2003	Ferretti/Zuccon	Europe/MTU	
	80	MY #56/Fall 2001	Ferretti/Zuccon	Middle East/CAT	
	80	MY #57/Nov 2001	Ferretti/Zuccon	Middle East/CAT	
	80	MY #58/Dec 2001	Ferretti/Zuccon	Europe/CAT	
	80	MY #59/Feb 2002	Ferretti/Zuccon	Middle East/CAT	
	80	MY #60/Apr 2002	Ferretti/Zuccon	Europe/CAT	
	80	MY #61/May 2002	Ferretti/Zuccon	Europe/CAT	
	80	MY #62/June 2002	Ferretti/Zuccon	Asia/CAT	
	80	MY #63/July 2002	Ferretti/Zuccon	Europe/MTU	
	80	MY #64/Aug 2002	Ferretti/Zuccon	US/MTU	
	80	MY #65/Oct 2002	Ferretti/Zuccon	US/CAT	
	80	MY #66/Nov 2002	Ferretti/Zuccon	US/CAT	
	80	MY #67/Jan 2003	Ferretti/Zuccon	Asia/CAT	
	Fipa	80	MY Maiora 24/Mar 2002	Fipa/Del Re	Italy/MTU
80		MY Maiora 24/May 2002	Fipa/Del Re	Italy/MTU	
85		MY Maiora 26/Feb 2002	Fipa	Spain/MTU	
97		MY Maiora 29/June 2002	Fipa/Del Re	Spain/MTU	
102		MY Maiora 31 DP/Apr 2002	Fipa/Del Re	Greece/MTU	
102		MY Maiora 31 DP/July 2002	Fipa/Del Re	Spain/MTU	
Intermarine S.p.A.	118	MY Wally 118/July 2002	Intermarine SpA		
	146	MY Balaju/Fall 2001	Intermarine SpA/Zuretti S.A.	MTU Cayman Islands/CAT	
Mondomarine	98	MY TBA/Feb 2002	Sydac/Cichero	Europe/MTU	
	98	SY TBA			
	132	MY New York Lady II/May 2002	Sydac/de Rover/Blanchere	US/MTU	
	136	MY TBA/Feb 2002	Navirex/Mondomarine		
	147	SY TBA	de Rover	Africa/MTU	
NAYS	153	MY Genesis/2001	Cutolo/de Basto/Lauren	CAT	
	Overmarine (Rodriguez Grp.)	80	MY Mangusta 80/2001		MTU
		80	MY Mangusta 80/2001		MTU
		80	MY Mangusta 80/2002		MTU
		80	MY Mangusta 80/2002		MTU
		105	MY Mangusta 105/2002		MTU
		105	MY Mangusta 105/2002		MTU
		105	MY Mangusta 105/2002		MTU
108		MY Mangusta 108/2002		MTU	
Perini Navi	163	SY Perseus/2001	Perini Navi	US/CAT	
	163	SY #2050/2002	Perini Navi	Deutz	
	173	SY #2036/Aug 2002	DuBols/Tessier	CAT	
	184	SY #2034/Aug 2003	Perini Navi	Deutz	
	209	SY #2035/Nov 2002	Holland/Nuvolari&Lenard	Deutz	
	262	SY TBA/2003	Perini/Dijkstra/Freivokh	US	
Pershing (Ferretti Group)	88	MY #6/Fall 2001	Pershing/de Simoni	Europe/MTU	
	88	MY #7/Dec 2001	Pershing/de Simoni	Europe/MTU	
	88	MY #7/Apr 2002	Pershing/de Simoni	Europe/MTU	
Riva (Ferretti Group)	80	MY Riva 80/July 2002	Riva/Michell	Europe/MTU	

ITALY (CONTINUED)

Riva (Continued)	80	MY Riva 80/April 2002	Riva/Michell	Europe/MTU
	80	MY Riva 80/Dec 2001	Riva/Michell	Europe/MTU
	84	MY Canlata/Fall 2001	Riva/Michell	Asia/MTU
	80	MY TBA/Feb 2002	Rizzardi/Zuccon	Greece/MTU
Rizzardi	80	MY TBA/Apr 2002	Rizzardi/Zuccon	Greece/MTU
	80	MY TBA/May 2002	Rizzardi/Zuccon	Greece/MTU
	80	MY TBA/June 2002	Rizzardi/Zuccon	Greece/MTU
	105	MY TBA/Mar 2002	Rizzardi/Paszowski	MTU
	82	MY TBA/2002	San Lorenzo	CAT
San Lorenzo	82	MY TBA/2002	San Lorenzo	CAT
	82	MY TBA/2002	San Lorenzo	CAT
	82	MY TBA/2002	San Lorenzo	CAT
	82	MY TBA/2002	San Lorenzo	CAT
	88	MY TBA/Nov 2001	San Lorenzo	MTU
	88	MY TBA/Jan 2002	San Lorenzo	MTU
	88	MY TBA/Apr 2002	San Lorenzo	MTU
	88	MY TBA/July 2002	San Lorenzo	MTU
	100	MY TBA/2002	San Lorenzo	MTU
	100	MY TBA/2002	San Lorenzo	MTU
Versilcraft (Viking)	105	MY Viking 105 Custom/Nov 2002	Viking/Versilcraft/Savio	US/MTU

MONACO

Wally (See Italy)

THE NETHERLANDS

Amels	153	MY TBA/2004	Amels/Starkey	CAT	
	171	MY TBA/2003	Amels/Disdale	Cummins	
	171	MY TBA/2003	Amels/Disdale	Cummins	
	171	MY TBA/2004	Amels/Pinto	Cummins	
	180	MY TBA/2003	Amels/Disdale	CAT	
	187	MY TBA/2005	Amels		
	202	MY Solemar/2002	Amels/Leach	US/CAT	
	203	MY Sarah/2002	Amels/Starkey	CAT	
	213	MY TBA/2004	Amels/Franchini	CAT	
	239	MY TBA/2003	Amels/Redman & Whitely	CAT	
	Feadship	126	MY #665/2003	de Voogt	
		131	MY #787/2002	de Voogt	
		140	MY Andiamo/2005	de Voogt/Sharp/Johnson	
		152	MY #789/2005	de Voogt	
164		MY #668/2002	de Voogt		
169		MY #788/2002	de Voogt/Starkey		
177		MY #669/2005	de Voogt		
185		MY #662/2002	de Voogt		
187		MY #663/2002	de Voogt		
197		MY Paraffin/2002	de Voogt/Owner		
Hakvoort	212	MY #664/2002	de Voogt/Van Len/Owner		
	231	MY #667/2003	de Voogt		
	282	MY #790/2005	de Voogt/Van Len		
	96	MY TBA/June 2003	Vripack/Horsfield	UK	
	110	MY Midnight Saga/June 2002	Lentsch/Freivokh	Norway/CAT	
	146	MY Campbell Bay/May 2002	DIANA/Winch	US/CAT	
Heesen	152	MY Flamingo Daze/June 2003	Vripack/Johnson	US/CAT	
	165	MY H20/Nov 2004	Oeino	US/CAT	
	97	MY #1829/Nov 2002	Diaship/PB Design	Netherlands/MTU	
	110	MY #12134/Spring 2004	Diaship/Omega	Netherlands/MTU	
	111	MY #1734/May 2002	Diaship/Omega	Greece/MTU	
Holland Jachtbouw	120	MY Duketown/Dec 2001	Diaship/Omega	Netherlands/MTU	
	131	MY #11540/Feb 2002	Diaship/Omega	Malaysia/MTU	
	139	MY #12342/2004	Diaship/PB Design	Netherlands/CAT	
	141	MY #11934/May 2003	Diaship/Omega	UK/MTU	
	141	MY #12043/Feb 2004	Diaship/Omega	Greece/MTU	
	144	MY #12244/Aug 2004	Diaship/de Rover/Omega	Germany/MTU	
	151	MY #1646/Jan 2003	Diaship/Zuretti	MTU	
	80	SY Emotion/Aug 2001	Hoek	MAN	
	90	SY Christoffel's Ughthouse/Dec 2002	Dijkstra	US/Lugger	
	115	SY Whisper/Dec 2002	Hood/Winch	US/Lugger	
152	SY Windrose/Fall 2001	Dijkstra	Netherlands/Lugger		

* = New Addition to Global Order Book Builders

Continued on page 96

Builder	Type	Name/Launch	Design Team	Engines
THE NETHERLANDS (CONTINUED)				
Jongert	87 SY	Searose/April 2003	Peterson/Jongert/Scania	
	105 SY	Happy Sailing/Aug 2002	Castro/Jongert/Scania	
	120 SY	Islandia/Jan 2002	Castro/Jongert	CAT
	147 SY	Jongert 45C/2002	Hoek/Jongert	MTU
	177 SY	Erica XII/May 2004	Hood/Winch	MTU
Kuipers Shipyard	84 MY	Doggersbank/2002	Vripack	Canada
	93 MY	Doggersbank/2003	Vripack	US
Moonen	84 MY	Mimi/Nov 2001	Stolk Marinecs/van der Velden	UK/CAT
	84 MY	TBA/June 2002	Stolk Marinecs/van der Velden	Scotland/CAT
Mulder Shipyard	80 MY	TBA/June 2003	Ginton & Weber/de Groot/Mulder	Netherlands/Volvo
	88 MY	Seabreeze II/Fall 2001	Ginton & Weber/de Groot/van der Kamp	UK/CAT
Oceanco	193 MY	TBA/2002	Oceanco/Disdale	CAT
	200 MY	TBA/2002	Oceanco/Zuretti	CAT
	262 MY	TBA/2001	Oceanco/Costantini/A Group	MTU
Royal Hulsman	131 SY	Cecilie-Marie/Nov 2002	King/Young	MTU
	156 SY	Borkumriif IV/Apr 2002	Dijkstra/Alden/Munford	MTU
	260 SY	Athena/Sept 2004	Beeldsnijder/Dijkstra	US/CAT
Vitters	141 SY	African Queen/2002	Dubols/Redman&Whiteley	MTU
	141 SY	Whirlaway/2002	Dubols/Redman&Whiteley	

NEW ZEALAND				
Alloy	102 SY	Chimera/Mar 2002	Hood/Owner/Alloy	Europe/Lugger
	126 MY	S.O.N./Feb 2003	Dubois/Dubois/Starkey	CAT
	134 SY	Harlequin/Oct 2002	Dubois/Redman&Whiteley	CAT
	174 SY	Salperton/Nov 2001	Dubois/Owner/Alloy	Europe/CAT
Austral	81 MY	Lanaka/May 2002	Peters/TWB Design	New Zealand/CAT
• Fitzroy	83 SY	83 Cruiser/Sept 2003	Judel-Vrolijk/Young	Europe
McMullen & Wing	112 SY	Ipanema/Jan 2003	Frers/McMullen&Wing	Brazil/Lugger
	130 MY	Maa Culpa/Dec 2002	Sarin/Marmell	US/MTU
New Zealand Yachts	82 MY	NZYC02/Dec 2002	NZY/Freivokh	Cayman Islands
	108 MY	NZYCD1/Dec 2002	White/Freivokh	Cayman Islands/CAT
	108 MY	NZYC02/June 2003	White/Freivokh	Cayman Islands/CAT
NZ Yachting	85 SY	TBA/June 2002	Langan	CAT
Developments	94 SY	TBA/Dec 2002	Frers	CAT
• Salthouse	92 SY	Lagos/Jan 2003	VPLP/Bonadel	Europe/Lugger
Sensation	110 MY	SY27/2003	Barbeito/Sensation	US/Deutz
	145 MY	SY26/Oct 2003	Curran/Marshall	Bahamas/CAT
	163 MY	SY24/Mar 2003	Sensation/Zuretti	US/CAT
	168 MY	SY18/May 2002	Oving/Zuretti	US/CAT
• Sovereign Yachts	118 MY	TBA/Dec 2002	Setzer/TBA/Sovereign	
	135 MY	TBA/Sept 2002	Setzer/Sovereign	MTU
	140 MY	TBA/May 2003	Setzer/Sovereign	
Venture	80 MY	#002/2003	Loomes/Form	US/MTU

SINGAPORE				
• Keppel	394 MY	TBA/2003	McFarlane/Winch	

SPAIN				
• Astilleros	145 MY	No Lo Se/Fall 2001	Buytendijk	Europe/CAT
de Mallorca	173 MY	Passion/Mar 2003	Beekman/Buytendijk	US/CAT

