

SENATE BILL NO. 4001

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/23/16

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to taxation, including establishing an individual income tax; relating to**
2 **the marijuana tax and bonding requirements for marijuana cultivation facilities;**
3 **relating to the exploration incentive credit; increasing the motor fuel tax; increasing the**
4 **taxes on cigarettes and tobacco products; taxing electronic smoking products; adding a**
5 **definition of 'electronic smoking product' and requiring labeling of an electronic**
6 **smoking product; increasing the excise tax on alcoholic beverages; relating to**
7 **exemptions from the mining license tax; removing the minimum and maximum**
8 **restrictions on the annual base fee for the reissuance or renewal of an entry permit or an**
9 **interim-use permit; increasing the mining license tax rate; relating to mining license**
10 **application, renewal, and fees; increasing the fisheries business tax and fishery resource**
11 **landing tax; relating to refunds to local governments; and providing for an effective**
12 **date."**

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

2 * **Section 1.** AS 16.43.160(c) is amended to read:

3 (c) The annual base fee for issuance or renewal of an entry permit or an
 4 interim-use permit [MAY NOT BE LESS THAN \$30 OR MORE THAN \$3,000. THE
 5 ANNUAL BASE FEE] must reasonably reflect the different rates of economic return
 6 for different fisheries. In addition to the annual base fee established by the commission
 7 under this subsection, a nonresident shall pay an annual nonresident surcharge for the
 8 issuance or renewal of one or more entry permits or interim-use permits. The
 9 commission shall establish the annual nonresident surcharge by regulation [AT AN
 10 AMOUNT THAT IS AS CLOSE AS IS PRACTICABLE TO THE MAXIMUM
 11 ALLOWED BY LAW].

12 * **Sec. 2.** AS 17.38.200 is amended by adding a new section to read:

13 (j) A marijuana cultivation facility shall furnish the bond as required in
 14 AS 43.61.050. The board shall suspend the license of a marijuana cultivation facility
 15 that does not furnish the bond as required in AS 43.61.050.

16 * **Sec. 3.** AS 27.30.030(a) is amended to read:

17 (a) In a tax year [OR ROYALTY PAYMENT PERIOD], subject to (c) of this
 18 section and the respective limitations of this subsection, the person may apply the
 19 credit, the taking of which was approved under AS 27.30.020(2), against [(1)] taxes
 20 payable by the person

21 (1) [(A)] under AS 43.65; application of the credit under this
 22 paragraph [SUBPARAGRAPH] may not exceed the lesser of

23 (A) [(i)] 50 percent of the person's tax liability under AS 43.65
 24 for the tax year that is related to production from the mining operation at which
 25 the exploration activities occurred, as shown under (b) of this section; or

26 (B) [(ii)] 50 percent of the person's total tax liability under
 27 AS 43.65 for the tax year;

28 (2) [(B)] under AS 43.20; application of the credit under this
 29 paragraph [SUBPARAGRAPH] may not exceed the lesser of

30 (A) [(i)] an amount equal to the amount determined under
 31 (1)(A) [(A)(i)] of this subsection [PARAGRAPH]; or

1 **(B)** [(ii)] 50 percent of the person's total tax liability under
 2 AS 43.20 for the tax year [; AND

3 (2) MINERAL PRODUCTION ROYALTY PAYMENTS PAYABLE
 4 BY THE PERSON UNDER AS 38.05.135 - 38.05.160 AND 38.05.212 FOR
 5 PRODUCTION FROM THE MINING OPERATION AT WHICH THE
 6 EXPLORATION ACTIVITIES OCCURRED; APPLICATION OF THE CREDIT
 7 UNDER THIS PARAGRAPH MAY NOT EXCEED 50 PERCENT OF THE
 8 PERSON'S MINERAL PRODUCTION ROYALTY PAYMENT LIABILITY FROM
 9 THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES
 10 OCCURRED].

