



# LAWS OF ALASKA

1997

**Source**

SCS CSHB 63(RLS) am.S

**Chapter No.**

88

**AN ACT**

Relating to the tax on motor fuel; amending the definition of "motor fuel" under the state's motor fuel tax to add, as a part of the tax exemption set out in that definition, exemption from the tax for fuel sold for use in jet propulsion aircraft operating in flights that continue from foreign countries, subject to termination of the exemption for that fuel if a refiner operating a refinery at which the fuel was produced fails to comply with terms of a voluntary agreement entered into by the refiner to use Alaska residents, contractors, and suppliers to provide goods and services when the refinery's capacity is expanded, to add exemption from the tax for certain number 6 "residual fuel oil," also known as bunker fuel, and to delete the exemption from the tax for fuel that is at least 10 percent alcohol by volume; and repealing ch. 42, SLA 1994, the Act providing for the imposition of a different tax levy on residual fuel oil used in and on certain watercraft until June 30, 1998; and relating to use of ethanol to satisfy oxygenated fuel requirements; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** June 16, 1997

**Actual Effective Date:** Sections 3 and 5 are conditional; remainder of Act takes effect July 1, 1997

AN ACT

1 Relating to the tax on motor fuel; amending the definition of "motor fuel" under the state's  
2 motor fuel tax to add, as a part of the tax exemption set out in that definition, exemption from  
3 the tax for fuel sold for use in jet propulsion aircraft operating in flights that continue from  
4 foreign countries, subject to termination of the exemption for that fuel if a refiner operating  
5 a refinery at which the fuel was produced fails to comply with terms of a voluntary agreement  
6 entered into by the refiner to use Alaska residents, contractors, and suppliers to provide goods  
7 and services when the refinery's capacity is expanded, to add exemption from the tax for  
8 certain number 6 "residual fuel oil," also known as bunker fuel, and to delete the exemption  
9 from the tax for fuel that is at least 10 percent alcohol by volume; and repealing ch. 42, SLA

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1 1994, the Act providing for the imposition of a different tax levy on residual fuel oil used in  
2 and on certain watercraft until June 30, 1998; and relating to use of ethanol to satisfy  
3 oxygenated fuel requirements; and providing for an effective date.

4  
5 \* **Section 1.** LEGISLATIVE INTENT. It is the legislature's intent that the Department  
6 of Environmental Conservation work with the Municipality of Anchorage to obtain an  
7 exemption from oxygenated fuel use requirements that encourage the use of ethanol.

8 \* **Sec. 2.** AS 43.40.010(a) is amended to read:

9 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
10 otherwise transferred within the state, except that

11 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

12 (2) the tax on motor fuel used in and on watercraft of all descriptions  
13 is five cents a gallon; [AND]

14 (3) the tax on all aviation fuel other than gasoline is three and two-  
15 tenths cents a gallon; **and**

16 (4) the tax rate on motor fuel that is blended with alcohol is the  
17 same tax rate a gallon as other motor fuel; however,

18 (A) in an area and during the months in which fuel  
19 containing alcohol is required to be sold, transferred, or used in an effort  
20 to attain air quality standards for carbon monoxide as required by federal  
21 or state law or regulation, the tax rate on motor fuel that is blended with  
22 alcohol is six cents a gallon less than the tax on other motor fuel not  
23 described in (1) - (3) of this subsection;

24 (B) notwithstanding (A) of this paragraph, through June 30,  
25 2004, the tax on motor fuel sold or otherwise transferred within the state  
26 is eight cents a gallon less than the tax on other motor fuel not described  
27 in (1) - (3) of this subsection if the motor fuel

28 (i) is at least 10 percent alcohol by volume, has been  
29 produced from the processing of lignocellulose derived from wood,  
30 and was produced in a facility that processes lignocellulose from

1 wood, but this reduction in the rate of tax applies to motor fuel sold  
2 or transferred that contains alcohol that was produced only during  
3 the first five years of the facility's processing of lignocellulose from  
4 wood; or

5 (ii) is at least 10 percent alcohol by volume, has been  
6 produced from the processing of waste seafood, and was produced  
7 in a facility that processes alcohol from waste seafood, but this  
8 reduction in the rate of tax applies to motor fuel sold or transferred  
9 that contains alcohol that was produced only during the first five  
10 years of the facility's processing of alcohol from waste seafood.