TAIWAN				
• Horizon	80 MY	TBA/2002		MTU
	82 MY	TBA/2001		MAN
	82 MY	TBA/2002		MAN
	82 MY	TBA/2002		MAN
	82 MY	TBA/2002		MAN
	88 MY	TBA/2002		MTU
	88 MY	TBA/2002		MTU
	88 MY	TBA/2002		MTU
	88 MY	TBA/2002		MTU
	88 MY	TBA/2002		MTU
	88 MY	TBA/2002		MTU
	90 MY	TBA/2002		CAT
	92 MY	TBA/2002		MTU

• = New Addition to Global Order Book Builders

Builder	Type	Name/Launch	Design Team	Engines
TAIWAN				
Horizon (Continued)	92 MY	TBA/2002		MTU
	105 MY	TBA/2001		MTU
	105 MY	TBA/2001		MTU
	110 MY	TBA/2003		MTU
	116 MY	TBA/2001		MTU
• Ocean Alexander	86 MY	2002	Monk	
• Transart	82 MY	Hargrave /2001	Hargrave	
	82 MY	Hargrave /2001	Hargrave	
	82 MY	Hargrave /2002	Hargrave	
	94 MY	Hargrave /2002	Hargrave	
	95 MY	Hargrave /2002	Hargrave	
	97 MY	Hargrave /2002	Hargrave	

TUNISIA				
• WMagic	80 SY	WY 80 /Sept 2002	Fari/Wally/Lazzarin/Pickering	Monaco/Dummins

TURKEY				
Leight-Notika	100 MY	#134/May 2002	Dixon/Marshall/Rosa	France/MTU
	108 MY	#135/May 2002	Dixon/Marshall	US/MTU
	108 MY	#151/Nov 2002	Dixon/Marshall/Silkline	France/MTU
	115 MY	#144/Nov 2002	Dixon/Marshall	France/MTU
Proteksan-Turquoise	127 MY	TBA/Nov 2002	Cutolo/Callari	England/MTU
	139 MY	TBA/Oct 2002	Cutolo/Callari	England/MTU
	174 MY	Turquoise/May 2002	Dubois/Starkey	England/CAT
R.B. Dereli	108 MY	M4/May 2002	RBD/Seaton/Selldorf	Italy/CAT
	127 SY	MuMu/May 2002	Briand/RBD/ACT	UK/CAT
	130 MY	Marmara 40/Aug 2003	Fryco/RBD	US/CAT
	131 MY	Amev/May 2003	Fryco/RBD/ACT	Canada/Lugger
• RMK	118 MY	Dauntless 118/Fall 2001	Fryco/RMK	CAT

UAE				
Golden Yachts	118 MY	Argusea/2002	Mulder/Marshall	US/MTU
TBD	525 MY	Platinum	Lurssen/Blohm&Voss/Winch	UAE

UNITED KINGDOM				
Camper & Nicholson's	121 SY	TBA/Mar 2002	Dubols	CAT
• Oyster Yachts	82 SY	Oyster 82/May 2003	Oyster	
	82 SY	Oyster 82/2004	Oyster	
	82 SY	Oyster 82/2004	Oyster	
Pendennis	156 SY	MITseaAH/Sept 2003	Pedrick/Leibowitz&Pritchard	US/Paxman
• Princess	84 MY	Princess 84/2002		
Princess (Viking)	84 MY	Viking Sport Cruiser/Sept 2002	Viking/TDI	US/MTU
Sunseeker	87 MY	Manhattan 84/Fall 2001	Shead/Sunseeker/Freivokh	Europe/MAN
	92 MY	94 Yacht/2001	Shead/Sunseeker/Freivokh	US/CAT
	92 MY	Predator 9' '2002	Shead/Sunseeker/Freivokh	Europe/MTU
	92 MY	94 Yacht/2001	Shead/Sunseeker/Freivokh	Europe/CAT
	92 MY	Predator 95/2002	Shead/Sunseeker/Freivokh	Europe/MTU
	92 MY	94 Yacht/2001	Shead/Sunseeker/Freivokh	US/CAT
	92 MY	Predator 95/2002	Shead/Sunseeker/Freivokh	Europe/MTU

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Top 10 Custom Builders

	Yard	Number of Projects	Total Feet	Average Length
1.	Benetti	20	2,773	139'
2.	Lürssen	8	2,429	304'
3.	Feadship	13	2,353	181'
4.	Amels	10	1,890	189'
5.	Royal Denship	11	1,470	134'
6.	Heesen	10	1,285	129'
7.	Trinity	8	1,218	152'
8.	Perini Navi	6	1,154	192'
9.	Burger	8	907	113'
10.	Palmer Johnson	6	765	128'

Builder	Type	Name/Launch	Design Team	Engines
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UNITED KINGDOM (CONTINUED)

Sunseeker (Continued)	92	MY Predator 95/2002	Shead/Sunseeker/Frehvokh	US/MTU
	101	MY 105 Yacht/2001	Shead/Sunseeker/Frehvokh	Europe/MTU
	101	MY 105 Yacht/2002	Shead/Sunseeker/Frehvokh	US/CAT
Vesper Thornycroft	245	SY Mirabella W/2003	Holland	US

UNITED STATES

Broward	106	MY #553/June 2002	Broward	CAT
	106	MY #268	Broward	CAT
	111	MY #552-Miss Broward/Mar 2002	Broward	3412
	120	MY Sigrun/Fall 2001	Broward/Benson Designs	US/CAT
	155	MY #535/2003	Broward	
Burger	88	MY Silver Seas/July 2003	O'Keefe/Burger/Owners	US/MTU
	90	MY TBA/June 2002	O'Keefe/Burger	US/MTU
	107	MY Anne-Marie/Sept 2002	O'Keefe/Burger/Benson	US/MTU
	108	MY Sarah Beth/Fall 2001	O'Keefe/Burger/Owners	US/MTU
	122	MY Lady Grace Marie/Apr 2002	O'Keefe/Burger	
	125	MY ICATU/Sept 2003	Robinson	US/MTU
	127	MY Sis W/June 2003	O'Keefe/Burger	US/CAT
	140	MY TBA/Sept 2004	O'Keefe/Owners/Burger	US
Christensen	145	MY Primadonna/2002	Christensen/Smith	US/MTU
	150	MY #024/2002	Christensen	MTU
	155	MY #026/2003	Christensen	MTU
Delta	124	MY Intrinsic/Sept 2002	Delta/Intrinsic/Ardeo	US/CAT
	126	MY Exploration/Mar 2002	Della/Espinosa	Singapore/CAT
	126	MY 126002/2003	Delta/Kirschstein	CAT
	147	MY Gran Finale/Fall 2001	Delta/Espinosa	US/CAT
Derecktor	150	SY K IV Project/July 2003	Frers/Munford	US/CAT
Destiny Yachts	90	MY TBA/May 2002	Arrabito/Marshall/Weiner	US/MTU
	90	MY TBA/July 2002	Arrabito/Marshall/Weiner	DR/MTU
	90	MY TBA/Oct 2002	Arrabito/Marshall/Weiner	US/MTU
	98	MY TBA/Oct 2002	Arrabito/Marshall/Weiner	US/MTU
	102	MY Stupendous/Fall 2001	Arrabito/Marshall/Weiner	US/MTU
	105	MY TBA/Feb 2002	Arrabito/Marshall/Weiner	DR/MTU
	105	MY TBA/Mar 2002	Arrabito/Marshall/Weiner	US/MTU
	105	MY Jolie Four/Sept 2002	Arrabito/Marshall/Weiner	US/MTU
	105	MY TBA/Mar 2003	Arrabito/Marshall/Weiner	US
	135	MY TBA/March 2003	Arrabito/Marshall/Weiner	US/MTU
Hatteras	86	MY TBA/Fall 2001	Hargrave/Hatteras	US/MTU
	86	MY TBA/Feb 2003	Hargrave/Hatteras	US/MTU
	92	MY Soul/Fall 2001	Hargrave/Hatteras	US/MTU
	100	MY TBA/Jan 2002	Hargrave/Hatteras	US/MTU
	100	MY Fine Print/Apr 2002	Hargrave/Hatteras	US
	100	MY TBA/Aug 2002	Hargrave/Hatteras	US/MTU
	100	MY TBA/Nov 2002	Hargrave/Hatteras	US/MTU
• Hargrave (See Taiwan)				
Hodgdon	154	SY Scheherazade/June 2003	King/Winch	US/MTU
• Horizon (See Taiwan)				
Intermarine	120	MY TBA/Jan 2002	Intermarine/de Basto/Hansen/	
Savannah			Cross-Buchanan	MTU
	123	MY TBA/Apr 2002	Intermarine/de Basto/Hansen/	
			Cross-Buchanan	MTU
	123	MY TBA/July 2002	Intermarine/de Basto/Hansen/	
			Cross-Buchanan	MTU
	123	MY TBA/Nov 2002	Intermarine/de Basto/Hansen/	
			Cross-Buchanan	MTU
	145	MY TBA/Fall 2001	Intermarine/de Basto/Hansen/	
			Cross-Buchanan	CAT
Lazzara	80	MY #51/Fall 2001	Lazzara/De Lashmull	MTU
	80	MY #52/Nov 2001	Lazzara/De Lashmull	US/MTU
	80	MY #53/Jan 2002	Lazzara/De Lashmull	US/MTU
	80	MY #54/Mar 2002	Lazzara/De Lashmull	US/MTU
	80	MY #55/May 2002	Lazzara/De Lashmull	MTU
	80	MY #56/June 2002	Lazzara/De Lashmull	US/MTU
	80	MY #57/Aug 2002	Lazzara/De Lashmull	US/MTU
	80	MY #58/Sept 2002	Lazzara/De Lashmull	MTU
	106	MY #10601/2002	Lazzara/De Lashmull	US/MTU

• = New Addition to Global Order Book Builders

Builder	Type	Name/Launch	Design Team	Engines
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UNITED STATES (CONTINUED)

Lazzara (Continued)	106	MY #10602/2002	Lazzara/De Lashmull	US/MTU
• Metacraft	100	MY Celtic Song/2002	Metacraft	CAT
Newcastle	125	MY Newcastle Expedition/June 2002	Dejong/Lebe/de Basto	US/CAT
Nordlund	92	MY #8602/May 2003	Monk/Nordlund	US/MTU
	111	MY #10401/2002	Monk/Pokela	US/MTU
	117	MY #10601/Jan 2002	Monk/Burton	US/MTU
North Coast Yachts	84	MY Sailbad the Siner/April 2002	Frederickson	US/MTU
	92	MY Tahahoa/Jan 2002	Frederickson/Owner	US/MTU
	128	MY Lady Val/Dec 2001	Frederickson/Rose	US
North Star	92	MY Candalaria/Fall 2001	Sarin	US/CAT
	100	MY Besame/May 2002	Sarin	US/CAT
	100	MY TBA/Nov 2002	Sarin	US/CAT
	105	MY Princessa/Mar 2002	Sarin	US/CAT
Northern Marino	80	MY TBA/Aug 2002	Northern/Ardeo	US/CAT
	127	MY Magic/2002	Setzer/Ardeo	US/MTU
	146	MY #14601/Sept 2003	Setzer/Northern	US/CAT
Palmer Johnson	107	MY Arrowhead/May 2002	Fexas/PJ	US/CAT
	115	MY #227/Nov 2003	Hunt/Nuvolari & Lenard	MTU
	125	MY #236/Nov 2002	Murray	US/MTU
	131	MY #234/May 2003	Vripack/PJ	CAT
	131	MY #235/Nov 2002	Murray	US/CAT
	156	MY Anson Bell/May 2002	Vripack/S&S/PJ/Disdale	US/CAT
Rivolta	90	SY Rivolta 90/2002	Sodergren/Rivolta	Yanmar
Roscioli	80	MY #3/June 2002	Hyer/Rookstool/Roscioli	US/MTU
	80	MY Mango Man/Fall 2001	Hyer/Rookstool/Bales	US/MTU
	80	MY Patricia/Jan 2002	Hyer/Rookstool/Roscioli	US/MTU
• SeaStar (See Australia)				
Trinity	124	MY Anjills/June 2002	Trinity/Robinson	US/MTU
	141	MY Victory Lane/Fall 2001	Trinity/Robinson	US/MTU
	142	MY Chew Toy/Sept 2003	Trinity/Robinson	US/MTU
	142	MY Burma/Oct 2003	Trinity/Robinson	US/CAT
	150	MY Imagine/May 2001	Trinity/Bonville	Canada/CAT
	150	MY Mia Elise/June 2003	Trinity/Bonville	US/CAT
	177	MY Seahawk/Fall 2001	Trinity/Bonville	US/MTU
	192	MY Ulyses/Dec 2001	Trinity/Smith/Owner	New Zealand/CAT
Vic Franck's	81	MY Bella Rosa/May 2002	Seaton/Henderson	US/Cummins
• Viking (See UK, Italy)				
Westport	98	MY TBA/Oct 2002	Olson/Westport/Marshall/PCI	MTU
	112	MY TBA/Nov 2001	Olson/Westport/Marshall/PCI	MTU
	112	MY TBA/Dec 2001	Olson/Westport/Marshall/PCI	MTU
	112	MY TBA/July 2002	Olson/Westport/Marshall/PCI	MTU
	112	MY TBA/Dec 2002	Olson/Westport/Marshall/PCI	MTU
	130	MY TBA/Feb 2002	Garden/Marshall/Westport/PCI	MTU
	130	MY TBA/June 2002	Garden/Marshall/Westport/PCI	MTU
	130	MY TBA/Nov 2002	Garden/Marshall/Westport/PCI	MTU
Westship	103	MY TBA/Nov 2001	Peters/Westship	MTU
	103	MY TBA/Nov 2002	Peters/Westship	MTU
	143	MY TBA/Nov 2002	Cutolo/Ycunger/Westship	MTU

Top 10 Builders by Average Length*

Yard	Number of Projects	Average Length
1. Lürssen	8	304'
2. Oceanco	3	218'
3. Oceanfast	3	196'
4. Perini Navi	6	192'
5. Amels	10	189'
6. Brisbane Shipyards	3	187'
7. Royal Huisman	3	182'
8. Feadstip	13	181'
9. Abeking & Rasmussen	4	175'
10. Yantai Raffles	4	172'

* Note: Yards with a minimum of three boats on order.