11 * **Sec. 4.** AS 27.30.030(b) is amended to read:

12 (b) If the person applies the credit against the person's tax liability under
 13 **(a)(1)(A) or (a)(2)(A)** [(a)(1)(A)(i) OR (a)(1)(B)(i)] of this section, the commissioner
 14 of revenue shall disallow application of the credit under that provision unless the
 15 person files with the person's tax return an accounting of the person's mining operation
 16 activities for each mining operation that is included in the tax return and as to which
 17 the credit is being applied. The accounting of mining operation activities required by
 18 this subsection shall be made

19 (1) on a form prescribed by the Department of Revenue; on the form,
 20 the person shall

21 (A) identify the mining operations for which the credit is
 22 claimed; and

23 (B) set out the gross income attributable to the mining
 24 operations and other information about the mining operations that the
 25 Department of Revenue may require;

26 (2) without regard to an exemption to which the person may be entitled
 27 under AS 43.65.010(a).

28 * **Sec. 5.** AS 27.30.040 is amended to read:

29 **Sec. 27.30.040. Credit may be carried forward.** Except as its application is
 30 limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under
 31 AS 27.30.030 during a tax year [OR ROYALTY PAYMENT PERIOD] may be

1 carried forward to and applied during a subsequent tax year [OR ROYALTY
2 PAYMENT PERIOD].

3 * **Sec. 6.** AS 27.30.050 is amended to read:

4 **Sec. 27.30.050. Limit on application of credit.** An exploration incentive
5 credit for a mining operation may not exceed \$20,000,000 and must be applied within
6 15 tax years [OR ROYALTY PAYMENT PERIODS] after the taking of the credit is
7 approved under AS 27.30.020(2), but the tax years [OR ROYALTY PAYMENT
8 PERIODS] in which the credit is applied need not be

9 (1) the tax year [OR ROYALTY PAYMENT PERIOD] in which the
10 person first incurs liability for payment of tax [OR ROYALTY] based on the person's
11 activity that is the basis of the claim of the exploration incentive credit; or

12 (2) consecutive periods.

13 * **Sec. 7.** AS 43 is amended by adding a new chapter to read:

14 **Chapter 22. Individual Income Tax.**

15 **Sec. 43.22.010. Tax on individuals.** (a) A tax is imposed for each calendar
16 year or fraction of a calendar year on every

17 (1) resident individual; and

18 (2) nonresident individual with income from a source in the state.

19 (b) The tax under this section is equal to

20 (1) for a resident individual, six percent of the taxpayer's total federal
21 income tax;

22 (2) for a nonresident individual, six percent of the taxpayer's total
23 federal income tax payable on the amount of the taxpayer's income that is from a
24 source in the state.

25 (c) In this section, "federal income tax" means the total tax payable to the
26 federal government, as reported by the taxpayer on a federal individual income tax
27 return, including alternate minimum tax and other taxes imposed by the Internal
28 Revenue Code, net of nonrefundable credits allowed against a liability and net of
29 federal tax attributable to income from stocks and obligations of the United States
30 government exempt from taxation by the state under 31 U.S.C. 3124.

31 **Sec. 43.22.020. Credit for taxes paid.** (a) A resident is entitled to a credit

1 against the tax liability under this chapter for the amount of tax paid to other states,
 2 territories, or possessions of the United States on income derived from sources in
 3 those jurisdictions that is also subject to tax in this chapter.

4 (b) The claim for credit under (a) of this section may include tax paid by an S
 5 corporation or partnership on behalf of the individual, based on that individual's share
 6 of income derived in the other jurisdiction; in this subsection, "S corporation" has the
 7 meaning given in 26 U.S.C. 1361.

8 (c) The credit allowed under this section may not exceed an amount equal to
 9 the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross
 10 income derived from sources in the other jurisdiction divided by total federal adjusted
 11 gross income.

12 (d) The application of the tax credit provided under this section may not
 13 operate to reduce the tax payable under this chapter to an amount less than would have
 14 been payable if the income from the other state was disregarded.

15 **Sec. 43.22.030. Returns and payment of taxes.** (a) An individual required to
 16 make a return under the provisions of the Internal Revenue Code shall file with the
 17 department a return setting out

18 (1) the amount of tax due under this chapter; and

19 (2) other information for the purpose of carrying out the provisions of
 20 this chapter that the department requires.

21 (b) The return must either be on oath or contain a written declaration that it is
 22 made under penalty of perjury, and the department shall prescribe forms accordingly.

23 (c) The total amount of tax imposed by this chapter is due and payable to the
 24 department at the same time and in the same manner as the tax payable to the United
 25 States Internal Revenue Service.

26 (d) A taxpayer, upon request by the department, shall furnish to the
 27 department a true and correct copy of the tax return that the taxpayer has filed with the
 28 United States Internal Revenue Service. Every taxpayer shall notify the department in
 29 writing of an alteration in, or modification of, the taxpayer's federal income tax return
 30 and of a recomputation of tax or determination of deficiency, whether with or without
 31 assessment. A full statement of the facts must accompany this notice. The taxpayer

1 shall file the notice within 60 days after the final determination of the alteration,
 2 modification, recomputation, or deficiency, and the taxpayer shall pay any additional
 3 tax due under this chapter at that time. For purposes of this subsection, a final
 4 determination means the time that an amended federal return is filed or a notice of
 5 deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service,
 6 and the taxpayer has exhausted rights of appeal under federal law.

7 (e) The department may credit or refund overpayments of taxes, taxes
 8 erroneously or illegally assessed or collected, penalties collected without authority,
 9 and taxes that are found unjustly assessed or excessive in amount, or otherwise
 10 wrongfully collected. The department shall set limitations, specify the manner in
 11 which claims for credits or refunds are made, and give notice of allowance or
 12 disallowance. When a refund is allowed to a taxpayer, it may be paid out of the
 13 general fund on a warrant issued under a voucher approved by the department.

14 **Sec. 43.22.040. Income from sources in the state.** (a) For purposes of
 15 AS 43.22.010(a), income from a source in the state includes

16 (1) compensation for personal services rendered in the state;
 17 (2) salary or wages earned in the state;
 18 (3) income from real or tangible personal property located in the state;
 19 (4) income from stocks, bonds, notes, bank deposits, and other
 20 intangible personal property having a taxable or business situs in the state; however,
 21 the receipt of interest income from intangible property in the state does not alone
 22 establish a taxable or business situs in the state;

23 (5) rentals and royalties for the use of or for the privilege of using, in
 24 the state, patents, copyrights, secret processes and formulas, good will, marks, trade
 25 brands, franchises, and other property having a taxable or business situs in the state;

26 (6) income of whatever nature from a source with a taxable or business
 27 situs in the state.

28 (b) In (a) of this section, income is from a source with a taxable or business
 29 situs in the state if it is attributed to or derived from

30 (1) business facilities or property in the state;
 31 (2) business, farming, or fishing activities in the state;

1 (3) conducting in the state the management or investment function for
2 intangible property;

3 (4) a partnership, limited liability company, estate, or trust conducting
4 business activities in the state;

5 (5) a corporation transacting business activities in the state that has
6 elected to file federal returns as a subchapter under 26 U.S.C. 1362 (Internal Revenue
7 Code);

8 (6) any other activity from which income is received, realized, or
9 derived in the state.

10 (c) For purposes of (a) of this section, if a business, trade, or profession is
11 carried on partly inside and partly outside the state, other than the rendering of purely
12 personal services by an individual, the income from sources in the state shall be
13 determined as provided in AS 43.19.

