

**HOUSE CS FOR CS FOR SENATE BILL NO. 13(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 4/23/97**

**Referred: Finance**

**Sponsor(s): SENATORS SHARP, Ellis**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to taxes on cigarettes and tobacco products and to the use of  
2 the proceeds of those taxes, and increasing by at least 35.5 mills the amount of  
3 excise tax levied on each cigarette imported or acquired in the state; and  
4 providing for an effective date."

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

6 \* **Section 1.** LEGISLATIVE INTENT. It is the intent of the legislature that, of the tax  
7 revenue derived

8 (1) from the amendment to the cigarette tax made by sec. 2 of this Act, the  
9 amount obtained be deposited into the school fund (AS 43.50.140) and used as required by  
10 that section for state support of elementary and secondary education; and

11 (2) from the amendment contingently made to the cigarette tax by sec. 4 of this  
12 Act, subject to appropriation, the amount obtained be expended for state support of elementary  
13 and secondary education.

14 \* **Sec. 2.** AS 43.50.090(a) is amended to read:

(a) There is levied an excise tax of 38 [TWO AND ONE-HALF] mills on each cigarette imported or acquired in the state. Each licensee shall, at the time of filing the return required by AS 43.50.080, pay to the department the excise for the calendar month covered by the return, deducting four-tenths of one percent of the total tax due, which the licensee shall retain to cover the expense of accounting and filing returns. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

\* **Sec. 3.** AS 43.50.090(a) is amended to read:

(a) There is levied an excise tax of two and one-half [38] mills on each cigarette imported or acquired in the state. Each licensee shall, at the time of filing the return required by AS 43.50.080, pay to the department the excise for the calendar month covered by the return, deducting four-tenths of one percent of the total tax due, which the licensee shall retain to cover the expense of accounting and filing returns. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

\* **Sec. 4.** AS 43.50.190(a) is amended to read:

(a) There is levied an excise tax of 47.5 [12] mills on each cigarette imported or acquired in this state.

\* **Sec. 5.** AS 43.50.300 is amended to read:

**Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products in the state at the rate of 75 [25] percent of the wholesale price of the tobacco products. The tax is levied when a person

(1) brings, or causes to be brought, a tobacco product into the state from outside the state for sale;

(2) makes, manufactures, or fabricates a tobacco product in the state for sale in the state; or

(3) ships or transports a tobacco product to a retailer in the state for sale by the retailer.

\* **Sec. 6.** AS 43.50.330(b) is amended to read:

(b) The licensee shall remit with the return the tax due under AS 43.50.300 for the month covered by the return, after deducting four-tenths of one percent of the

1 tax due, which the licensee shall retain to cover the expense of accounting and filing  
2 the return.

3 \* **Sec. 7. CONDITIONAL EFFECT OF CERTAIN SECTIONS.** Sections 3 and 4 of this  
4 Act take effect only if

5 (1) a court enters a final judgment that the amendment made to  
6 AS 43.50.090(a) by sec. 2 of this Act changing the rate of taxation on cigarettes violates the  
7 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of  
8 the proceeds of a state tax or license; and

9 (2) either the time for appeal of that judgment expires or, if an appeal is taken,  
10 the court enters a final order on appeal that AS 43.50.090(a), as amended by sec. 2 of this  
11 Act, violates art. IX, sec. 7, Constitution of the State of Alaska.

12 \* **Sec. 8. RETROACTIVITY.** If secs. 3 and 4 of this Act take effect under sec. 7 of this  
13 Act, then the amendments to AS 43.50.090(a) and 43.50.190(a) made by secs. 3 and 4 of this  
14 Act are retroactive to the effective date of this section and 35.5 mills per cigarette of the tax  
15 levied under AS 43.50.090(a), as amended by sec. 2 of this Act, for cigarettes sold on or after  
16 the effective date of this section shall be credited to the tax levied under AS 43.50.190(a), as  
17 amended by sec. 4 of this Act.

18 \* **Sec. 9.** Sections 1, 2, 5, 6, and 8 of this Act take effect October 1, 1997.

19 \* **Sec. 10.** If secs. 3 and 4 of this Act take effect under sec. 7 of this Act, they take effect  
20 on the later of (1) the date a court enters a final judgment that the amendment made to  
21 AS 43.50.090(a) by sec. 2 of this Act changing the rate of taxation on cigarettes violates the  
22 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of  
23 the proceeds of a state tax or license, and (2) the expiration of any time for appeal of that  
24 judgment, or upon entry of a final order on the appeal that AS 43.50.090(a), as amended by  
25 sec. 2 of this Act, violates art. IX, sec. 7, Constitution of the State of Alaska. The attorney  
26 general shall promptly notify the lieutenant governor and the revisor of statutes of a judgment  
27 described in this section.