Marine Exchange of Alaska

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ASVTS: GMDSS as a Maritime Security Tool: ASVTS Graphics

Introduction
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Sample
Info and
Sales

Login

**ASVTS as
a Maritime
Security
Tool**
NMFS
Authorizes
Alternative
Satellite
System
Automated
Secure
Vessel
Tracking
System

GMDSS (Global Marine Distress Signaling System) as a Maritime Security Tool

Published in Pacific Maritime September 2002

Fortunately, there are already easy, low cost and timely options in place that can help provide Maritime Domain Awareness now. Vessels equipped with GMDSS (Global Marine Distress Signaling System) are capable of automatically sending their vessel's position on a regular or modified schedule to a centralized tracking system for dissemination to the Coast Guard and other federal, state and private entities charged with addressing maritime security. The International Maritime Organization (IMO) has prescribed all vessels over 300 gross tons engaged in international trade be equipped with GMDSS to aid notification of maritime emergencies. Polling of vessels' positions can be initiated when a vessel provides its 96 hour Advance Notice of Arrival, which for many vessels is 2,000 miles offshore. The position information on participating vessels can be compared to other data sources, such as satellite imagery, to identify vessels that have no correlating advance notice of arrival or vessel tracking information. These few vessels, the needles in the haystack, become the focus of interest and become subject to additional control measures exercised by the Coast Guard, such as prior boarding, interception at sea, etc. The fastest and least expensive way to bring this Maritime Domain Awareness tool on line is to tap the maritime community who has a "shared commitment" to aid homeland security. The non-profit Maritime Information Service of North America's (MISNA) network of marine exchanges can use available secure chart display software such as Secure Asset Reporting System (SARS) to process and disseminate the GMDSS generated vessel position reports to the Coast Guard and other agencies to aid Maritime Domain Awareness. As the equipment, organizational infrastructure and software are all in place, this vessel tracking system can be in place in a matter of months. The cost to the marine industry would be minimal, averaging less than \$30 per month/ per vessel for the satellite communication fees incurred in sending position reports. MISNA refers to this vessel locating system as the "Automated Secure Vessel Tracking System".

When implemented it will complement the existing and developing VTS and AIS systems, providing the long range strategic input needed for Maritime Domain Awareness. Example of ASVTS Tracking.

The satellite component uses the IMO approved Inmarsat worldwide satellite communications network to send and receive messages. Once the owner/operator authorizes access, a vessel tracking entity such as MISNA can remotely, through a satellite transmission, download a program into the transceiver directing it to periodically transmit the vessel's position to a satellite. The information is then relayed from the satellite to a Land User Terminal to the end user, i.e. marine exchange, via e-mail for display on a chart or database and further dissemination to authorized entities. As the proposed legislation also addresses the tracking of domestic vessels, there are a number of other satellite or other communications equipment vessel tracking options available for a reasonable fee.



Ed Page is the Executive Director of the Marine Exchange of Alaska, and was previously the Captain of the Port of Los Angeles/Long Beach

Reporting Service have been testing this system for the last year on CG vessels, the Alaska Marine Highway System ferries, tug boats, fishing vessels and a cruise ship. It works!

Coast Guard personnel are already fully tapped assigning their limited and stretched work force to operate their vessels and aircraft, conduct security boardings, inspect ships, and patrol our ports. They are not in the position to now stand up a nationwide vessel tracking system. The added information/data management workload can quickly and adequately be done by the Maritime Information Service of North America and member marine exchanges that can serve as the "trusted agents".

As President Bush has stated, we must push our borders further out. Requiring vessels to operate transponders only when operating in U.S. navigable waters, extending 12 miles off our shores is not providing adequate Maritime Domain Awareness. International maritime law and Freedom of Navigation issues may lead the U.S. to hesitate to require the operation of transponders out to our territorial sea limit of 200 miles, or a vessel's position some 2,000 miles offshore when it provides its 96 hour advance notice of arrival. Security processing incentives can lead vessel owners and operators to keep their transponders on at all times, even when they are in foreign ports and waters. A vessel cooperating with the U.S. ASVTS program can receive "express lane" privileges, and receive a lower security threat risk rating. The old adage "Time is Money" applies. A majority of vessels will voluntarily cooperate.

The above provides a straightforward and easy way to implement Maritime Domain Awareness option. While this is not the panacea and many other maritime security issues remain to be addressed, the proposed Maritime Information Service of North America's ASVTS can address one of the more vexing aspects of our homeland defense issues today.



SB

210

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 5/1/03

FURTHER:

Date of 5-Day Notice: 24 Hour Rule
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 5/6/03

Labor and Commerce Committee considered SENATE BILL NO. 210

SB 210 WAGE AND HOUR OVERTIME COMPUTATION

"An Act regarding the computation of overtime compensation by employers before June 2, 1999; and providing for an effective date."

and recommends:

Senate Bill:

be replaced with _____ CS _____ (_____)

same title

adopt previous _____ CS _____ (_____)

new title

House Bill:

attached amendment(s)

same title

technical title

new: SCR # _____

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
LWF	5/2/03		✓	

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Bettye Davis</i>	✓			
<i>DOCKA</i>			✗	
<i>Ralph Jenkins</i>	✓			
<i>[Signature]</i>	✗			
CHAIR: <i>C. Bunker</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 210
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Wage and Hour Overtime Computation BRU: Labor Standards and Safety
 Component: Wage and Hour Administration
 Sponsor: Senate L&C
 Requester: Senate L&C Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will retroactively change overtime pay requirements for certain claims during the period of July 1, 1990 through June 2, 1999. The department does not anticipate a financial impact as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone: 465-4855
 Division: Labor Standards and Safety Date/Time: 5/2/03 1:39 PM
 Approved by: Greg O'Claray, Commissioner Date: 05/02/03
 Agency: Department of Labor and Workforce Development

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SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

Sponsor Statement Senate Bill 210

**“An Act relating to the computation of overtime;
and providing for an effective date.”**

By the Senate Labor & Commerce Committee

This legislation is designed to protect Alaska employers who properly calculated overtime wages for their employees prior to the effective date of Ch. 43, SLA 99 (HB201), and correct an erroneous judicial interpretation of Alaska's Wage and Hour Act.

In 1999 the Alaska Legislature passed HB 201 dealing with the issue of wage “pyramiding” (paying overtime wages more than once for the same hour of overtime work). Unfortunately, a last minute amendment deleted the Act's retroactive effective date (April 1, 1997). Though future claims were clearly precluded, those claims existing on or before the effective date of HB 201 remained active. As a result several employers were sued for calculating overtime wages exactly how the Alaska Department of Labor had instructed them to do it. Every other business in the state used the same method.

This measure, once and for all, brings certainty to the interpretation of computing overtime under Alaska's Wage & Hour Act. These changes are consistent with both concerns and policy goals expressed by the Legislature in the enactment of Chapter 43, SLA 99 and official State Department of Labor practices going back to pre-statehood.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

April 22, 2003

SUBJECT: Retroactive application of 1999 legislative changes to AS 23.10.060(b) (Work Order No. 23- LS1025)

TO: Senator Con Bunde

FROM: Barbara R. Craver *BR*
Legislative Counsel

Ch. 43, SLA 1999, amending AS 23.10.060(b), is an enactment that clarifies that the Alaska Wage and Hour Act (AS 23.10) does not allow "pyramiding." Pyramiding is paying overtime wages more than once for the same hour of overtime work.

You have asked whether there would be any legal issues raised by a bill which made the changes to AS 23.10.060(b) that were enacted in ch. 43, SLA 1999 retroactive to the payment of overtime wages before the bill's effective date of June 2, 1999. In other words, the bill would apply the change to AS 23.10.060(b) to give effect as to wages earned prior to June 2, 1999. The effect would be to remove any claims a person might have against an employer who paid them without pyramiding overtime pay for work performed prior to June 2, 1999. Any person who had a final court judgment for pyramided overtime pay would not be affected. HB 201 in the 21st legislature, the source of ch. 43, SLA 1999, had a retroactive section which was removed at the last minute.

My initial response to your question as to whether a retroactive application would be constitutional was no, it would violate the due process rights of persons who had worked overtime prior to the effective date of the changes. You authorized me to speak to attorney Dan Grauz who represents Holland America in a case brought by Stuart Hallam in regard to overtime wages. Mr. Grauz referred me to Dave Oesting and Erik Jenkins, attorneys with Davis, Wright and Tremaine in Anchorage. Mr. Oesting and Mr. Jenkins provided me with a very detailed legal memoranda explaining why making the 1999 changes retroactive would not violate the Alaska constitution and its prohibition against impairing existing contracts. A copy of their analysis is enclosed.

A very brief summary of their argument is: the right to overtime under AS 23.10.060(b) is a statutory right which does not "vest" until reduced to final court judgment. A person's due process rights are not violated if that person becomes deprived of a right to sue under a statute which had formerly given them a claim, but that statute was changed

Senator Con Bunde
April 22, 2003
Page 2

or removed prior to a final court judgment. This is a fairly uncommon situation, and there are only a few court cases, none in Alaska.

I have read the cases referred to by Mr. Oesting and Mr. Jenkins and researched to see if any of them had been overruled on the points relied on for their argument. It appears that their argument is sound. Because the Alaska court has not ruled on this exact issue, I can only speculate as to the outcome of a lawsuit on this point. However, the arguments made in the memorandum are persuasive, and I am not aware of any contrary case law on the point at issue. Because this issue has not been ruled on in Alaska, I cannot be certain, but using the arguments and cases cited in the memorandum from Davis, Wright and Tremaine, it seems more than likely that a retroactive law in this area would not be found to unconstitutionally violate due process.

If I may be of further assistance, please advise.

BRC:mdr
03-078.mdr

Enclosure

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Davis Wright Tremaine LLP
ANCHORAGE OFFICE


MEMORANDUM

TO: Barbara Craver

FROM: David Oesting
Eric Jenkins

DATE: April 7, 2003

RE: Retroactive Application of Amendments to the Alaska Wage and Hour Act



Question Presented

Can the Alaska Legislature retroactively amend AS 23.10.060(b) to foreclose pyramiding of daily and weekly overtime hours?

Brief Answer

Yes. Retroactive amendment of statutory schemes is permitted provided that the legislature clearly expresses its intent and the proposed amendment does not deprive parties of property rights without due process. Where a right of action does not exist at common law but instead depends solely upon statute, that right does vest until reduced to a final unappealable judgment. Statutory rights, by their very nature, are acquired and pursued with the knowledge that the statute upon which they depend may be amended or repealed at any time by the legislature, thereby altering or extinguishing the right. Federal courts have examined at least two prominent retroactive amendments to the Fair Labor Standards Act ("FLSA") and upheld both amendments in the face of constitutional challenges.

