

**SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 189(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/2/98

Referred: Judiciary

Sponsor(s): REPRESENTATIVES COWDERY, Austerman, Ryan

SENATORS Duncan, Ellis, Sharp, Taylor, Phillips, Lincoln, Donley

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to sale, gift, exchange, or distribution of tobacco and tobacco  
2 products."

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

4 \* **Section 1.** AS 11.76.100(a) is amended to read:

5 (a) A person commits the offense of selling or giving tobacco to a minor if the  
6 person

7 (1) negligently sells a cigarette, a cigar, tobacco, or a product  
8 containing tobacco to a person under 19 years of age;

9 (2) is 19 years of age or older and [(1)] negligently [SELLS],  
10 exchanges [,] or gives a cigarette, a cigar, tobacco, or a product containing tobacco to  
11 a person under 19 years of age; or

12 (3) [(2)] maintains a vending machine that dispenses cigarettes, cigars,  
13 tobacco, or products containing tobacco.

14 \* **Sec. 2.** AS 11.76.100(b) is amended to read:

(b) Notwithstanding the provisions of (a) of this section, a person who maintains a vending machine is not in violation of (a)(3) [(a)(2)] of this section if the vending machine is located

(1) on premises licensed as a beverage dispensary under AS 04.11.090, licensed as a club under AS 04.11.110, or licensed as a package store under AS 04.11.150; and

(A) as far as practicable from the primary entrance; and

(B) in a place that is directly and continually supervised by a person employed on the licensed premises during the hours the vending machine is accessible to the public; or

(2) in an employee break room or other controlled area of a private work place that is not generally considered a public place and the room or area contains a posted warning sign at least 11 inches by 14 inches indicating that possession of tobacco by a person under 19 years of age is prohibited under AS 11.76.105.

\* **Sec. 3.** AS 11.76.100(d) is amended to read:

(d) A person who violates (a) of this section [SELLING OR GIVING TOBACCO TO A MINOR] is guilty of a violation and upon conviction is punishable by a fine of not less than \$300.

\* **Sec. 4.** AS 11.76 is amended by adding a new section to read:

**Sec. 11.76.106. Selling tobacco outside controlled access.** (a) Except as provided under (b) of this section, a person may not sell cigarettes, cigars, tobacco, or a product containing tobacco unless the sale occurs in a manner that allows only the sales clerk to control access to the cigarettes, cigars, tobacco, or product containing tobacco.

(b) Subsection (a) does not apply if the sale

(1) is by vending machine as provided under AS 11.76.100(b);

(2) is a wholesale transaction, the person is licensed as a manufacturer or distributor under AS 43.50.010, and the sale occurs on premises where no retail transactions occur; or

(3) is by a retailer who sells primarily cigarettes, cigars, tobacco, or a

1       product containing tobacco and who restricts access to the premises to only those  
 2       individuals who are 19 years of age or older.

3                   (c) A person who violates this section is guilty of a violation and upon  
 4       conviction is subject to a fine of not less than \$300.

5       \* **Sec. 5.** AS 43.50.070 is amended to read:

6                   **Sec. 43.50.070. Revocation of licenses.** The department may suspend or  
 7       revoke a license issued under AS 43.50.010 - 43.50.180 (1) for a [CRIMINALLY]  
 8       negligent violation of AS 11.76.100, **11.76.106**, 11.76.107, or a violation of  
 9       AS 43.50.010 - 43.50.180 or a regulation of the department adopted under  
 10      AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the  
 11      license was issued; or (3) if a manufacturer, distributor, or wholesale distributor  
 12      negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a  
 13      retailer whose license endorsement under AS 43.70.075 has been suspended. A person  
 14      whose license is suspended or revoked may not sell cigarettes or permit cigarettes to  
 15      be sold during the period of the suspension or revocation on the premises occupied or  
 16      controlled by that person. A disciplinary proceeding or action is not barred or abated  
 17      by the expiration, transfer, surrender, renewal, or extension of a license issued under  
 18      AS 43.50.010 - 43.50.180. The department shall comply with the provisions of the  
 19      Administrative Procedure Act (AS 44.62).

20       \* **Sec. 6.** AS 43.70.075(d) is amended to read:

21                   (d) If a person who holds an endorsement issued under this section, or an  
 22       agent or an employee of a person who holds an endorsement issued under this section  
 23       acting within the scope of the agency or employment, has been convicted of violating  
 24       AS 11.76.100, **11.76.106**, or 11.76.107, or violates a provision of this section or a  
 25       regulation implementing this section adopted under AS 43.70.090, the department may  
 26       suspend the endorsement for a period of not more than

27                   (1) 45 days; or

28                   (2) 90 days [,] if, within the past 24 months, the person has been  
 29       previously convicted of violating AS 11.76.100, **11.76.106**, or 11.76.107, or a provision  
 30       of this section or a regulation implementing this section adopted under AS 43.70.090.