

A BILL BY INITIATIVE

FOR AN ACT PERTAINING TO CRUISESHIP ACTIVITIES and RELATED TO SHIP VESSEL OPERATIONS TAKING PLACE IN THE MARINE WATERS OF THE STATE OF ALASKA

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

* **Section 1.** AS 43 is amended by adding a new chapter to read: **Chapter 52. Excise Tax on Travel Aboard Commercial Passenger Vessels.**

Sec. 43.52.010. Levy of excise tax on overnight accommodations on commercial passenger vessels. There is imposed an excise tax on travel on commercial passenger vessels providing overnight accommodations in the state's marine waters. In order to enhance services and necessary infrastructure directly related to the growing cruiseship industry, an equitable and reasonable fee levied on passengers traveling on large commercial passenger vessels sailing in the territorial waters of Alaska is necessary.

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

Sec. 43.52.030. Liability for payment of tax. A passenger traveling on a commercial passenger vessel providing overnight accommodations in state marine water is liable for the tax imposed by AS 43.52.010--43. 52.095. The tax shall be collected and is due and payable to the department

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

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

Sec. 43.52.040. Disposition of receipts. (a) The proceeds from the tax on travel on commercial passenger vessels providing overnight accommodations in the state's marine water shall be deposited in a special "Commercial Vessel Passenger Tax Account" in the general fund. The legislature may appropriate money from this account for the purposes described in (b) and (c) of this section and for state-owned port and harbor facilities and other services to properly provide for vessel or water craft visits and to enhance the safety and efficiency of interstate and foreign commerce.

(b) For each sailing of a commercial passenger vessel providing overnight accommodations, the commissioner shall identify the first five ports of call in the state and the

number of passengers on board the vessel at each port of call. Subject to appropriation by the legislature, the commissioner shall distribute to each port of call \$5 per passenger of the tax revenue collected from the tax levied under this chapter. If the port of call is a city located within a borough not otherwise unified with the borough, the commissioner shall distribute \$2.50 per passenger to the city and \$2.50 to the borough. Each port of call receiving funds under this section shall use the funds in a manner calculated to improve port and harbor facilities and other services to properly provide for vessel or water craft visits and to enhance the safety and efficiency of interstate and foreign commerce.

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

Sec. 43.52.050. Administration. (a) The department shall

(1) administer this chapter; and

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

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

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

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

(A) vessels with fewer than 250 berths or other overnight

accommodations for passengers;

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

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

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

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

* **Sec. 2.** AS 05, is amended by adding a new chapter to read: **Chapter 16. Games of Chance and Contests of Skill on Ships Operating on Waters Within the Jurisdiction of Alaska.**

Sec. AS 05.16.010. Gambling activities aboard commercial vessels purportedly authorized by federal law. This chapter applies to the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling used in the waters under the jurisdiction of the State of Alaska on a voyage described in 15 U.S.C. Section 1175(c)(2), and to any other gambling activities, except those conducted under AS 05.15, in the state.

Sec. AS 05.16.020. Tax on gambling activities not operated under AS 05.15. There is imposed on the operator of a gaming or gambling activities in the state other than those conducted under AS 01.15 a

tax of 33% of the adjusted gross income from those activities. "Adjusted gross income" means gross income less prizes awarded and federal and municipal taxes paid or owed on the income. The tax shall be collected and is due and payable to the department of revenue in the manner and at the times required by the department of revenue.

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

* **Sec. 3.** AS 43.20 is amended to repeal Section 3, chapter 35, Session Law of Alaska (1998), and reenacted to read as follows:

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

* **Sec. 4.** AS 46.03.462 is repealed and re-enacted as follows: **Terms and conditions of discharge permits.** (a) An owner or operator may not discharge any treated sewage, graywater, or other wastewater from a large commercial passenger vessel into the marine waters of the state unless the owner or operator obtains a permit under AS 46.03.100, which shall comply with the terms and conditions of vessel discharge requirements specified in (b) of this section.

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

(1) may not discharge untreated sewage, treated sewage, graywater, or other wastewaters in a manner that violates any applicable effluent limits or standards under state or federal law, including Alaska Water Quality Standards governing pollution at the point of discharge;

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

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

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

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

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

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

Sec. 46.03.463(d) is repealed.

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

Sec. 46.03.463(g) is repealed.

* **Sec. 6.** AS 46.03.465 repealed and reenacted to read as follows: **Sec. 46.03.465. Information-gathering requirements.** (a) The owner or operator of a commercial passenger vessel shall maintain daily records related to the period of operation while in the State, detailing the dates, times, and locations, and the volumes and flow rates of any discharges of sewage, graywater, or other waster into the marine waters of the State, provide electronic copies of such records on a monthly basis to the department no later than 5 days after each calendar month of operation in State waters.

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

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

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

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

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

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

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

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

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

46.03.481. Citizens suits. (a) Any citizen of the State of Alaska may commence a civil action (1) against an owner or operator of a large passenger vessel alleged to have violated any provision of this chapter, or (2) against the department where there is an alleged failure to perform any act or duty under this chapter which is not discretionary. No civil action may be commenced under this section, however, prior to 45 days after the plaintiff has provided written notice of the intent to sue to the Attorney General of Alaska.

(b) Subject to appropriation, as necessary, up to 50% and not less than 25% of any fines, penalties or other funds recovered as a result of enforcement of this chapter shall be paid to the person or entity, other than the defendant, providing information sufficient to commence an investigation and enforcement of this chapter under this provision.

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

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

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

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

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

Sec. AS 46.03.760(e) is amended to read:

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

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality; for a violation relating to AS 46.14, the court, in making its determination under this paragraph, shall also consider the degree to which the discharge causes harm to persons

or property; this paragraph may not be construed to limit the right of parties other than the state to recover for personal injuries or damage to their property;

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

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

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

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

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

(b) A person or other entity aboard a cruise ship conducting or making a sale of tours, flightseeing operations or other shore-side activities to be delivered by a vendor or other entity at a future port of call shall disclose, both orally and in writing, the amount of commission or percentage of the total sale retained or returned to the person making the sale. The person or entity aboard a cruise ship making or attempting to make a sale of services or goods provided by a shore-side vendor shall disclose the address and telephone number of the shore side vendor if asked by a consumer. All such written notice of disclosure shall be in a type not less than 14-point typeface and in a contrasting color calculated to draw attention to the disclosure.

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

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

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