Background

In 1999, the Alaska Legislature amended AS 23.10.060(b) to correct an erroneous judicial interpretation of the statute that authorized the so-called "pyramiding" of overtime hours. Pyramiding permits an employee to be paid both daily and weekly overtime for the same hour of work. For example, an employee

who works ten hours on Monday and eight hours on each of the remaining four days of the week (42 total hours), would receive 2 hours of overtime for having worked in excess of eight hours on Monday, and an additional two hours of weekly overtime because the final two hours on Friday exceed the 40 hour weekly total. Thus, pyramiding grants the employee four hours of overtime for two hours of additional work. Even more peculiar, however, is the fact that an employee who worked ten hours on Friday and eight hours the first four days of the week, would receive only two hours of overtime despite having worked the exact same workweek. The California Court of Appeals noted the irrational results produced by pyramiding when it rejected pyramiding as a proper construction of California law in Monzon v. Shaefer Ambulance Service, Inc., 273 Cal.Rptr. 615, 627 (1990).

Not surprisingly, pyramiding conflicts with the consistent and longstanding instructions given to Alaska employers by the Alaska Department of Labor ("DOL"). See Department of Labor, Wage and Hour Opinion Letter #63 (March 5, 1987); See Wage & Hour Opinion Letter # 120 (April 25, 1997); Wage & Hour Opinion Letter # 127 (April 7, 1998). DOL Commissioner Ed Flannagan testified in support of the 1999 legislature before the House Labor and Commerce Committee and noted that pyramiding created an unfair and unjustified obligation for employers who have been paying overtime in accordance with the DOL's own instructions for decades. The Alaska Legislature responded by promptly passing (with only a single vote in opposition) legislation which amended AS 23.10.060(b) and confirmed that the statute was not intended to require pyramiding of overtime hours. The legislation that is currently under consideration would make that amendment retroactive and would protect employers who paid overtime in good faith prior to the 1999 amendments.

Discussion

A. Retroactive Legislation is Permitted Provided that the Legislature Clearly Expresses Its Intent and the Legislation Does Not Deprive Parties of Property Rights Without Due Process.

The ability of the Alaska Legislature to pass retroactive legislation is recognized by AS 01.10.090, which states that legislation will be assumed to operate prospectively unless the enacting legislation expressly declares otherwise. See also State. Alcoholic Bev. Cont. Bd. v. Odom Corp., 671 P.2d 375, 377 (Alaska 1983) (referencing AS 01.10.090 and noting that "[h]ad the legislature

stated expressly that it intended the revised fee schedule to apply retroactively to January 1, 1980, we have no doubt that such retroactivity would be permissible.")

While prospective application is contemplated for the majority of legislation, courts have long recognized that the legislature not only has the power to pass retroactive legislation, but that retroactive laws often serve important purposes:

It may be said that this legislation is retroactive; and as applied to the case before us, it is so. But there is no constitutional inhibition against retrospective laws. Though generally distrusted, they are beneficial and sometimes necessary. Where they violate no provision of the Constitution of the United States, there exists no power in this Court to declare them void.

copied
Ferrer v. Waterman S.S. Corp., 76 F.Supp. 601 (D.P.R. 1948). The Ninth Circuit Court of Appeals reaffirmed these principles in Austin v. City of Bisbee, Ariz., 855 F.2d 1429, 1435 (9th Cir. 1988), noting: *copied to Shepard's*

The retroactive application of a federal statute (other than an ex post facto law or a bill of attainder) is not forbidden under the Constitution so long as due process requirements are met.

Like Ferrer, the Austin court was examining the constitutionality of a retroactive amendment to the FLSA.

B. Retroactive Amendment of AS 23.10.060(b) Does Not Impair Vested Rights or Violate Due Process.

The Due Process Clause of the Federal Constitution, and its Alaska counterpart, prohibit the government from depriving persons of property without due process of law. Austin, 855 F.2d at 1435-36. Within the context of economic legislation, due process requires that government actions which implicate protected property rights be neither arbitrary nor irrational.

Even if Austin had a cognizable property right to overtime compensation his claim fails on due process grounds. The FLSA is one of myriad legislative Acts adjusting the burdens and benefits of economic life. Such legislation comes to the Court with a presumption of constitutionality, and the burden is on the one

complaining of a due process violation to establish that the legislature has acted in an arbitrary and irrational way . . . Retroactive application of economic legislation meets the test of due process simply if retroactive application of the legislation is itself justified by a rational legislative purpose.

Austin, 855 F.2d at 1436 (internal citations omitted). See also Graczyk, 229 Cal.Rptr. at 501 ("Vested rights are not immutable; the state, exercising its police power may impair such rights when considered reasonably necessary to protect the health, safety, morals and general welfare of the people.").

Retroactive amendment of AS 23.10.060(b) would thus be proscribed by the Due Process Clause only if: (1) property rights which are cognizable under the Due Process Clause would thereby be circumscribed; and (2) retroactive amendment of the statute would be arbitrary or irrational.

1. Retroactive amendment of AS 23.10.060(b) does not impair any protected property rights.

Rights that are created by statutory schemes such as the FLSA and the Alaska Wage and Hour Act are inchoate and do not become vested property rights until reduced to final judgment.

Rights under the Fair Labor Standards Act came into existence only by virtue of an act of Congress. These rights did not exist at common law, nor were they established by the Constitution. Therefore, since these rights were created by the Congress, they may be taken away in whole or in part, or altered, by Congress which established them at any time before they have ripened into a final judgment.

Ferrer, 76 F.Supp. at 603 (citing cases). See also Graczyk v. Workers' Comp. Appeals Bd., 229 Cal.Rptr. 494, 501 n.5 (1986) ("The justification for the rule that a statutory right of action may be repealed is that all statutory remedies are pursued with full realization that the Legislature may abolish the right to recover at any time.").

In Austin, the Ninth Circuit reiterated the analysis set forth in Ferrer and Graczyk, and applied that analysis to hold that no protected property rights were implicated by retroactive amendment of the FLSA:

In the case at bar, the overtime had been performed and suit for its compensation had been commenced by Austin prior to the effective date of the amendments. We nonetheless find that in this instance Austin was not deprived of a right without due process . . . A cause of action is a species of property protected by the Fourteenth Amendment's Due Process Clause. However, it is inchoate and affords no definite or enforceable property right until reduced to final judgment. Thus Austin perfected no right in his cause of action before the amendments were passed. Nor does he possess a vested right in overtime compensation. Property rights to public benefits are defined by the statutes or customs that create the benefits. When as here, the statute authorizing the benefits is amended or repealed, the property right disappears.

Austin, 855 F.2d at 1435-36 (internal citations omitted). It is for this reason that Alaska, like most other states, has enacted a general savings statute (AS 01.10.100) which provides that the repeal of a statute shall not extinguish any liability incurred under that statute unless the enacting legislation expressly so provides.

2. Retroactive amendment of AS 23.10.060(b) is neither arbitrary nor irrational.

Even if amendment of AS 23.10.060(b) could be said to impact protected property rights – which it does not – it would not violate due process unless the legislature acted in a manner that was arbitrary or irrational. The retroactive amendments to the FLSA at issue in Austin and Ferrer are particularly instructive in addressing the justification for, and efficacy of, retroactive amendment of AS 23.10.060.

a. Austin v. City of Bisbee, Ariz.

In 1985, the U.S. Supreme Court decided Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985). Garcia rewrote the landscape of federalism and held that state and local government entities were subject to the FLSA. Nine months after Garcia was decided, Congress stepped in to retroactively exempt cities and states from compliance with the FLSA and grant state and local governments a transitional period of slightly in excess of a year

within which to adjust budgets to the unexpected liability created by Garcia. Austin, 855 F.2d at 1434-35.

Austin was one of a number of plaintiffs who brought suit for alleged violations of the FLSA during the transition period, claiming that Congress exceeded its authority in retroactively exempting municipal governments from compliance with the FLSA. Austin both performed the work at issue, and filed suit, prior to the passage of legislation exempting his employer from compliance with the FLSA. Austin, 855 F.2d at 1435. Nevertheless, the Ninth Circuit held that the amendment did not disturb any protected property rights, and that Congress' decision to retroactively exempt state and municipal governments was neither arbitrary nor irrational. Rather, given the unexpected liability created by Garcia, the Ninth Circuit concluded that it was entirely reasonable to retroactively amend the FLSA and provide state and local governments with a transition period within which to adjust work practices, staffing patterns, and fiscal priorities. Id. at 1436.

b. Ferrer v. Waterman S.S. Corp.

Ferrer involved a constitutional challenge to passage of the Portal-to-Portal Pay Act (codified at 29 U.S.C. §§251-62), an early amendment to the FLSA. The Portal-to-Portal Pay Act addressed, among other things, whether time spent walking to worksites, and other preliminary activities on the premises of the employer, constituted compensable work under the FLSA. Ellen C. Kearns, The Fair Labor Standards Act 19-20 (1999); Hollingsworth v. Federal Mining & Smelting Co., 74 F.Supp. 1009 (D.Idaho 1947). Congress passed the Act in response to the U.S. Supreme Court's decision in Anderson v. Mount Clemens Pottery Co., 328 U.S. 680 (1946), which held that such activities did indeed constitute compensable work time. Id. The Portal-to-Portal Act declared that such activities, whether undertaken before or after passage of the Act, were compensable only if made so by an express provision in a contract of employment. See 29 U.S.C. §§ 252-54; Ellen C. Kearns, The Fair Labor Standards Act 19-20 (1999).

Congress explained the justifications for passage of the Portal-to-Portal Pay Act in 29 U.S.C. § 251:

The Congress finds that the Fair Labor Standards Act of 1938, as amended 29 U.S.C.A § 201 et seq., has been interpreted judicially in

disregard of long-standing customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation [because court decisions necessarily operate retroactively] upon employers with the result that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about the financial ruin of many employers and seriously impair the capital resources of many others . . .

Despite the fact that it applied to pre-enactment conduct, the courts rejected any contention that retroactive amendment of the FLSA disturbed vested rights and upheld the Portal-to-Portal Pay Act as a valid exercise of Congress' power. See, e.g., Ferrer, 76 F.Supp. at 603; Hollingsworth, 74 F.Supp. at 1023; Holland v. General Motors Corp., 75 F.Supp. 274, 278-79 (W.D.N.Y. 1947). Statutory rights are pursued with the realization that the repeal or amendment of the statute may alter or extinguish those rights at any time. Id.

Like the legislation at issue in Austin and Ferrer, the 1999 amendments to the Alaska Wage and Hour Act were passed in response to a judicial decision that the Alaska Legislature declared to be erroneous and a serious threat to Alaska employers if not promptly corrected. See 1999 SLA Ch. 43 § (1). Whatever rights are claimed in reliance upon the prior version of the statute are inchoate and afford no definite or enforceable property right until reduced to final judgment. Passage of legislation retroactively amending AS 23.10.060 would by no means be arbitrary or irrational, nor would it implicate legally cognizable property rights. Indeed, since the judicial interpretation adopting pyramiding was rendered by a lower court, rather than the Alaska Supreme Court, any due process challenge would be all the more tenuous.

C. Retroactive Amendment of AS 23.10.060 Would Not Impair the Obligation of Contracts.

A final challenge to retroactive amendment of statutory schemes such as the FLSA and Alaska Wage and Hour Act is that such amendments violate the Contract Clause of the federal constitution. The Contract Clause prohibits legislative bodies from passing legislation that impairs the obligation of contracts. Retroactive amendment of the FLSA, it is argued, impairs the obligation of contracts since the key provisions of the FLSA are considered to be a part of all

contracts of employment. The Alaska Wage and Hour Act also contains such a provision. See AS 23.10.060(c).

Ferrer considered and rejected the contention that retroactive application of the Portal-to-Portal Pay Act impaired the obligation of contracts:

Even though it be conceded, which it is not, that the Fair Labor Standards Act, 29 U.S.C.A. § 201 et seq., created a contractual right at law which must be read into every contract of employment covered by it, there is nothing to prevent Congress, in the exercise of the commerce clause power to modify that right. Contracts, however, express, cannot fetter the constitutional authority of the Congress. Contracts may create rights of property, but, when contracts deal with a subject-matter which lies within the control of the Congress, they have a congenital infirmity. Parties cannot remove their transactions from the reach of dominant constitutional power by making contracts about them.

Ferrer, 76 F.Supp. at 603 (quoting Norman v. Baltimore & O.R. Co., 294 U.S. 240 (1935)). Thus, although the provisions of the FLSA and Alaska Wage and Hour Act are incorporated into every contract of employment, the right of the legislature to amend or eliminate those rights is also included. Were the rule otherwise, the obligations of the parties under multi-year contracts of employment would be unconstitutionally impaired every time amendments are made to the FLSA or Alaska Wage and Hour Act.