11 \* Sec. 3. AS 43.40.010(a), as repealed and reenacted by sec. 3, ch. 127, SLA 1994, is  
12 amended to read:

13 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
14 otherwise transferred within the state, except that

15 (1) the tax on aviation gasoline is four cents a gallon;

16 (2) the tax on motor fuel used in and on watercraft of all descriptions  
17 is five cents a gallon; [AND]

18 (3) the tax on all aviation fuel other than gasoline is two and one-half  
19 cents a gallon; and

20 (4) the tax rate on motor fuel that is blended with alcohol is the  
21 same tax rate a gallon as other motor fuel; however,

22 (A) in an area and during the months in which fuel  
23 containing alcohol is required to be sold, transferred, or used in an effort  
24 to attain air quality standards for carbon monoxide as required by federal  
25 or state law or regulation, the tax rate on motor fuel that is blended with  
26 alcohol is six cents a gallon less than the tax on other motor fuel not  
27 described in (1) - (3) of this subsection;

28 (B) notwithstanding (A) of this paragraph, through June 30,  
29 2004, the tax on motor fuel sold or otherwise transferred within the state  
30 is eight cents a gallon less than the tax on other motor fuel not described  
31 in (1) - (3) of this subsection if the motor fuel

1                                    (i) is at least 10 percent alcohol by volume, has been  
2                                    produced from the processing of lignocellulose derived from wood,  
3                                    and was produced in a facility that processes lignocellulose from  
4                                    wood, but this reduction in the rate of tax applies to motor fuel sold  
5                                    or transferred that contains alcohol that was produced only during  
6                                    the first five years of the facility's processing of lignocellulose from  
7                                    wood; or

8                                    (ii) is at least 10 percent alcohol by volume, has been  
9                                    produced from the processing of waste seafood, and was produced  
10                                   in a facility that processes alcohol from waste seafood, but this  
11                                   reduction in the rate of tax applies to motor fuel sold or transferred  
12                                   that contains alcohol that was produced only during the first five  
13                                   years of the facility's processing of alcohol from waste seafood.

14 \* Sec. 4. AS 43.40.010(b) is amended to read:

15                    (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
16                    by a user, except that

17                                    (1) the tax on aviation gasoline consumed is four and seven-tenths cents  
18                    a gallon;

19                                    (2) the tax on motor fuel used in and on watercraft of all descriptions  
20                    is five cents a gallon; [AND]

21                                    (3) the tax on all aviation fuel other than gasoline is three and two-  
22                    tenths cents a gallon; and

23                                    (4) the tax rate on motor fuel that is blended with alcohol is the  
24                    same tax rate a gallon as other motor fuel; however,

25                                    (A) in an area and during the months in which fuel  
26                                    containing alcohol is required to be sold, transferred, or used in an effort  
27                                    to attain air quality standards for carbon monoxide as required by federal  
28                                    or state law or regulation, the tax rate on motor fuel that is blended with  
29                                    alcohol is six cents a gallon less than the tax on other motor fuel not  
30                                    described in (1) - (3) of this subsection;

31                                    (B) notwithstanding (A) of this paragraph, through June 30,

1           2004, the tax on motor fuel consumed by a user within the state is eight  
2           cents a gallon less than the tax on other motor fuel not described in (1) -  
3           (3) of this subsection if the motor fuel

4                           (i) is at least 10 percent alcohol by volume, has been  
5                           produced from the processing of lignocellulose derived from wood,  
6                           and was produced in a facility that processes lignocellulose from  
7                           wood, but this reduction in the rate of tax applies to motor fuel  
8                           consumed by a user that contains alcohol that was produced only  
9                           during the first five years of the facility's processing of  
10                           lignocellulose from wood; or

11                           (ii) is at least 10 percent alcohol by volume, has been  
12                           produced from the processing of waste seafood, and was produced  
13                           in a facility that processes alcohol from waste seafood, but this  
14                           reduction in the rate of tax applies to motor fuel consumed by a  
15                           user that contains alcohol that was produced only during the first  
16                           five years of the facility's processing of alcohol from waste seafood.