14 **Sec. 43.22.050. Tax withholding on wages of individuals.** (a) Every
15 employer making payment of wages, salaries, or crew shares

16 (1) shall deduct and withhold an amount of tax computed in a manner
17 to approximate the amount of tax due on those wages, salaries, or crew shares under
18 this chapter for that calendar year;

19 (2) shall remit the tax withheld to the department accompanied by a
20 return on a form prescribed by the department at the times required by the department
21 by regulation;

22 (3) is liable for the payment of the tax required to be deducted and
23 withheld under this section but is not liable to any individual for the amount of the
24 payment; and

25 (4) shall furnish to the employee on or before January 31 of the
26 succeeding year, or not later than 30 days after a request by the employee after the
27 employee's termination if the 30-day period ends before January 31, a written
28 statement on a form prescribed by the department showing the

29 (A) name and taxpayer identification number of the employer;

30 (B) name and social security number of the employee;

31 (C) total amount of wages or salary for the calendar year; and

(D) total amount deducted and withheld as tax under this chapter for the calendar year.

(b) The department shall publish the rate of withholding required by this section.

(c) In this section,

(1) "employee" includes an individual who receives compensation on a crew share basis in connection with a commercial fishing activity;

(2) "employer" includes a person who pays compensation to an individual on a crew share basis in connection with a commercial fishing activity.

Sec. 43.22.060. Administration. The department shall prescribe all necessary forms and adopt regulations to implement and interpret this chapter, including regulations for the online filing and payment of tax due under this chapter. The department may incorporate into the regulations provisions of the Internal Revenue Code that are necessary or useful to the administration of this chapter.

Sec. 43.22.190. Definitions. In this chapter,

(1) "domiciled" means established in a true principal permanent home to which the individual has the intention of returning whenever absent;

(2) "individual" means a natural person, married or unmarried, adult or minor, subject to payment of income tax under 26 U.S.C. (Internal Revenue Code);

(3) "Internal Revenue Code" means the Internal Revenue Code of the United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code and amendments apply to the normal taxes and surtax on net incomes, which amendments are operative for the purposes of this chapter as of the time they became operative or will become operative under federal law;

(4) "nonresident" means an individual who is not a resident;

(5) "resident" means an individual who

(A) was domiciled in the state or resided in the state for the entire calendar year;

(B) claims to be a resident of the state on the individual's federal tax forms;

(C) receives a permanent fund dividend under AS 43.23;

(D) is registered to vote under AS 15; or

(E) received a resident fishing, hunting, or trapping license during the calendar year under AS 16;

(6) "taxpayer" means a person subject to a tax imposed by this chapter.

* **Sec. 8.** AS 43.40.010(a) is amended to read:

(a) In addition to the surcharge levied under AS 43.40.005, there is levied a tax of 16 [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is seven [FOUR AND SEVEN-TENTHS] cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is 10 [FIVE] cents a gallon;

(3) the tax on all aviation fuel other than gasoline is six and one-half [THREE AND TWO-TENTHS] cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection.

* **Sec. 9.** AS 43.40.010(b) is amended to read:

(b) In addition to the surcharge levied under AS 43.40.005, there is levied a tax of 16 [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is seven [FOUR AND SEVEN-TENTHS] cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is 10 [FIVE] cents a gallon;

(3) the tax on all aviation fuel other than gasoline is six and one-half [THREE AND TWO-TENTHS] cents a gallon; and

(4) the tax rate on motor fuel that is blended with alcohol is the same tax rate a gallon as other motor fuel; however, in an area and during the months in

which fuel containing alcohol is required to be sold, transferred, or used in an effort to attain air quality standards for carbon monoxide as required by federal or state law or regulation, the tax rate on motor fuel that is blended with alcohol is six cents a gallon less than the tax on other motor fuel not described in (1) - (3) of this subsection.

* **Sec. 10.** AS 43.40.030(a) is amended to read:

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a motor fuel tax refund of 12 [SIX] cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

* **Sec. 11.** AS 43.50.150(c) is amended to read:

(c) The department may enter into an agreement with a municipality that imposes a tax on cigarettes, electronic smoking products, or other tobacco products for the purpose of jointly auditing a person liable for a tax under AS 43.50.010 - 43.50.390 and the municipal tax on cigarettes, electronic smoking products, or other tobacco products.

* **Sec. 12.** AS 43.50.170 is amended by adding a new paragraph to read:

(13) "electronic smoking product" has the meaning given in AS 43.50.390.

* **Sec. 13.** AS 43.50.190(a) is amended to read:

(a) There is levied an excise tax on each cigarette imported or acquired in this state of 112 [,

(1) AFTER DECEMBER 31, 2004, BUT BEFORE JULY 1, 2006, 42 MILLS;

(2) AFTER JUNE 30, 2006, BUT BEFORE JULY 1, 2007, 52 MILLS;

(3) AFTER JUNE 30, 2007, 62] mills.

* **Sec. 14.** AS 43.50.300 is amended to read:

1 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products
 2 in the state at the rate of **100** [75] percent of the wholesale price of the tobacco
 3 products. The tax is levied when a person

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

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

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

10 * **Sec. 15.** AS 43.50 is amended by adding a new section to read:

11 **Sec. 43.50.305. Electronic smoking products excise tax; labeling.** (a) An
 12 excise tax is levied on electronic smoking products in the state at the rate of 75 percent
 13 of the wholesale price of the electronic smoking product. The tax is levied when a
 14 person

15 (1) brings, or causes to be brought, an electronic smoking product into
 16 the state from outside the state for sale;

17 (2) makes, manufactures, or fabricates an electronic smoking product
 18 in the state for sale in the state; or

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

21 (b) An electronic smoking product sold in the state that contains nicotine must
 22 be prominently labeled "CONTAINS NICOTINE."

23 * **Sec. 16.** AS 43.50.310(b) is amended to read:

24 (b) The tax does not apply to a tobacco product **or electronic smoking**
 25 **product** if the United States Constitution or other federal laws prohibit the levying of
 26 the tax on the product by the state.

27 * **Sec. 17.** AS 43.50.320(a) is amended to read:

28 (a) Except as provided in (g) of this section, a person must be licensed by the
 29 department if the person engages in business as a distributor for a tobacco product **or**
 30 **electronic smoking product** that is subject to the tax.

31 * **Sec. 18.** AS 43.50.330(a) is amended to read:

(a) On or before the last day of each calendar month, a licensee shall file a return with the department. The return must state the number or amount of tobacco products or electronic smoking products sold by the licensee during the preceding calendar month, the selling price of the tobacco products or electronic smoking products, and the amount of tax imposed on the tobacco products or electronic smoking products.

* **Sec. 19.** AS 43.50.335 is amended to read:

Sec. AS 43.50.335. Tax credits and refunds. The department shall adopt procedures for a refund or credit to a licensee of the tax paid for tobacco products or electronic smoking products that have become unfit for sale, are destroyed, or are returned to the manufacturer for credit or replacement if the licensee provides proof acceptable to the department that the tobacco products or electronic smoking products have not been and will not be consumed in this state.

* **Sec. 20.** AS 43.50.340 is amended to read:

Sec. 43.50.340. Records. A licensee shall keep a complete and accurate record of all tobacco products or electronic smoking products of the licensee subject to the tax, including purchase prices, sales prices, the names and addresses of the sellers and the purchasers, the dates of delivery, the quantities of tobacco products or electronic smoking products, and the trade names and brands. Statements and records required by this section must be in the form prescribed by the department, preserved for three years, and available for inspection upon demand by the department.

* **Sec. 21.** AS 43.50.390(4) is amended to read:

(4) "tobacco product"

(A) means

(i) [(A)] a cigar;

(ii) [(B)] a cheroot;

(iii) [(C)] a stogie;

(iv) [(D)] a perique;

(v) [(E)] snuff and snuff flour;

(vi) [(F)] smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for

1 smoking in a pipe or cigarette;

2 (vii) [(G)] chewing tobacco, including cavendish, twist,
3 plug, scrap, and tobacco suitable for chewing; or

4 (viii) [(H)] an article or product made of tobacco or a
5 tobacco substitute, but not including a cigarette as defined in
6 AS 43.50.170;

7 (B) does not include a product that has been approved by
8 the United States Food and Drug Administration for sale as a smoking
9 cessation product, tobacco dependence product, or modified risk tobacco
10 product;

11 * Sec. 22. AS 43.50.390(5) is amended to read:

12 (5) "wholesale price" means, for a tobacco product or electronic
13 smoking product

14 (A) acquired from a manufacturer, the gross invoice
15 [ESTABLISHED] price, including all federal excise taxes, at [FOR] which
16 the [A] manufacturer sells a tobacco product or electronic smoking product
17 to an unaffiliated [A] distributor after a deduction of a trade discount or other
18 reduction received by the distributor [FOR QUANTITY OR CASH IF THE
19 MANUFACTURER'S ESTABLISHED PRICE IS ADEQUATELY
20 SUPPORTED BY BONA FIDE ARM'S LENGTH SALES AS
21 DETERMINED BY THE DEPARTMENT]; or

22 (B) not acquired from a manufacturer, the gross invoice
23 price, including all federal excise taxes, after a deduction of a trade
24 discount or other reduction [AS DETERMINED BY THE DEPARTMENT,
25 FOR WHICH TOBACCO PRODUCTS OF COMPARABLE RETAIL PRICE
26 ARE SOLD TO DISTRIBUTORS IN THE ORDINARY COURSE OF
27 TRADE IF THE MANUFACTURER'S ESTABLISHED PRICE DOES NOT
28 MEET THE STANDARDS OF (A) OF THIS PARAGRAPH].

29 * Sec. 23. AS 43.50.390 is amended by adding a new paragraph to read:

30 (6) "electronic smoking product"

31 (A) means a component, solution, vapor product, or other

related product of an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product that is manufactured and sold for the purpose of being aerosolized to deliver nicotine to the person inhaling; if the product is sold as a disposable integrated unit containing a power source and delivery system, or as a kit containing a refillable electronic smoking system and power source, the entire unit shall be considered an electronic smoking product for the purposes of this definition;

(B) does not include a

(i) product that is subject to taxation under AS 43.61.010 - 43.61.050 that does not contain nicotine;

(ii) drug, product, or combination product approved for sale by the United States Food and Drug Administration, as those terms are defined in 21 U.S.C. 301-392 (Food, Drug, and Cosmetic Act); or

(iii) product that has been approved by the United States Food and Drug Administration for sale as a smoking cessation product, tobacco dependence product, or modified risk tobacco product.

* **Sec. 24.** AS 43.60.010(a) is amended to read:

(a) Except as provided in (c) of this section, every brewer, distiller, bottler, jobber, retailer, wholesaler, or manufacturer who sells alcoholic beverages in the state or who consigns shipments of alcoholic beverages into the state, whether or not the alcoholic beverages are brewed, distilled, bottled, or manufactured in the state, shall pay on all malt beverages (alcoholic content of one percent or more by volume), wines, and hard or distilled alcoholic beverages, the following taxes:

(1) malt beverages at the rate of \$2.14 [\$1.07] a gallon or fraction of a gallon;

(2) cider with at least 0.5 percent alcohol by volume but not more than seven percent alcohol by volume, at the rate of \$2.14 [\$1.07] a gallon or fraction of a gallon;

(3) wine or other beverages, other than beverages described in (1) or (2) of this subsection, of 21 percent alcohol by volume or less, at the rate of \$5 [\$2.50] a gallon or fraction of a gallon; and

(4) other beverages having a content of more than 21 percent alcohol by volume at the rate of \$25.60 [\$12.80] a gallon.

* **Sec. 25.** AS 43.60.010(c) is amended to read:

(c) A brewer shall pay a tax at the rate of 70 [35] cents a gallon on sales of the first 60,000 barrels of beer sold in the state each fiscal year beginning July 1, 2001, for beer produced in the United States if the producing brewery meets the qualifications of 26 U.S.C. 5051(a)(2). To qualify for the tax rate under this subsection, the brewer must file with the department a copy of an Alcohol and Tobacco Tax and Trade Bureau acknowledged copy of the brewer's notice of intent to pay reduced rate of tax required under 27 C.F.R. 25.167 for the calendar year in which the fiscal year begins for which the partial exemption is sought. If proof of eligibility is not received by the department before June 1, the tax rate under this subsection does not apply until the first day of the second month after the month the notice is received by the department. For purposes of applying this subsection, a barrel of beer may contain not more than 31 gallons.

* **Sec. 26.** AS 43.60.040(a) is amended to read:

(a) Each brewer, distiller, bottler, jobber, wholesaler, or manufacturer is primarily liable for the payment of the excise taxes on alcoholic beverages sold, and shall furnish a good and sufficient surety bond in an amount as determined by [OF \$25,000 PAYABLE TO] the department and approved by the Department of Law. If a licensee [WHOLESALE] fails to pay the tax to the state the licensee [WHOLESALE] forfeits the bond and the licensee's [WHOLESALE'S] license shall be revoked. The department, in its discretion, may issue permits in place of bonds to resident holders of wholesale, malt beverage, and wine licenses doing business wholly in the state who pay the tax before shipment.

* **Sec. 27.** AS 43.61.020(a) is amended to read:

(a) Each marijuana cultivation facility shall file an electronic return with [SEND A STATEMENT BY MAIL OR ELECTRONICALLY] the department on or before the last day of each calendar month. The electronic return shall be filed in a manner prescribed by the department. The return [STATEMENT] must contain an account of the amount of marijuana sold or transferred to retail marijuana stores and

1 marijuana product manufacturing facilities in the state during the preceding month,
2 setting out

3 (1) the total number of ounces, including fractional ounces, sold or
4 transferred;

5 (2) the names and Alaska address of each buyer and transferee; and

6 (3) the weight of marijuana sold or transferred to the respective buyers
7 or transferees.

8 * **Sec. 28.** AS 43.61 is amended by adding new sections to read:

9 **Sec. 43.61.040. Tax for excess marijuana.** A person who is not registered
10 under AS 17.38 and who is found to be in possession of marijuana plants in excess of
11 the amount of marijuana plants authorized for personal use in AS 17.38.020(2) is
12 subject to the tax on the marijuana plants possessed in excess of the amount authorized
13 for use in AS 17.38.020. The tax due under this section is \$50 for each ounce or partial
14 ounce of marijuana possessed. When determining the weight of marijuana for
15 purposes of this section, the department shall use the aggregate weight calculated
16 under AS 11.71.080.

17 **Sec. 43.61.050. Administration and enforcement of tax.** (a) Each marijuana
18 cultivation facility is primarily liable for the payment of the excise taxes on marijuana
19 sold and shall furnish a cash or surety bond of \$5,000, payable to the department and
20 approved by the Department of Law. If a marijuana cultivation facility fails to pay the
21 tax to the state, the marijuana cultivation facility forfeits the bond, and the Marijuana
22 Control Board shall suspend the marijuana cultivation facility's license until payment
23 is made.

24 (b) Upon receipt of the bond and its subsequent approval, the department shall
25 notify the Marijuana Control Board that the marijuana cultivation facility has met the
26 bond requirement. The Marijuana Control Board may not issue a license under
27 AS 17.38 unless the department has received and the Department of Law has approved
28 the bond.

29 (c) A marijuana product manufacturing facility or retail marijuana store is
30 secondarily liable for the taxes on marijuana that is sold by or to the marijuana product
31 manufacturing facility or retail marijuana store. If requested by the department, the

1 marijuana product manufacturing facility or retail marijuana store shall provide the
 2 department with proof that the taxes have been paid on the marijuana inventory in the
 3 possession of the marijuana product manufacturing facility or retail marijuana store.