Conclusion

Retroactive amendment of AS 23.10.060 is permissible. Statutory rights are pursued with full knowledge that the legislature may amend or repeal the statute upon which those rights depend at any time. Retroactive amendments which impact statutory rights do not implicate property interests which are entitled to protection under the Due Process Clause. Moreover, even where protected rights are at issue, government action may circumscribe those rights provided that the government does not act in a manner that is arbitrary or irrational. Amending AS 23.10.060 in the proposed manner is neither arbitrary nor irrational. Rather, it is consistent with the concerns and policy goals expressed by the Alaska Legislature in 1999 SLA Ch. 43 § 1.

AN ACT

1 Relating to the computation of overtime; and providing for an effective date.

2

3

4 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

5 (1) some courts in the state have misinterpreted the intent of AS 23.10.060(b)
6 as it read before the effective date of this Act in a manner that may result in employers being
7 obligated to pay excessive overtime compensation; in particular, these courts have interpreted
8 AS 23.10.060(b) so that hours worked in excess of eight hours in a day are counted in order
9 to determine whether overtime is due under the statute's provision requiring payment of
10 overtime for hours worked in excess of 40 hours a week; the courts' interpretation has the
11 unintended result of requiring employers to pay overtime under the statute's provision
12 requiring payment of overtime for hours worked in excess of 40 hours a week under
13 circumstances in which the employee has not yet worked 40 hours at the employee's regular
14 rate of pay;

Chapter 43

1 (2) the intent of this bill is to override the superior court's decision in *Hallam*
2 v. *Holland America Line, Inc., d/b/a Westours Motor Coaches, Inc.*, IJU-96-1734 CL
3 concerning the calculation of overtime wages; the court in that case misinterpreted the intent
4 of AS 23.10.060(b);

5 (3) AS 23.10.060(b) as it read before the effective date of this Act was not
6 intended to require employers to pay at the overtime rate under the statute's provision
7 requiring payment of overtime for hours worked in excess of 40 hours a week unless and until
8 employees had first worked 40 hours at the regular rate of pay; and

9 (4) although the legislature believes that AS 23.10.060(b) should not have been
10 interpreted by the courts in a manner inconsistent with the finding in (3) of this section, the
11 legislature further finds that it is necessary to amend AS 23.10.060(b) in order to eliminate
12 any doubt on this subject.

13 * Sec. 2. AS 23.10.060(b) is repealed and reenacted to read:

14 (b) If an employer finds it necessary to employ an employee for hours in
15 excess of the limits set in this subsection, overtime compensation for the overtime at
16 the rate of one and one-half times the regular rate of pay shall be paid. An employee
17 is entitled to overtime compensation for hours worked in excess of eight hours a day.
18 An employee is also entitled to overtime compensation for hours worked in excess of
19 40 hours a week; in determining whether an employee has worked more than 40 hours
20 a week, the number of hours worked shall be determined without including hours that
21 are worked in excess of eight hours in a day because the employee has or will be
22 separately awarded overtime compensation based on those hours.

23 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



Source
HCS CSSB

Relating to
fishermen's

BE IT ENA

Approved
Actual Eff

SB

218

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 5/9/03

FURTHER:

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 218

SB 218 STATE PROCUREMENT PILOT PROGRAM

"An Act authorizing a pilot program relating to state procurement and the use of electronic commerce tools; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	X			
<i>[Signature]</i>	X			
<i>Keith Sebring</i>	✓			
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB218
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act authorizing a pilot program relating to state BRU Centralized Administrative Services
procurement ...and providing an effective date. Component Purchasing
 Sponsor (S) Labor and Commerce
 Requester (S) Labor and Commerce Component No. 60

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would authorize a pilot program related to state procurement and use of electronic commerce tools.

The cost of the pilot program is undetermined. The bill will not require an additional appropriation.

Prepared by: Vern Jones, Chief Procurement Officer Phone (907)465-5684
 Division General Services Date/Time 5/12/03 7:42 AM
 Approved by: Mike Miller, Commissioner Date 5/12/2003
 Agency Administration

Alaska State Legislature

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SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

Sponsor Statement

SB 218

A Pilot E-commerce Procurement and Supply Chain Management Program

“An Act authorizing a pilot program relating to state procurement and the use of electronic commerce tools; and providing for an effective date”

In our current fiscal situation, the Alaska Legislature has a duty to seek out cost savings and efficiencies in government. Especially important are savings in the *overhead costs of government* — i.e., “back office” functions. These functions can and should be streamlined, leaving more funds available to support important program needs.

The costs of procurement and supply chain management represent a substantial portion of the state’s back office overhead. With only a few exceptions, the state performs these functions using outdated business processes that do not take full advantage of electronic commerce opportunities and other strategies like the use of third party specialists.

Many Alaskans share a desire to become world leaders in modern logistics and supply chain management. We have companies right here in Alaska that play leading roles in Internet e-commerce, procurement and related fields. Utilizing this specialized expertise will not only reduce the cost of government, but also strengthen Alaska’s competitive position.

A controlled pilot program is a responsible approach to this opportunity. It will let the Alaska Legislature monitor progress, validate the cost savings and review other benefits (and drawbacks) before making a full commitment. It is a gradual approach that minimizes the risk of failure.

It is important that the pilot program be sufficient to justify technological and operational transition costs. A maximum of two departments, plus two state enterprises, will be selected by the Commissioner of Administration for the pilot.

To be effective, a private sector specialist will need delegated authority to represent the state in performing electronic commerce, procurement and vendor performance management, hence the need for enabling legislation and temporary exemption from AS 36.30 (Procurement Code). The commissioner of administration will be responsible for establishing controls and procurement procedures for the pilot program. This pilot will provide the Alaska Legislature with valuable information with which to evaluate the future modernization of AS 36.30.

Alaska State Legislature

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SENATOR CON BUNDE

District P

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CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

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Sponsor Statement CS SB 218 State Procurement Pilot Program

The proposed committee substitute for SB 218 will extend the sunset date on the state procurement pilot program authorized by the passage of HB 313 last legislative session (HB 313 was the House companion bill to the prior version of SB 218). HB 313/SB 218 was to authorize the Department of Administration to enter into a pilot program under which the department contracts with a person/entity from the private sector to provide for the delivery of procurement services and electronic commerce tools to the state.

The timeframe proposed in the legislation envisioned an initial 3-year pilot for the program, but unfortunately the state competitive RFP process and labor union appeals lasted nearly a year, effectively using up the first year of the proposed pilot. The CS for SB 218 would extend the sunset date for the pilot from July 1, 2006 until July 1, 2009, to allow the state (at its sole discretion) to continue the pilot until that time.

Now that the procurement pilot program is moving toward implementation, indications are that the cost savings for state government through the utilization of specialized supply chain management and electronic commerce tools will be significant.

23-LS1119\D
Bannister
4/19/04

CS FOR SENATE BILL NO. 218(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): Senate Labor and Commerce Committee

A BILL
FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the state pilot program for the delivery of**
2 **procurement services and electronic commerce tools."**

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

4 * **Section 1.** The uncodified law of the State of Alaska enacted in sec. 3, ch. 51, SLA 2003,
5 is amended to read:

6 Sec. 3. Section 2 of this Act is repealed July 1, 2009 [2006].

SB

237



Alaska Railroad Position SB 237- "Alaska Railroad Workforce Development Scholarship Program"

Senate - Bill 237 seeks to "foster the long-term development of an educated and skilled workforce for the Alaska Railroad" by requiring ARRC to award \$1,200,000 per year in scholarships to "qualified residents for education and training in management, administration, technical, skilled, and service professions necessary to maintain and operate the Alaska Railroad."

While management for the Alaska Railroad Corporation (ARRC) strongly believes that investing in an educated and skilled workforce is essential to operating a safe and successful railroad, we do not support Senate Bill 237. Senate Bill 237 seeks to remedy a problem that does not exist and fails to recognize the extensive training and education programs already provided for Alaska Railroad employees. In 2003, the Alaska Railroad spent \$1.8 million dollars on workforce development programs and plans to sustain that level of support in the years to come.

The Alaska Railroad does not support Senate Bill 237 for the following reasons:

- This Bill seeks to remedy a problem that does not exist. Senate Bill 237 contains no findings or other evidence that ARRC is currently experiencing a shortage of "skilled and educated" employees or expects such a shortage in the future. The truth is that there is an abundance of Alaskan workers who can fill the few openings ARRC has each year for management, administration, technical and professional employees. The only area where ARRC may have problems recruiting a qualified employee is in the specialized railroad trades such as carmen and locomotive electricians. This Bill will not increase the pool of qualified workers in these trades because there are no Alaska schools that teach a person how to be a carman, locomotive electrician, conductor, locomotive engineer, roadmaster or track inspector.
- ARRC trains its own workers in the specialized skills needed to operate the Railroad. Specialized railroad skills are obtained through apprenticeship programs and other in-house training that ARRC provides to new employees. As mentioned, ARRC spent approximately \$1.8 million last year to educate and train new employees, and over the past five years, 93% of these new employees have been Alaska residents. Requiring ARRC to hand out \$1,200,000 per year in scholarships to unnecessarily educate managers, administrators, computer technicians, accountants, lawyers and other white collar employees that are already in
- abundant supply in Alaska would actually reduce the amount of money ARRC needs to provide its operational employees with unique railroad specialized training.
- The amount proposed for annual scholarships is excessive. The cost of a full ride scholarship at the University of Alaska, Anchorage is approximately \$8,000 per year. Requiring ARRC to provide \$1,200,000 per year for such scholarships means that we would be paying to educate 150 people per year to work at ARRC when there are only about 70 full time, permanent job openings per year. Thus there would be no ARRC jobs for approximately 50% of the people trained each year.
- No guarantee that scholarship recipients would be required to work for ARRC. The Bill does not require scholarship recipients to actually go to work for ARRC when they complete their training, nor does it require payback to the ARRC if they fail to complete their training.
- Federal funds loss. ARRC net earnings are the only source of federal match funds (no state match funds provided). ARRC has a 9% Federal Transit Administration match. Requiring ARRC to pay \$1.2 million for unneeded "scholarships" could cause ARRC to lose over \$12 million in FTA formula funds.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 237
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title AK Railroad Education Apprentice RDU _____
Program Component Alaska Railroad Corporation
Sponsor Senator Cowdery
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Alaska Railroad Corporation (ARRC) is a public corporation supported by revenues generated through freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements, but does receive federal grants used to reimburse certain costs, the vast majority of which relate to capital projects.

This bill requires \$1.2 million of the corporation's net earnings to be paid in scholarships to Alaskan residents. ARRC currently pays for education and training for all Alaska Railroad hired employees. To administer a scholarship program of this magnitude will require ARRC to hire an additional full-time professional employee. Additionally, the corporation will need consulting services to provide recommendations on structuring the program initially and making any recommended changes as the program continues.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 265-2498
Division Alaska Railroad Corporation Date/Time 1/23/04 5:30 PM
Approved by: Edgar Blatchford, Commissioner Date 1/23/2004
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 237

ANALYSIS CONTINUATION

The following table outlines estimated ARRC expenditures for this legislation (Thousands of Dollars):

OPERATING EXPENDITURES	FY05	FY06	FY07	FY08	FY09	FY10
Personal Services	80.0	80.0	80.0	80.0	80.0	80.0
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	80.0	10.0	10.0	10.0	10.0	10.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	5.0	0.0	0.0	0.0	0.0	0.0
Scholarships	<u>1,200.0</u>	<u>1,200.0</u>	<u>1,200.0</u>	<u>1,200.0</u>	<u>1,200.0</u>	<u>1,200.0</u>
TOTAL OPERATING	1,368.0	1,293.0	1,293.0	1,293.0	1,293.0	1,293.0

FUND SOURCE

Alaska Railroad Revenues	1,368.0	1,293.0	1,293.0	1,293.0	1,293.0	1,293.0
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Sen. John J. Cowdery, Co-Chair

Senate Transportation Committee

Call: 465-4921 Fax: 465-2069

SECTIONAL ANALYSIS / SB237

Section 1 of this bill amends **AS 42.40.250** which sets out the general powers of the Alaska Railroad Corporation (42.40) by adding a new paragraph authorizing the corporation to administer the Alaska Railroad workforce development scholarship program.

