

Introduced by: Tax Sub-Committee
Date: 07/19/94
Hearing: 09/06/94 & 09/20/94
Amended: 09/20/94
Postponed to: 10/11/94
Action: Defeated
Vote: Unanimous

**KENAI PENINSULA BOROUGH
ORDINANCE 94-34**

**AN ORDINANCE AMENDING THE SALES TAX CODE
REGARDING RECREATIONAL SALES**

WHEREAS, as part of the regular review of the sales tax code, the Borough administration found several sections of the code that needed to be amended, including the language regarding recreational sales; and

WHEREAS, it is desirable to amend the code to make these necessary changes;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KP.B 5.18.400 is amended to read as follows:

5.18.400. Computation - Addition of tax to total retail price - Tax schedule - Exceptions.

A. The tax to be added to the sale price, charge or rental shall be 2% of the sale price, charge or rental rounded off to the nearest cent by eliminating any fraction of one-half cent or less and by increasing any fraction over one-half cent to the next highest cent. Each seller shall be furnished the schedule of tax payable on each taxable amount from one cent to one hundred dollars. Any one sale of items separately priced shall be taxed upon the aggregate amount, except as otherwise provided in this section.

B. The revenue from a coin-operated machine shall be treated in gross on a monthly basis, without reference to the amount paid on a particular transaction.

C. Taxes shall be added to the total amount of any recreational sale, calculated on a per person per sale basis; except that if goods are included in a recreational sale, the tax on the goods shall be separately stated. For purposes of this section, "per person per sale" means that the portion of the recreational sale price attributable to each individual person utilizing the recreational service shall be separately taxed. If the recreational sale includes a packaged combination of recreational services, the entire package for each person shall be subject to one tax. If any part of the sale is exempt under federal or state law or this chapter, the exempt sale shall be separately stated on the sales invoice and sales tax return at no more than the market price.

SECTION 2. That KP.B 5.18.450 is amended to read as follows:

5.18.450. Tax jurisdiction - Office location of seller - Place of sale for recreational sales.

A. The rate of tax to be added to the sale price is based on the place of sale. The place of sale of goods is where the goods are delivered. The place of sale of services is where the services are delivered, which means the place where the services are rendered. For recreational sales, the place of sale is where the rendering of the first included recreational service commences. A "recreational service" is as defined in section 5.18.900, except that for purposes of determining the place of sale, a "recreational service" does not include booking services or local transportation by motorized land vehicle to the site where the recreational activity commences. The place of sale for rentals, is the place where the real property is located, or where the personal property is delivered to the renter. The borough shall determine the place of sale of a good, service or rental pursuant to this section, and the borough's determination is final.

B. When there is a question or dispute over the place where services are rendered, a seller of a service may, after requesting and receiving borough approval in writing, collect the tax based on the office location of the business selling such services. Approval of a request to collect a tax at the seller's office location is completely within the discretion of the borough, and shall not be granted if the borough has already determined that the place of sale for the seller's industry is not the office location.

C. The seller is liable for any sales taxes due because of the seller's incorrect determination of the sales tax rate to be applied.

SECTION 3. That KPB 5.18.900 is amended as follows:

5.18.900. Definitions.

When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

A. "Buyer" includes persons who are purchasers of personal property, rental space or services.

B. "Coin-operated machine" means a slot machine, marble machine, jukebox, merchandise vending machine, laundry, dry cleaning and any other service-dispensing machine or amusement device of any kind which requires the insertion of a coin to make it operative.

C. "Mayor" or "borough mayor" means the mayor of the Kenai Peninsula Borough or his designee.

D. "Nonprofit organization" means an association, corporation or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder or other individual.

E. "Office location" means the place in the borough where the seller does business, as determined by the borough.

F. "Person" includes individuals and every person recognized in law and every group of persons who act as a unit.

G. "Quarter" means trimonthly period established by the finance director.

H. "Recreational sales" means sales where the seller provides recreational services or related sales or rentals, excepting automotive rentals, to the buyer, either separately or in a combination at an aggregate price.

I. "Recreational services" include services provided for the primary purpose of assisting paying customers participating in recreational activities including without limitation fishing, hunting,

hiking, and sightseeing excursions. The services provided include without limitation booking, guiding, chartering, outfitting, and meal services provided in conjunction with other recreational services.

J.[H]"Sale" or "retail sale" includes:

1. Every sale or exchange of services;
2. Every rental or lease of personal property;
3. Every sale of the use or play of a coin-operated machine;
4. Installment, credit and conditional sales;
5. Every sale of use or title in tangible personal property, regardless of quantity or price, whether sold by coin-operated machine or otherwise;
6. Every rental or lease of real property other than a rental or other agreement for occupancy of residential real property pending the closing of a transaction which does not exceed 90 days in length for a buyer of that property.
7. Gaming sales authorized by AS 5.15.

K.[I]"Sales price" means consideration paid by the buyer whether money, credit, rights or other property, expressed in terms of money equal to the fair market value of the consideration and including delivery or installation costs, taxes, or any other expenses whatsoever, measured by the gross sales price of the seller.

L.[J]"Seller" includes persons who are vendors of property, persons furnishing services, the lessors of rental space or goods, and all persons making sales, including [SPACE OR GOODS, AND ALL PERSONS MAKING SALES, INCLUDING] consignees and persons who conduct sales where items will be sold for a commission or fee. Notwithstanding any other provisions of this chapter, "seller" includes all persons engaging in sales of fireworks regardless of the length of time, duration or volume of such sales in any calendar year.

M.[K]"Services" includes all services of every manner and description which are performed or furnished for compensation, including but not limited to:

1. Professional services;
2. Services in which a product or sale or property may be involved, including personal property made to order;
3. Utilities and utility services not constituting a sale of personal property, including sewer, water, solid waste collection or disposal, electrical, and telephone services and repair;
4. The sale of transportation services;
5. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business or occupation, including all services rendered for commission;
6. Any other services, including advertising, maintenance, recreation, amusement and craftsman services;

N.[L]"Time of sale" for installment sales is the time at which the initial payment is made.

O.[M]"Temporary lodging" is defined as a service to provide any lodging of less than one month.

SECTION 4. That this ordinance becomes effective October 1, 1994.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
_____ DAY OF _____, 1994.

Betty J. Glick, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk