

CITY OF SEWARD
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September 3, 2011

Mayor David Carey
Kenai Peninsula Borough
144 N. Binkley
Soldotna, Alaska 99669

RE: Cruise ship passenger tax proceeds

Dear Mayor Carey,

On behalf of the community of Seward, I would like to thank the Borough Assembly and administration for allocating the Commercial Passenger Vessel (CPV) excise tax to the cities of Seward and Homer, based on their pro-rata share of cruise ship passengers visiting each port. These funds have been critical to Seward's ability to provide improvements to our port infrastructure in support of the cruise ships and their security.

Over the past two years, Seward has used the bulk of its CPV funds to complete construction of a new security dock in the northeast section of the Small Boat Harbor (see attached photos). This dock has been specifically configured to ensure immediate response, greater security, and fire protection to cruise ships and their passengers, and serves numerous response vessels in the harbor. This project also consolidates facilities for the public entities that share responsibility for port security, including the US Coast Guard, Seward Fire Department, U.S. Park Service, and Alaska State Troopers. In addition to dock construction, CPV proceeds have purchased new engines for the fire and rescue vessels providing direct response to cruise ship vessels, and assisted the Army Corps of Engineers in repairing flaws in the harbor breakwater, to ensure protection of vessels from wave action.

The City of Seward would like to formally request the continued allocation of cruise ship head tax proceeds to the communities with cruise ship passengers, based on their pro-rata share of passengers. Specifically, we seek an appropriation from the Borough of cruise ship passenger proceeds for calendar years 2009 and 2010. According to our records, calendar year 2009 CPV tax proceeds were received in January 2010 (approximate amount of \$387,412), and 2010 CPV tax proceeds were received in February, 2011 (approximate amount of \$374,293).

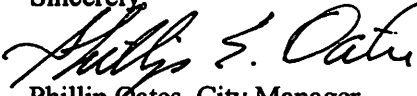
AS 43.52.230(b) requires that "a city or borough that receives a payment under this subsection shall use the funds for port facilities, harbor infrastructure, and other services provided to the commercial passenger vessels and the passengers on board those vessels." Seward's planned use of these 'ports-of-call' funds will entirely meet these requirements. We have a number of priority projects identified for utilization of CPV funds, including: 1) cruise ship dock maintenance and repairs (\$220K); 2) dredging (\$275K); 3) harbor restroom repairs and upgrades (\$100K); 4) bus transportation for cruise passengers (\$80K); 5) ambulance services (\$10K); 6) cruise ship berth enhancements (\$1.31 million), as well as other port and harbor infrastructure needs.



We understand that in addition to the 'port of call' funds distributed to the first seven ports of call based on the criteria established in AS 43.52.230(b), the legislature may distribute additional CPV tax proceeds to projects that meet those criteria or that help to "improve the safety and efficiency of the interstate and foreign commerce activities in which the vessels and the passengers on board those vessels are engaged." Our hope is that these funds could be used to address and mitigate Borough-wide impacts of providing services to the cruise ships and their passengers. We will join our efforts with those of the Borough to maximize use of this funding source throughout the peninsula.

We appreciate your support of our request, and look forward to working with you to enhance facilities for the cruise ship industry in our region.

Sincerely,

A handwritten signature in cursive script, appearing to read "Phillip S. Oates".

Phillip Oates, City Manager

Attachment: AS 43.52 *Excise Tax on Travel Aboard Commercial Passenger Vessels*



Seward Harbor: Security (Z) Float
August 2011

Article 02. EXCISE TAX ON TRAVEL ABOARD COMMERCIAL PASSENGER VESSELS

Sec. 43.52.200. Levy of excise tax on overnight accommodations on commercial passenger vessels.

There is imposed an excise tax on passengers traveling on commercial passenger vessels providing overnight accommodations that anchor or moor on the state's marine water with the intent to allow passengers to embark or disembark.

Sec. 43.52.210. Rate of tax.

The tax imposed by AS 43.52.200 - 43.52.295 is levied at a rate of \$34.50 for a passenger for each voyage.

Sec. 43.52.220. Liability for payment of tax.

A passenger subject to the excise tax imposed by AS 43.52.200 - 43.52.295 is liable for the payment of the tax. The tax shall be collected from the passenger by the person who provides travel aboard a commercial vessel and shall be paid to the department in the manner and at the times required by the department by regulation.

Sec. 43.52.230. Disposition of receipts.

(a) The proceeds from the tax imposed under AS 43.52.200 - 43.52.295 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 (d) of this section.

(b) For each voyage of a commercial passenger vessel, the commissioner shall identify the first seven ports of call in the state and the number of passengers subject to the tax imposed under AS 43.52.200 - 43.52.295 on board at each port of call. Subject to annual appropriation by the legislature, the commissioner shall distribute to each port of call \$5 for each passenger subject to the tax imposed under AS 43.52.200 - 43.52.295. If the port of call is a city located within a borough not otherwise unified with the borough, the commissioner shall distribute \$2.50 for each passenger to the city and \$2.50 to the borough. A city or borough that receives a payment under this subsection shall use the funds for port facilities, harbor infrastructure, and other services provided to the commercial passenger vessels and the passengers on board those vessels.

(c) *[Repealed, Sec. 12 ch 101 SLA 2010].*

(d) In addition to making an appropriation for the payments described in (b) of this section, the legislature may appropriate money from the commercial vessel passenger tax account to projects that (1) improve port and harbor infrastructure, (2) provide services to commercial passenger vessels and the passengers on board those vessels, or (3) improve

the safety and efficiency of the interstate and foreign commerce activities in which the vessels and the passengers on board those vessels are engaged.

(e) After October 31, 2010, and before November 1, 2015, a home rule or general law municipality that imposes and collects a tax on a passenger traveling on a commercial passenger vessel under a law enacted by the municipality before December 17, 2007, may not receive an appropriation under (d) of this section.

Sec. 43.52.240. Administration.

The department shall

(1) collect and enforce the collection of taxes due under AS 43.52.200 - 43.52.295 and penalties as provided in AS 43.05;

(2) adopt regulations necessary for the administration of AS 43.52.200 - 43.52.295; and

(3) subject to annual appropriation, distribute the payments described in AS 43.52.230 (b).

Sec. 43.52.250. Local levies. [Repealed, Sec. 12 ch 101 SLA 2010].

Repealed or Renumbered

Sec. 43.52.255. Tax reduction for local levies.

The tax imposed on a passenger by AS 43.52.200 - 43.52.295 shall be reduced by the total amount of a tax on the passenger traveling on a commercial passenger vessel that is imposed and collected by a home rule or general law municipality under a law enacted before December 17, 2007.

Sec. 43.52.260. Periodic report.

The Department of Commerce, Community, and Economic Development shall, every three years, prepare and submit to the governor, the legislature, and the public a report that

(1) addresses the projected needs of communities to safely and efficiently host passengers that pay taxes under AS 43.52.200 - 43.52.295; and

(2) summarizes the extent to which appropriations of the proceeds of the tax have been used to defray the cost of meeting the needs described in (1) of this section.

Sec. 43.52.295. Definitions.

In AS 43.52.200 - 43.52.295,

(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 on the state's marine water.