Section 2 of this bill amends **AS 42.40** by adding a new section providing for the establishment of the scholarship program within the Alaska Railroad Corporation. The corporation shall award scholarships to Alaska residents to attend colleges and universities and postsecondary technical and vocational schools in Alaska for training in management, administrative, technical, skilled and service professions necessary to maintain and operate the Alaska Railroad.

The recipient of a scholarship may use the scholarship to pay for tuition, books, supplies, housing, food, transportation and related educational expenses while enrolled in a qualified education program.

The corporation will award at least \$1,200,000 in scholarships each year from the corporation's net revenue.

The board of directors of the corporation shall adopt rules as it considers necessary to implement the scholarship program.

Section 3 of this bill amends the purpose of ch. 153, SLA, 1984 which enacted the Alaska Railroad Corporation Act, to include the development of an educated and skilled workforce to operate, maintain and develop the Alaska Railroad, as one of the purposes for which the legislature created the Alaska Railroad.

Additional explanation:

Under terms of the federal Alaska Railroad Transfer Act (P.L. 97-469 Title IV), the "revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes" 45 U.S.C. 1207(a)(5); with emphasis added.

SB 237 seeks to satisfy the federal requirement that railroad revenue be used for "railroad and related purposes" by providing that the workforce development scholarships are available for those educational programs that offer the skills, training and education necessary to provide an educated and skilled workforce to maintain and operate the Alaska Railroad.

SENATOR
JOHN J. COWDERY
Anchorage

Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council



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Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT FOR SB 237

"An Act relating to the Alaska Railroad Workforce development scholarship program."

AS the Alaska Railroad continues its important role in the development of Alaska's economy through its continually improving infrastructure, it is critical that qualified Alaskans be available to fill the manpower needs of the railroad.

SB 237 requires the Alaska Railroad to establish, administer and annually fund a workforce development scholarship program with \$1.2 million of railroad funds. This would be applied toward in-state study for vocational programs or postsecondary education.

The scholarships would be for study in fields related to railroad operation; this could include any field from accounting to welding.

SB 237 establishes that the scholarship program is "railroad and related purpose" as set by the federal legislation which originally transferred the Alaska Railroad to the state.

You can't spend a bad dollar on education. SB 237 is a win-win situation for the Alaska Railroad and Alaska's high school graduates. The Alaska Railroad will benefit from ready access to graduates with the specific skills needed in railroad operation, while Alaska students will gain an additional source of funds for continuing education for Alaskans in Alaska.

SB

242

In relation to SB 242 “An Act Relating to Gaming”

As SB 242 currently reads:

Page 5, Lines 29-31 cont. on Page 6, Lines 1-2

Article 2. Gaming Activities

Sec 05.18.100. Gaming Activities. The commission shall authorize the gaming activities that the commission determines to be appropriate. *The commission may not authorize a charitable gaming activity unless that activity is authorized under AS 05.15.*

As the current Statutes read:

Sec. 05.15.180. Limitations on authorized activity.

(a) 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 department.

(b) With the exception of raffles, lotteries, bingo games, pull-tab games, race classics, rain classics, goose classics, mercury classics, deep freeze classics, dog mushers' contests, snow machine classics, canned salmon classics, salmon classics, and king salmon classics, 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. A snow machine classic may not be licensed under this chapter unless it has been in existence for at least five years before the licensing.

SENATOR
JOHN J. COWDERY
Anchorage

Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council
State Affairs



January - May:
State Capitol, Suite 101
Juneau, Alaska 99801-1182
Tel: 907-465-3879
Toll Free: 888-269-3879
Fax: 907-465-2069

May - December:
716 W. 4th Avenue
Anchorage, Alaska 99501
Tel: 907-269-0222
Fax: 907-269-0223

Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT FOR SB 242

"An Act relating to gaming."

SB 242 forms a commission to regulate all forms of gaming activity. This includes current forms, and additional forms that may be authorized by the legislature under AS 15.15.100 in the future.

If, sometime in the future, additional forms of gaming become legal in Alaska, it will be critical that appropriate regulatory oversight be in place. The goal of SB 242 is to put this regulatory framework in place by establishing the Alaska Gaming Commission within the Department of Revenue.

This bill establishes parameters for a seven-member commission appointed by the governor and confirmed by the legislature. The bill clearly specifies commission make-up, qualifications for commissioners, meeting times, and other powers and duties.

The bill makes it clear that the commission may not authorize a charitable gaming activity unless that activity is authorized under AS 05.15. This bill only gives the commission tools necessary to administer gaming once the legislature and governor adopt activity into law.

In other words, SB 242 gives no power to the commission to authorize, institute or engage in any type of gaming that is not currently authorized in statute.

Gaming activity currently allowed in AS 05.15.100 includes bingo, raffles, lotteries, pull-tab games, "classics", fish derbies and contests of skill.

SB

254

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/12/04

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 254

SB 254 TOURISM & RECREATION ASSESSMENT

"An Act relating to the levy and collection of an assessment on certain tourism-related and recreation-related goods and services, and repealing the levy of excise taxes of certain passenger and recreation vehicles; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Ralph Velasco</i>				✓
<i>[Signature]</i>		X		
<i>[Signature]</i>			X	
CHAIR: <i>C. Benhe</i>			✓	

FISCAL NOTE

200-03711

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 254
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Tourism & Recreation Assessment RDU Alaska Railroad Corporation
Component _____
Sponsor Senator Therriault
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Alaska Railroad Corporation (ARRC) is a public corporation supported by revenues generated through its freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements from the State. The attached analysis provides ARRC's estimate regarding its fiscal impact from SB 254.

SB 254 seeks to impose a 2% assessment on the sale of ARRC passenger tickets and tour company pull charges. This effectively places the assessment on all ARRC passenger revenue. ARRC understands the funds would be collected and remitted, less an administration fee of 1% of total collection, to the Department of Revenue on a monthly basis. Based upon current ARRC passenger revenue forecasts, the amount of assessment remitted would total approximately \$300.0 annually.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 269-2498
Division Alaska Railroad Corporation Date/Time 2/12/04 11:24 AM
Approved by: Edgar Blatchford, Commissioner Date 2/12/2004
Agency Department of Community & Economic Development

FY 2002

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 254

ANALYSIS CONTINUATION

Tourism Assessment Calculation

	(Thousands)				
	2004	2005	2006	2007	2008
Projected ARRC Passenger Revenue	14,660.0	14,790.0	15,070.0	15,200.0	15,330.0
2% Assessment	293.2	295.8	301.4	304.0	306.6
Less 1% assessment retainage (admin fee)	2.9	3.0	3.0	3.0	3.1
Net assessment transferred to GF	290.3	292.8	298.4	301.0	303.5

ARRC would collect and remit approximately \$300,000 annually to the State Department of Revenue under this proposed legislation.

Note: ARRC fiscal year runs from January 1 - December 31; revenues per year are presented on this basis.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 254
 (1/12/2004) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Tourism & Recreation Assessment RDU Executive Admin and Dev (119)
 Component Office of Economic Development
 Sponsor Senator Therriault
 Requester Senate Labor & Commerce Component No. 2743

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Act establishes a 2%-4% assessment on certain tourism-related and recreation-related goods and services. Proceeds of the assessment would be deposited into a sustainable tourism and marketing account, created in the general fund. The Legislature may appropriate the funds to the department to enter into a contract with a qualified trade association for tourism marketing under AS 44.33.125. The assessment must be approved by eligible visitor industry businesses that together account for at least 51% of the value of sales, leases and rentals described in the bill. SB 254 provides a mechanism for the visitor industry to terminate the assessment and repeals the current levy of excise taxes on certain passenger and recreation vehicles.

No new funds are required to implement these provisions.

Prepared by: Albert H. Clough, Deputy Commissioner Phone (907) 465-2500
 Division Office of Economic Development Date/Time 2/12/04 11:59 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/12/2004
 Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 254
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Tourism & Recreation Assessment RDU Revenue Programs & Services
 Component Tax Division
 Sponsor Senator Therriault
 Requester Senate Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	**	**	**	**	**	**
-------------------------------	-----------	-----------	-----------	-----------	-----------	-----------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	**	**	**	**	**	**
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** See page 2 for analysis.

Prepared by: Chuck Harlamert & Brett Fried Phone 465-2320
 Division Tax Division Date/Time 2/12/04 6:34 AM
 Approved by: Steve Porter, Deputy Commissioner Date 2/12/2004
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 254

ANALYSIS CONTINUATION

Cost Discussion:

We estimate the ongoing base level costs for a sales or gross receipts tax program of this size at \$1.3 million per year. This estimate assumes a number of factors which must be considered when calculating the base level operating costs for a sales or gross receipts tax program are in place such as; a stable tax program, a consistent and predictable taxpayer population, a well defined and understood tax base, planned technology investment, and successful implementation of electronic filing. The bill is not fully aligned with these assumptions at this time. Our estimate for the base level operating costs for the program proposed by the bill is approximately \$2.6 million annually.

Revenue Discussion

The following estimates are for those goods or services that were clearly defined in the bill or could be defined so that they could be estimated from existing data. These are those services reflected under (1) – (7) of Section 43.33.126.

- (1) Scenic and Sightseeing Transportation – Using the narrow definition in the economic census we estimate this would raise approximately \$2.5 million per year at 2%.
- (2) & (3) Vehicle Rentals – We estimate that a 2% tax would raise approximately \$1.3 million dollars per year in tax revenue. However, because this bill repeals the existing vehicle rental tax there would be a net loss of \$4.7 million in revenue.
- (4) Transient accommodations – We estimate that the hotels, motels and B&B component would raise approximately 6 million at 2%. If all camp tuitions or fees were included, we estimate it would add about an additional \$600,000 in tax at 2%.
- (5) Alaska Marine Highway System Passenger Fares - We estimate that a 2% tax on passenger fares would raise approximately \$300,000.
- (6) & (7) Alaska Railroad Corporation Passenger Fares and Towing Charges – We estimate that a 2% tax would raise about \$300,000.

The total revenue estimate from services taxed under AS 43.33.126(1)-(7) (as defined above) is \$11 million. However, because revenue will be reduced by approximately \$4.7 million as a result of repealing the current vehicle rental tax, the estimated new revenue is \$6.3 million. This does not include revenue from the proposed assessment on "seasonal" or other retail goods.

We do not have any data on retail shops that make more than 75 percent of their sales after May 1 but before October 1 and have not included an estimate for this area. It may be interesting to note that the total estimated sales for "Gift, Novelty and Souvenir Stores" in the 1997 census was approximately \$109 million. If we update this value to the present using the change in bed taxes (adjusted for changes in rates) estimated sales would be approximately \$130 million.

THE
FOLLOWING
DOCUMENT(S)
ARE
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COPIES



April 27, 2004

The Honorable Gene Therriault
State Senate
Alaska State Capitol, room 111
Juneau, Alaska 99801-1182

Dear Senator Therriault;

The Alaska Travel Industry Association (ATIA) Board of Directors is in favor of Senate Bill 254 and the proposed revisions, including a reduction of the assessment to one percent as well as reducing the present 60/40 match as stated in the Millennium Plan to a 50/50 match during the transitional fiscal year of 2005.

The ATIA Board of Directors met in February and March with other key tourism firms and associations with the intent of reaching a compromise that would allow additional interested parties to support the legislation. The one percent assessment accomplished that and has garnered broad industry support. The revisions are a major step in helping to create a stable, long term funding source that promotes travel and will help small and independent tourism businesses in Alaska.

Your endorsement and support of this legislation is critical and appreciated.

Sincerely,

Ron Peck
President and COO
Alaska Travel Industry Association



April 27, 2004

Honorable Senator Gene Therriault
Room 111
State Capitol
Juneau AK 99801-1182

Dear Senator Therriault,

On behalf of the Alaska Hotel and Lodging Association I would like to express our support for the Committee Substitutes for SB254 and HB426, the bills that propose a self-assessment on tourism industry businesses for the purpose of increasing tourism marketing dollars.

The negotiations over the last number of weeks have resulted in a good compromise for garnering tourism marketing funding with a 1% assessment of industry businesses. We also believe that these bills, in their current form, contribute well to the overall formula which includes other industry contributions, and provides for broad based funding structure.

Since the monies from this tourism self-assessment wouldn't likely go into effect until 2006, we would also like to express our support for an amendment to the current funding structure for tourism marketing; changing from the current 60%-40% matching requirement to a 50%-50% matching requirement for FY05. This would go a long way towards helping the tourism industry maintain its marketing efforts until the new funds become available.

Thanks for your support.

Best regards,

A handwritten signature in cursive script that reads "Karen R. Rogina".