17       \* Sec. 5. AS 43.40.010(b), as repealed and reenacted by sec. 5, ch. 127, SLA 1994, is  
18 amended to read:

19                   (b) There is levied a tax of eight cents a gallon on all motor fuel consumed  
20 by a user, except that

21                           (1) the tax on aviation gasoline consumed is four cents a gallon;

22                           (2) the tax on motor fuel used in and on watercraft of all descriptions  
23 is five cents a gallon; [AND]

24                           (3) the tax on all aviation fuel other than gasoline is two and one-half  
25 cents a gallon; and

26                           (4) the tax rate on motor fuel that is blended with alcohol is the  
27 same tax rate a gallon as other motor fuel; however,

28                                   (A) in an area and during the months in which fuel  
29 containing alcohol is required to be sold, transferred, or used in an effort  
30 to attain air quality standards for carbon monoxide as required by federal  
31 or state law or regulation, the tax rate on motor fuel that is blended with

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1 alcohol is six cents a gallon less than the tax on other motor fuel not  
2 described in (1) - (3) of this subsection;

3 (B) notwithstanding (A) of this paragraph, through June 30,  
4 2004, the tax on motor fuel consumed by a user within the state is eight  
5 cents a gallon less than the tax on other motor fuel not described in (1) -  
6 (3) of this subsection if the motor fuel

7 (i) is at least 10 percent alcohol by volume, has been  
8 produced from the processing of lignocellulose derived from wood,  
9 and was produced in a facility that processes lignocellulose from  
10 wood, but this reduction in the rate of tax applies to motor fuel  
11 consumed by a user that contains alcohol that was produced only  
12 during the first five years of the facility's processing of  
13 lignocellulose from wood; or

14 (ii) is at least 10 percent alcohol by volume, has been  
15 produced from the processing of waste seafood, and was produced  
16 in a facility that processes alcohol from waste seafood, but this  
17 reduction in the rate of tax applies to motor fuel consumed by a  
18 user that contains alcohol that was produced only during the first  
19 five years of the facility's processing of alcohol from waste seafood.

20 \* Sec. 6. AS 43.40.015(d) is amended to read:

21 (d) A certificate of use is not required

22 (1) for fuel exempted under AS 43.40.100(2)(C) [, (F),] or (I) [(K)];

23 and

24 (2) for fuel exempted under AS 43.40.100(2)(I) [AS 43.40.100(2)(J)]

25 other than fuel sold or transferred under this exemption to a person who is engaged in  
26 construction or mining activity.

27 \* Sec. 7. AS 43.40 is amended by adding a new section to read:

28 **Sec. 43.40.092. Disallowance of exemption from motor fuel tax for certain**  
29 **fuel sold for use in jet propulsion aircraft operating in flights that continue from**  
30 **foreign countries.** (a) The provisions of this section apply to disallow the exemption  
31 for motor fuel sold for use by a dealer or used by a user in jet propulsion aircraft

1 operating in flights that continue from foreign countries if, for motor fuel produced by  
2 a refiner,

3 (1) the refiner determines, on or after the effective date of this section,  
4 that the refiner will expand capacity or expand the refinery to produce more residual  
5 fuel oil used in watercraft;

6 (2) on or after the effective date of this section, the refiner has  
7 voluntarily committed by agreement entered into with the commissioner that, if the  
8 refiner expands its oil refining capacity in order to produce additional supplies of fuel  
9 for use in jet propulsion aircraft that qualify for the tax exemption, when the refiner  
10 expands capacity, the refiner will

11 (A) use the refiner's best efforts to advertise for, recruit, and  
12 employ in the construction activities associated with expanding refinery  
13 capacity resident workers who have experience in the specific fields in which  
14 they are hired to work;

15 (B) contract with licensed Alaska firms to prepare materials that  
16 are used in construction activities and to provide services in conjunction with  
17 activities associated with expanded refinery capacity and, in contracting with  
18 those firms, to encourage the refiner's contractors to employ and, when  
19 necessary, train state residents; and

20 (C) enter into contracts with Alaska-licensed vendors,  
21 contractors, and suppliers for the provision of supplies and services used in  
22 conjunction with activities associated with expanding refinery capacity; and

23 (3) the commissioner determines that a dealer or user claiming the  
24 exemption for motor fuel acquired from a refiner who has entered into an agreement  
25 described in (2) of this subsection acquired the motor fuel for which the exemption is  
26 claimed from a refiner who has not complied with the requirements of the agreement  
27 in completing expansion of its oil refining capacity under the agreement described in  
28 (1) of this subsection.

