

**SENATE CS FOR CS FOR HOUSE BILL NO. 37(FIN)**

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

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 4/18/00**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES ROKEBERG, Croft, Kemplen, Smalley**

**SENATOR Halford**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to restricting sale of cigarettes, to enforcement of certain laws  
2 relating to sales of cigarettes, and to smoking education and cessation programs  
3 administered by the Department of Health and Social Services."

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

5 \* **Section 1.** AS 43.50 is amended by adding new sections to read:

6 **Article 4. Compliance with Federal Laws Relating to Cigarettes.**

7 **Sec. 43.50.400. Sale or distribution of cigarettes; prohibitions.** A person  
8 may not

9 (1) sell or distribute to consumers in this state, acquire, hold, own,  
10 possess, or transport for sale or distribution in this state, or import or cause to be  
11 imported into this state for sale or distribution in this state cigarettes

12 (A) the package of which

13 (i) bears a statement, label, stamp, sticker, or notice  
14 indicating that the manufacturer did not intend the cigarettes to be sold,

distributed, or used in the United States, including labels stating, "for export only," "U.S. tax-exempt," "for use outside U.S.," or similar wording; or

(ii) does not comply with all requirements of federal law regarding health warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including the warning labels required by 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act), and all federal trademark and copyright laws;

(B) imported into the United States on or after January 1, 2000, in violation of 26 U.S.C. 5754; or

(C) for which a list of the ingredients added to tobacco in the manufacture of those cigarettes has not been submitted to the Secretary of the United States Department of Health and Human Services as required under 15 U.S.C. 1335a (Federal Cigarette Labeling and Advertising Act);

(2) alter a package of cigarettes before sale or distribution to the consumer so as to remove, conceal, or obscure

(A) a statement, label, stamp, sticker, or notice described in (1)(A)(i) of this section; or

(B) any health warning, including a health warning that is specified in 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act).

**Sec. 43.50.410. Imported cigarettes: requirements.** A person that imports into this state for sale or distribution in this state cigarettes manufactured outside of the United States shall file with the department, on or before the last day of each calendar quarter, for the cigarettes that the person imported into this state in the preceding calendar quarter, a statement signed by the person under penalty of perjury that the commissioner shall treat as confidential and that shall not be considered a public record under AS 09.25.110, identifying the brand and brand styles of the cigarettes, the quantity of each brand style of cigarettes, and the person or persons to whom the cigarettes have been shipped. In this section, "calendar quarter" means each of the three-month periods ending March 31, June 30, September 30, and

December 31.

**Sec. 43.50.420. Enforcement.** For the purpose of enforcing AS 43.50.400 - 43.50.450, the commissioner may share information with any local, state, or federal government agency.

**Sec. 43.50.430. Applicability.** AS 43.50.400 - 43.50.450 do not apply to cigarettes

(1) imported into the United States for personal use free of federal tax or duty, or voluntarily abandoned to the United States Secretary of the Treasury at the time of entry; or

(2) sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b); however, AS 43.50.400 - 43.50.450 apply to duty-free cigarettes that are brought back into the customs territory for resale within the customs territory.

**Sec. 43.50.450. Definitions.** In AS 43.50.400 - 43.50.450, unless the context otherwise requires,

(1) "cigarette" has the meaning given in AS 43.50.170;

(2) "manufacturer" has the meaning given in AS 43.50.170.

\* **Sec. 2.** AS 43.70.075 is amended by adding new subsections to read:

(g) A person who is required to hold a business license endorsement under this section, or who is required to be licensed or agrees to be licensed under AS 43.50.010, or an agent or employee of the person, may not

(1) sell cigarettes to another person unless the cigarettes are sold in groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack or contained in a cigarette carton or box; or

(2) sell or possess cigarettes if the cigarette package

(A) differs in any respect from the requirements of 15 U.S.C. 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of warnings or of any other information upon a package of cigarettes that is sold within the United States;

(B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or with similar wording indicating that the manufacturer did not

1 intend that the product be sold in the United States; this subparagraph does not  
 2 apply to cigarettes sold or intended to be sold as duty-free merchandise by a  
 3 duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph  
 4 does apply to duty-free cigarettes that are brought back into the state for resale  
 5 in the state;

6 (C) has been altered by adding, masking, or deleting wording  
 7 described in (B) of this paragraph.

8 (h) A violation of (g) of this section is an unfair or deceptive act or practice  
 9 under AS 45.50.471.

10 (i) The commissioner or the commissioner of revenue may seize cigarettes that  
 11 do not comply with this section. After notice and an opportunity for a hearing, the  
 12 commissioner or the commissioner of revenue shall destroy cigarettes seized under this  
 13 subsection.

14 (j) A person who violates (g) of this section is guilty of a class B  
 15 misdemeanor.

16 \* **Sec. 3.** AS 44.29.020(a) is amended to read:

17 (a) The Department of Health and Social Services shall administer the state  
 18 programs of public health and social services, including

- 19 (1) maternal and child health services;
- 20 (2) preventive medical services;
- 21 (3) public health nursing services;
- 22 (4) nutrition services;
- 23 (5) health education;
- 24 (6) laboratories;
- 25 (7) mental health treatment and diagnosis;
- 26 (8) management of state institutions, except for adult penal institutions;
- 27 (9) medical facilities;
- 28 (10) adult public assistance;
- 29 (11) Alaska temporary assistance program;
- 30 (12) child welfare services;
- 31 (13) general relief; [AND]

1 (14) licensing and supervision of child care facilities; and

2 (15) a comprehensive smoking education, tobacco use prevention,  
3 and tobacco control program; to the maximum extent possible, the department  
4 shall administer the program required under this paragraph by grant or contract  
5 with one or more organizations in the state; the department's program must  
6 include

7 (A) a community-based tobacco use prevention and cessation  
8 component addressing the needs of youth and adults that includes use of  
9 cessation aids such as a nicotine patch or a nicotine gum tobacco  
10 substitute;

11 (B) youth-based efforts that involve youth in the design and  
12 implementation of tobacco control efforts;

13 (C) anti-tobacco counter-marketing targeting both youth and  
14 adult populations designed to communicate messages to help prevent youth  
15 initiation of tobacco use, promote cessation among tobacco users, and  
16 educate the public about the lethal effects of exposure to secondhand  
17 smoke;

18 (D) tobacco use surveys of youth and adult populations  
19 concerning knowledge, awareness, attitude, and use of tobacco products;  
20 and

21 (E) an enforcement component.