Karen R. Rogina
President and CEO
Alaska Hotel & Lodging Association

330 E. 4th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 272-1229 • Fax: (907) 272-1289

United In a common Goal to make Alaska the most hospitable place on Earth



LINKING
BUSINESS
COMMUNITY &
CONSERVATION

AWRTA

April 27, 2004

Honorable Senator Therriault

By Facsimile: 907-465-3884

Dear Senator Therriault:

I am writing on behalf of the board of directors of the Alaska Wilderness Recreation and Tourism Association (AWRTA) to express this organization's support of S.B. 254 as revised by ATIA. AWRTA is in favor of the revisions which reduce the proposed visitor industry assessment from 2 to 1%.

AWRTA has some concerns about other provisions in this legislation, but we are committed to supporting a 1% tax and will continue to support ATIA in passing S.B. 254 with this level of assessment:

Thank you for all you are doing to help move this legislation forward.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Anne E. Gore'.

Anne E. Gore
Executive Director

Alaska Wilderness Recreation & Tourism Association

2207 SPENARD ROAD • SUITE 301 • ANCHORAGE, AK 99503
(907) 258-2173 TEL • (907) 258-3851 FAX • INFO@AWRTA.ORG • WWW.AWRTA.ORG



Alaska Campground Owners Association

P O BOX 111005
Anchorage, ALASKA 99511

April 26, 2004

Senator Therriault
Senate President
Alaska State Capitol, Room 111
Juneau, Alaska 99801-1182
Fax (907) 465-3884

Dear Senator Therriault,

The Alaska Campground Owners' Association (ACOA) held its annual convention on April 4th and 5th, 2004. There were approximately 40 park operators present at the convention. After much debate and discussion, the ACOA membership has voted to support ATIA's proposed 1% self-assessment for the following reasons:

- The independent traveler to Alaska has been in decline for the past three years.
- The private campground industry has realized a decline in camping occupancy of approximately 15% for each consecutive year.
- The success of the private campground industry depends heavily on the marketing efforts of the Alaska Travel Industry Association (ATIA) in domestic and foreign arenas.
- Alaska's public sector tourism marketing budget ranks 36th when compared with other states competing for the same visitor pool.
- ATIA studies have shown that small independent business along Alaska's highway system are impacted the greatest with the decline in statewide tourism marketing dollars.
- That funds raised from the tourism self-assessment be earmarked for tourism marketing with a focus of supporting the small independent business sector currently impacted the greatest from visitor decline.

INFO@ALASKACAMPGROUNDS.NET
WWW.ALASKACAMPGROUNDS.NET

ACOA does have some issues and concerns regarding the assessment:

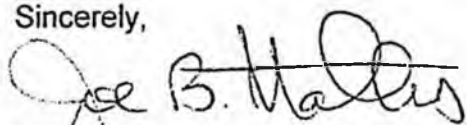
ACOA membership would like the assessment to be as broad based as possible. ACOA is still unclear as to how exactly a vote or ballot system will be implemented to turn on and off the assessment, if it the collected funds are not earmarked for tourism marketing. Will all businesses that collect this assessment have voting representation based on their specific revenue contribution?

Secondly, if based on revenue, our membership has serious concerns about large revenue voters taking over control of this process leaving small businesses powerless. We would prefer a mechanism, which allows for a check and balance against this happening. One possible safeguard mechanism could be each contributing business would have one vote. This would ensure a strong small business representation as opposed to a few large tour operators with majority revenue control.

In conclusion, ACOA while supporting the ATIA concept of the 1% self-assessment proposed by them, ACOA reserves the right to provide input and testimony on its own behalf at hearings regarding the proposed legislation. ACOA has a representative, Scott Reiland on the ATIA board representing the campground owners. Scott will be representing our association in this matter.

If you have any questions or require further classifications, you can contact me at 907-345-5764 or via e-mail at joemathis@alaska.com.

Sincerely,



Joe B. Mathis
Board Chair

INFO@ALASKACAMPGROUNDS.NET
WWW.ALASKACAMPGROUNDS.NET



SUSITNA RECREATIONAL CAMPS, INC.
MONTANA CREEK CAMPGROUND
MILE 96.5 PARKS HWY.

816 OCEANVIEW DRIVE

ANCHORAGE, ALASKA

99515

(907) 345-5764

April 26, 2004

Senator Therriault
Senate President
Alaska State Capitol, Room 111
Juneau, Alaska 99801-1182
Fax (907) 465-3884

Dear Senator Therriault,

Montana Creek Campground supports the tourism industry's 1% self-assessment. We are aware that independent travel to Alaska has been in decline for the past three years. Our own campground has experienced a steady decline in occupancy for the past three consecutive years as well. This is significant, because the number of visitors to our campgrounds historically increased annually.

Of course, many factors may contribute to the decline, but we believe that it is the lack of a successful statewide marketing effort that has most affected the tourism industry in Alaska, and, consequently, our own business. We are a small company and cannot afford to market ourselves to the nation; we have depended on the state and the travel industry to do that for us. We support the self-assessment because the funds will be dedicated to marketing efforts and, we believe, eventually reverse the decline in highway tourism traffic.

While we definitely are in support of the assessment, we'd prefer to see the voting mechanism changed to represent each business, rather than have votes based upon revenue.

Sincerely,

Sheila Lankford
President

Joe, please include this in the Committee packets for SB 254 hearing

Subject: Joe, please include this in the Committee packets for SB 254 hearing

Date: Mon, 26 Apr 2004 21:07:16 -0800

From: "Alaska Passages" <info@alaskapassages.com>

To: <Joe_Balash@legis.state.ak.us>

April 26, 2004

Dear Senator Therriault, and members of the House Labor and Commerce Committee:

I am very concerned about the impact that Senate Bill 254 could have on my tourism business. I run weeklong trips on my charterboat for groups of up to six people. The proposed 1% tax would add a couple of hundred dollars in taxes to one of my trips. That would be added to the sales tax I already pay in Petersburg, which is \$72 per trip.

Extra taxes make my business less competitive with the big cruise ships that would not be subject to this tax due to federal regulations regarding interstate travel. The proposed tourism assessment would also not apply to other people in the charterboat industry who sell their trips down south, but conduct their trips here in Alaska. I am concerned that this tax legislation may not be equitable in spreading the burden of cost among all the tourism operators.

Local tourism businesses would bear the brunt of this proposed tax, and it would hurt Alaskans communities.

A tax cap would mitigate the impact this tax would have. For example, Petersburg caps its sales tax at \$1200. With our six per cent tax rate, people never pay more than \$72 for a big ticket item. That keeps people from shopping out of the community. I suggest capping a tourism assessment tax as well. It is far more acceptable than adding hundreds of dollars in taxes to a trip. A cap would provide important protection for smaller Alaskan businesses like mine.

Please contact me with any questions or comments. I am sorry I am not going to be available to testify at the teleconference hearing.

Julie Hursey
Alaska Passages Adventure Cruises
(907) 772-3967



ATIA modifies Tourism Marketing funding plan to diversify funding sources and reduce assessment level.

ATIA has been working closely over the recent weeks with various other travel organizations, such as the Alaska Campground Owners Association (ACOA), the Alaska Hotel and Lodging Association (AkH&LA), the Alaska Wilderness Recreation & Tourism Association (AWRTA) and several Conventions and Visitors Bureaus around the state to jointly craft a compromise to bring before the legislature which has garnered additional industry support.

The modified recommendation calls for a one-percent assessment on the following tourism-related sales, leases and services taking place within Alaska, including:

- (1) Sale of land, water and *aerial transportations services
- (2) Sale of recreational and adventure services including guided raft, kayak and canoe trips, guided hiking trips, guided walking tours and fishing charters;
- (3) Lease/rental of passenger vehicles and RVs
- (4) RV/camp sites
- (5) Accommodations, including hotels, motels and B&Bs;
- (6) Sale of Alaska Marine Highway and Alaska Railroad passenger fares.
- (7) Gift shops (seasonal) in addition to Alaskan souvenirs sold by large retailers.

In addition, this revenue would be supplemented by continuing contributions from

- (1) The cruise industry (\$1 million)
- (2) ATIA cooperative marketing program revenues (\$2.5 million)
- (3) Domestic Marketing Organization (DMOs) and Conventions and Visitors Bureaus (CVBs) contributions (\$300,000)
- (4) Continued matching funding from the state to the maximum amount authorized by the legislature.

Change 60% match in Millennium Plan to 50% match

The assessment also calls for a reduction in the Millennium Plan match from the current 60% private sector contribution to the State's 40% contribution to a 50/50 percent match.

**Federal law prohibits states and municipalities from taxing passengers on air carriers, including small planes and helicopters that do "flightseeing". Therefore, "aerial" transportation, refers to transportation modes such as tramways, ski lifts, and ski tows for purpose of the assessment.*

BREAKDOWN: MODIFIED 1% TOURISM MARKETING ASSESSMENT

Assessment Category	Kelsh totals	two-percent	one-percent
passenger transport	217,107,760	4,342,155	2,171,078
accommodations	379,826,876	7,596,538	3,798,269
recreational & vacation camps	32,737,713	654,754	327,377
RV parks & campgrounds	5,725,858	114,517	57,259
AMHS passenger fares	38,700,000	774,000	387,000
AK railroad passenger fares and tow	14,000,000	280,000	140,000
SUBTOTAL	688,098,207	13,761,964	6,880,983
seasonal retail (exclusive of Alaska native arts & crafts)	117,400,000	2,348,000	1,174,000
SUBTOTAL	805,498,207	16,109,964	8,054,982
annual retail (exclusive of Alaska native arts & crafts)	234,800,000	4,696,000	2,348,000
SUBTOTAL	922,898,207	18,457,964	9,228,982
State, Cruise & DMO contributions plus pay-to-play			
CRUISE CONTRIBUTION		1,000,000	1,000,000
DMO CONTRIBUTION		300,000	300,000
PAY-TO-PLAY		2,500,000	2,500,000
STATE		4,000,000	4,000,000
SUBTOTAL		7,800,000	7,800,000
Scenarios (1%)			
Kelsh 1% (seasonal retail)	15,854,983		
Kelsh 1% (annual retail)	17,028,983		
Revenue 1% (seasonal retail)	13,834,000		
Revenue 1% (annual retail)	15,008,000		

ATIA's board supports this approach for several reasons.

- The combined revenues advance our industry's long-stated need to grow Alaska's overall tourism marketing budget to make it competitive with other top destinations.
- At one-percent, the assessment is less burdensome on small businesses relative to revenue it would generate across the state.
- The modified assessment is broad-based and attempts to impact all major sectors of Alaska's visitor industry.
- Finally, supporting the assessment insures that the revenue collected by our industry stays with the industry.

23-LS0947B
Kurtz
4/19/04

CS FOR SENATE BILL NO. 254()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the levy and collection of an assessment on certain tourism-related
2 and recreation-related sales, leases, and rentals, to tourism marketing contracts, and to
3 vehicle rental taxes; relating to Alaska marine highway system passenger fares; and
4 providing for an effective date."

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

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

8 SHORT TITLE. This Act may be known as the Sustainable Tourism and Recreation
9 Assessment Act.

10 * Sec. 2. AS 19.65 is amended by adding a new section to read:

11 Sec. 19.65.037. The commissioner of transportation and public facilities shall
12 give a passenger who presents proof of Alaska residency a one percent discount on the
13 passenger's fare before application of the assessment under AS 44.33.126.

14 * Sec. 3. AS 43.52 is amended by adding a new section to read:

1 **Sec. 43.52.095. Disposition of proceeds.** (a) The proceeds of the taxes
2 levied in AS 43.52.010 and 43.52.030 shall be deposited into the sustainable tourism
3 and marketing account created in AS 44.33.134.

4 (b) The deposit required by this section is not intended to create a dedication
5 in violation of art. IX, sec. 7, Constitution of the State of Alaska.

6 * Sec. 4. AS 44.33.125(a) is amended to read:

7 (a) Subject to appropriations for the purpose, the Department of Community
8 and Economic Development shall, on or before April 1 of each fiscal year, contract
9 with a single qualified trade association for the purpose of planning and executing a
10 destination tourism marketing campaign during the next fiscal year. If a sustainable
11 tourism and recreation assessment under AS 44.33.126 is in effect when the
12 contract is executed, the qualified trade association may not be required to
13 provide matching funds. However, if a sustainable tourism and recreation
14 assessment under AS 44.33.126 is not in effect when the contract is executed, the
15 [THE] contract may be executed [AWARDED] only if the qualified trade association
16 provides matching funds equal to at least 50 [60] percent of the costs of the marketing
17 campaign described in the contract. The marketing campaign may promote distinct
18 segments of tourism, such as highway tourism, seasonal tourism, ecotourism, cultural
19 tourism, regional tourism, and rural tourism. Before the contract is executed, the
20 marketing campaign plan must be approved by the department.