29 (b) For purposes of this section,

30 (1) the term "resident worker" means an individual who

31 (A) is physically present in the state with the intent to remain

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1 in the state indefinitely and has a home in the state;

2 (B) demonstrates that intent by maintaining a residence in the  
3 state;

4 (C) possesses a resident fishing, trapping, or hunting license, or  
5 receives a permanent fund dividend; and

6 (D) may be required to state under oath that the individual is  
7 not claiming residency outside of the state or obtaining benefits under a claim  
8 of residency outside of the state;

9 (2) the phrases "Alaska-licensed contractors" and "Alaska firms" mean  
10 a contractor or firm that

11 (A) has held an Alaska business license for one year before  
12 performing any work in connection with the commitment described in (a) of  
13 this section;

14 (B) has maintained for one year a place of business within the  
15 state that deals in the supplies, services, or construction of the nature required  
16 for the commitment described in (a) of this section; and

17 (C) is

18 (i) a sole proprietorship and the proprietor is an Alaska  
19 resident;

20 (ii) a partnership and more than 50 percent of the  
21 partners are Alaska residents;

22 (iii) a corporation that has been incorporated in the state  
23 or is authorized to do business in the state; or

24 (iv) a joint venture composed entirely of ventures that  
25 qualify under this subparagraph.

26 \* Sec. 8. AS 43.40.100(2) is amended to read:

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

31 (A) fuel consigned to foreign countries;

1 (B) fuel sold for use in jet propulsion aircraft operating in  
2 flights

3 (i) to foreign countries; or

4 (ii) that continue from foreign countries, unless  
5 exemption of the motor fuel from taxation is disallowed because of  
6 the refiner's failure to comply with the provisions of a voluntary  
7 agreement under AS 43.40.092 in conjunction with expansion of  
8 refinery capacity;

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

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

13 (E) fuel used by charitable institutions;

14 (F) [FUEL WHICH IS AT LEAST 10 PERCENT ALCOHOL  
15 BY VOLUME;

16 (G)] fuel sold or transferred between qualified dealers;

17 (G) [(H)] fuel sold to federal, state, and local government  
18 agencies for official use;

19 (H) [(I)] fuel used in stationary power plants that generate  
20 electrical energy for private residential consumption;

21 (I) [(J)] fuel used to heat private or commercial buildings or  
22 facilities;

23 (J) [(K)] fuel used for other nontaxable purposes as prescribed  
24 by regulations adopted by the department;

25 (K) [OR (L)] fuel used in stationary power plants of 100  
26 kilowatts [KW] or less that generate electrical power for commercial  
27 enterprises not for resale; or

28 (L) residual fuel oil used in and on watercraft if the residual  
29 fuel oil is sold or transferred in the state or consumed by a user; for  
30 purposes of this subparagraph, "residual fuel oil" means the heavy refined  
31 hydrocarbon known as number 6 fuel oil that is the residue from crude oil

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1           after refined petroleum products have been extracted by the refining  
2           process and that may be consumed or used only when sufficient heat is  
3           provided to the oil to reduce its viscosity rated by kinetic unit and to give  
4           it fluid properties sufficient for pumping and combustion;

5           \* Sec. 9. Chapter 42, SLA 1994, is repealed.

6           \* Sec. 10. **CONDITIONAL EFFECT OF SECTIONS 3 AND 5.** Sections 3 and 5 of this  
7 Act take effect only if, under sec. 6, ch. 127, SLA 1994, secs. 3 and 5, ch. 127, SLA 1994,  
8 take effect because the Department of Transportation and Public Facilities, before January 1,  
9 2000, increases the fee it charges under AS 02.15.090(a) for the privilege of landing aircraft  
10 at rural airports, as that term is defined in 17 AAC 40.795(2), above the amount of the fee in  
11 effect on January 1, 1994.

12          \* Sec. 11. Sections 1, 2, 4, and 6 - 10 of this Act take effect July 1, 1997.

13          \* Sec. 12. (a) If secs. 3 and 5 of this Act take effect under sec. 10 of this Act and sec. 6,  
14 ch. 127, SLA 1994, they take effect on the later of

15                 (1) the 30th day after the effective date of the landing fee increase described  
16 in sec. 10 of this Act; or

17                 (2) the day after the day that sec. 10 of this Act becomes law.

18                 (b) The commissioner of transportation and public facilities shall promptly notify the  
19 commissioner of revenue, the lieutenant governor, and the revisor of statutes of a landing fee  
20 increase described in sec. 10 of this Act.