21 * Sec. 5. AS 44.33 is amended by adding new sections to read:

22 **Sec. 44.33.126. Sustainable tourism and recreation assessment.** (a) A
23 sustainable tourism and recreation assessment is levied on

24 (1) the sale of land, water, and aerial transportation of passengers, to
25 the extent permitted by federal law; "aerial transportation" includes transportation by
26 tramway, ski tow, and ski lift;

27 (2) rental of accommodations in a hotel, motel, bed and breakfast,
28 recreational or vacation camp, recreational vehicle park, campground, or other
29 establishment, including an establishment owned or operated by the state or a
30 municipality, providing short-term lodging if the rental does not exceed a period of 30
31 consecutive days;

1 (3) the sale of recreational and adventure services, including guided
2 raft, kayak, and canoe trips, guided hiking trips, guided walking tours, guided motor
3 vehicle sightseeing tours, and fishing charters;

4 (4) the sale on or after May 1, but before October 1, in each calendar
5 year of tickets to theater productions, revues, cabarets, movies, readings, and other
6 entertainment offerings that feature the gold rush, Soapy Smith, or other Alaska
7 historical themes or figures, and that appeal primarily to visitors;

8 (5) goods sold by seasonal retail shops; for purposes of this paragraph,
9 "seasonal retail shop" means a retail store that makes more than 75 percent of its sales
10 on or after May 1 but before October 1 in each calendar year; and

11 (6) the retail sale of gifts and souvenirs featuring Alaska images and
12 not subject to assessment under (5) of this subsection; for purposes of this paragraph,

13 (A) "Alaska images" includes the word "Alaska," the name or
14 image of a municipality in the state, the name or image of an Alaska landmark,
15 whether natural or constructed, the image of the stars of the "Dipper," a picture
16 or scene associated with Alaska, and images of bears, moose, caribou, seals,
17 walrus, whales, eagles, salmon, wolves, sled dogs, and other animals and
18 wildlife associated with Alaska;

19 (B) "gifts and souvenirs" includes tee shirts, sweatshirts, and
20 other clothing, jewelry, glassware, cups, plates, cutlery, key chains, carvings,
21 statues, statuettes, clocks, books, paintings, prints, photographs, postcards,
22 calendars, and videos.

23 (b) The rate of the assessment is one percent.

24 (c) The provisions of AS 43.05 and AS 43.10 apply to the enforcement and
25 collection of the sustainable tourism and recreation assessment.

26 **Sec. 44.33.127. Exemptions.** The assessment levied under AS 44.33.126
27 does not apply to

28 (1) sales, leases, and rentals that are

29 (A) explicitly exempted from taxation under another provision
30 of state law; or

31 (B) exempt from taxation under federal law and purchases

1 made with

2 (i) food coupons, food stamps, or other types of
3 certificates issued under 7 U.S.C. 2011 - 2036 (Food Stamp Act); and

4 (ii) food instruments, food vouchers, or other types of
5 certificates issued under 42 U.S.C. 1786 (special supplemental nutrition
6 program for women, infants, and children);

7 (2) sales and purchases by federal government entities;

8 (3) purchases by state or local government entities;

9 (4) sales, leases, or rentals made to an entity described in 26 U.S.C.
10 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
11 U.S.C. 501(a);

12 (5) sales, leases, or rentals made by an entity described in 26 U.S.C.
13 501(c)(3) (Internal Revenue Code) and exempt from federal income tax under 26
14 U.S.C. 501(a) if the income from the sale or rental is exempt from federal income
15 taxation;

16 (6) casual and isolated sales, leases, or rentals by a seller who does not
17 regularly engage in the business of selling goods or services or making rentals, but
18 only if the total sales or rentals do not exceed \$1,000 a year and the sales or rentals do
19 not occur for more than 14 days in a calendar year;

20 (7) transportation provided by a municipal bus service;

21 (8) transportation in a taxicab.

22 **Sec. 44.33.128. Termination of the sustainable tourism and recreation**
23 **assessment.** (a) The commissioner of revenue shall terminate a sustainable tourism
24 and recreation assessment levied under AS 44.33.126 if

25 (1) an election is held under AS 44.33.129 in which the termination is
26 approved by eligible visitor industry businesses that together account for at least 51
27 percent of the assessment paid under AS 44.33.126 - 44.33.139 for the prior calendar
28 year; or

29 (2) two-thirds of the board of a qualified trade association at a regular
30 meeting adopts a resolution requesting the commissioner of revenue to terminate the
31 assessment.

1 (b) An election under (a)(1) of this section shall be held if

2 (1) the proposed election for the termination of the assessment is
3 approved by a majority of the board of the qualified trade organization at a regularly
4 scheduled meeting; or

5 (2) a petition is presented to the director of elections requesting
6 termination of the assessment by eligible visitor industry businesses that together
7 account for at least 25 percent of the assessment paid under AS 44.33.126 - 44.33.139
8 for the prior calendar year.

9 (c) The qualified trade association shall provide notice of an election in
10 accordance with AS 44.33.129 within 60 days after receiving notice from the director
11 of elections that a valid petition under (b)(2) of this section has been received.

12 (d) The sustainable tourism and recreation assessment is terminated on the
13 next December 31 occurring at least five months after the date of the certification of
14 this election under AS 44.33.129.

15 **Sec. 44.33.129. Procedures for an election to terminate a sustainable**
16 **tourism and recreation assessment.** (a) A qualified trade association may conduct
17 an election under this section after the director of elections approves the

18 (1) notice to be published by the qualified trade association;

19 (2) ballot to be used in the election; and

20 (3) registration and voting procedures for the termination of the
21 sustainable tourism and recreation assessment.

22 (b) In conducting an election under this section, a qualified trade association
23 shall adopt the following procedures:

24 (1) the proposed termination of the assessment shall be adopted at a
25 regularly scheduled meeting of the board held not less than 60 days before the date on
26 which the ballots must be postmarked to be counted unless the election is for
27 termination of the assessment and has been initiated by a petition under
28 AS 44.33.128(b)(?);

29 (2) the qualified trade association shall hold at least one meeting, not
30 less than 30 days before the date on which ballots must be postmarked to be counted,
31 to explain the reason for the termination of the assessment and to explain the voting

1 procedure to be used in the election; the qualified trade association shall provide
2 notice of the meeting by

3 (A) mailing the notice to each eligible visitor industry business;
4 and

5 (B) publishing the notice in at least one newspaper of general
6 circulation in each region of the state at least two weeks before the meeting;

7 (3) the qualified trade association shall mail ballots to each eligible
8 visitor industry business not more than 45 days before the date specified as the date
9 ballots must be postmarked;

10 (4) the ballot must

11 (A) state the rate at which the assessment is levied;

12 (B) indicate the effective date of the termination of the
13 assessment if the termination is approved;

14 (C) ask whether the assessment shall be terminated;

15 (5) the ballots shall be returned by mail and shall be counted by the
16 director of elections or a representative.

17 (c) The director of elections shall certify the results of an election under this
18 section if the director determines that the requirements of (a) and (b) of this section
19 have been satisfied.

20 (d) For purposes of this section, a ballot submitted by a corporation is
21 presumed valid if the ballot is signed by an individual who is indicated to be an officer
22 of the corporation and the ballot is imprinted with the corporate seal.

23 **Sec. 44.33.131. Determination of sales.** (a) Upon request from the director
24 of elections, the commissioner of revenue shall determine

25 (1) the assessment paid under AS 44.33.126 - 44.33.139 for the prior
26 calendar year;

27 (2) whether, for purposes of AS 44.33.128(a), the eligible visitor
28 industry businesses approving the termination of a sustainable tourism and recreation
29 assessment together produced at least 51 percent of the assessment paid under
30 AS 44.33.126 - 44.33.139 for the prior calendar year; or

31 (3) whether the eligible visitor industry businesses petitioning for an

1 election under AS 44.33.128(b)(2) together produced at least 25 percent of the
2 assessment paid under AS 44.33.126 - 44.33.139 for the prior calendar year.

3 (b) Dollars paid with returns filed by providers for the calendar year shall be
4 considered probative of the amount of assessment paid for the calendar year, except
5 that the commissioner, at the commissioner's discretion, may substitute audit
6 assessments, claims for refund, or other pertinent evidence.

7 (c) A provider appealing the commissioner's determination shall be considered
8 aggrieved under AS 43.05.240. However, an appeal under that section may not delay
9 the commissioner's determination.

10 **Sec. 44.33.132. Collection of assessment.** (a) A provider shall add the
11 assessment levied in AS 44.33.126 to the total price of the sale, lease, or rental.

12 (b) The assessment shall be stated separately on any sales receipt, invoice, or
13 other record of the sale, lease, or rental.

14 (c) A provider shall collect the assessment from the person purchasing,
15 leasing, or renting the vehicle, accommodations, service, or ticket, and remit the
16 assessment to the department not later than 30 days following the last day of the
17 month in which the assessment was collected. However, a provider that collects less
18 than \$1,000 in assessments in a calendar quarter may remit the assessments within 30
19 days following the last day of the calendar quarter in which the assessment was
20 collected.

21 (d) A provider remitting the assessment collected under AS 44.33.126 to the
22 department as required under (c) of this section and filing a complete and timely return
23 on a form prescribed by the department may retain one percent of the amount
24 collected to cover expenses associated with collecting and remitting the assessment.

25 (e) If a provider pays an independent agent a commission or other fee for
26 selling or arranging the sale, lease, or rental of a vehicle, accommodations, service, or
27 ticket subject to the assessment levied in AS 44.33.126, that commission shall be
28 considered part of the price of the sale, lease, or rental subject to the assessment levied
29 in AS 44.33.126. The provider shall pay the assessment on the commission. An
30 independent agent is not required to collect or remit the assessment on any resale of a
31 sale, lease, or rental of a vehicle, accommodations, service, or ticket subject to the

1 assessment levied in AS 44.33.126.

2 (f) The person providing a vehicle, accommodations, service, or ticket subject
3 to the assessment levied in AS 44.33.126 is liable for payment of the full assessment,
4 regardless of whether the person has collected the assessment.

5 (g) In this section, "independent agent" means a travel agent or ticket broker
6 who purchases accommodations, services, or tickets from a provider and resells them
7 to a consumer, or who arranges the sale of accommodations, services, or tickets on
8 behalf of a provider, but is not an employee of the provider.

9 **Sec. 44.33.133. Exemption certificate.** The department shall provide
10 exemption certificates to persons and entities exempt from the assessment under
11 AS 44.33.127.

12 **Sec. 44.33.134. Disposition of proceeds.** (a) The sustainable tourism and
13 marketing account is created in the general fund.

14 (b) The proceeds of the assessment levied under AS 44.33.126 and the vehicle
15 rental taxes levied under AS 43.52.010 and 43.52.030 shall be deposited into the
16 sustainable tourism and marketing account.

17 (c) The legislature may appropriate the money in the sustainable tourism and
18 marketing account to the Department of Community and Economic Development for
19 the purpose of entering into a contract with a qualified trade association for tourism
20 marketing under AS 44.33.125.

21 (d) The deposit required and appropriation authorized by this section are not
22 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
23 of Alaska.

24 **Sec. 44.33.139. Definitions.** In AS 44.33.126 - 44.33.139,

25 (1) "board" means the board of directors of a qualified trade
26 organization;

27 (2) "eligible visitor industry business" means a business that would be
28 liable for payment of a sustainable tourism and recreation assessment under
29 AS 44.33.126;

30 (3) "provider" means a person providing a vehicle, accommodations,
31 service, or ticket subject to the assessment levied in AS 44.33.126; "provider" does not

1 include an independent agent;

2 (4) "qualified trade organization" means the trade organization
3 contracting with the Department of Community and Economic Development under
4 AS 44.33.125 for the fiscal year.

5 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. The amendments to AS 44.33.125 made in sec. 4 of this Act apply
8 to contracts for tourism marketing entered into under AS 44.33.125 for fiscal years beginning
9 July 1, 2005.

10 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
13 regulations necessary to implement the provisions of this Act. The regulations take effect
14 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
15 provision being implemented.

16 * Sec. 8. Section 7 of this Act takes effect immediately under AS 01.10.070(c).

17 * Sec. 9. Except as provided in sec. 8 of this Act, this Act takes effect January 1, 2005.