4 (d) The department may examine the books, papers, records, or memoranda of
 5 a person growing, selling, receiving, storing, refining, or processing marijuana. A
 6 person growing, selling, receiving, storing, refining, or processing marijuana shall
 7 preserve all books, papers, records, or memoranda for at least three years and shall
 8 provide the books, papers, records, or memoranda for inspection when demanded by
 9 the department.

10 * **Sec. 29.** AS 43.65.010(a) is amended to read:

11 (a) A person prosecuting or attempting to prosecute, or engaging in the
 12 business of mining in the state shall obtain a license from the department. All new
 13 mining operations are exempt from the tax levied by this chapter for **two** [THREE
 14 AND ONE-HALF] years after production begins.

15 * **Sec. 30.** AS 43.65.010(c) is amended to read:

16 (c) The license tax on mining is as follows: **on** [UPON] the net income of the
 17 taxpayer from the property in the state, computed with allowable depletion, plus
 18 royalty received in connection with mining property in the state
 19 over \$40,000 and not over \$50,000 3 percent
 20 over \$50,000 and not over \$100,000 \$1,500 plus
 21 5 percent of the excess over \$50,000
 22 over \$100,000 \$4,000 plus
 23 **9** [7] percent of the excess over \$100,000.

24 * **Sec. 31.** AS 43.65.030 is amended to read:

25 **Sec. 43.65.030. Applications and [APPLICATION FOR] renewals; fees.**
 26 **The fee for a mining license and for each renewal is \$50.** Application for renewal of
 27 a mining license shall be made before **January 1** [MAY 1] of each year.

28 * **Sec. 32.** AS 43.75.015(a) is amended to read:

29 (a) A person engaged in a fisheries business is liable for and shall pay the tax
 30 levied by this section on the value of each of the following fisheries resources
 31 processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business - **five** [FOUR] and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business - **four** [THREE] percent;

(3) fisheries resources processed by a floating fisheries business - **six** [FIVE] percent.

* **Sec. 33.** AS 43.75.015(d) is amended to read:

(d) Instead of the taxes levied under (a) or (b) of this section, a person who processes a fishery resource under a direct marketing fisheries business license is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed during the year; and

(2) **four** [THREE] percent of the value of a commercial fish species not subject to (1) of this subsection.

* **Sec. 34.** AS 43.75.030(b) is amended to read:

(b) The return shall be made on **a** [THE BASIS OF THE] calendar year **basis and submitted** to the department [AT JUNEAU] before April 1 after the close of the calendar year.

* **Sec. 35.** AS 43.75.130(a) is amended to read:

(a) **The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund.** Except as provided in (d) of this section, **and not including the revenue equal to one percent of the value of each fishery taxed under this section deposited in the general fund,** the commissioner shall pay

(1) to each unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied under this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied under this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied under this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied under this chapter.

* **Sec. 36.** AS 43.77.010 is amended to read:

Sec. 43.77.010. Landing tax. A person who engages or attempts to engage in a floating fisheries business in the state and who owns a fishery resource that is not subject to AS 43.75 but that is brought into the jurisdiction of, and first landed in, this state is liable for and shall pay a landing tax on the value of the fishery resource. The amount of the landing tax is

(1) for a developing commercial fish species, as defined under AS 43.75.290, one percent of the value of the fishery resource at the place of landing;

(2) for a fish species other than a developing commercial fish species, **four** [THREE] percent of the value of the fishery resource at the place of the landing.

* **Sec. 37.** AS 43.77.060(a) is amended to read:

(a) **The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund.** Subject to appropriation by the legislature and except as provided in (b) of this section, **and not including the revenue equal to one percent of the value of each fishery taxed under this section deposited in the general fund,** the commissioner shall pay to each

(1) unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected from taxes levied under this chapter on the fishery resource landed in the municipality and accounted for under AS 43.77.050(b);

(2) city located within a borough, 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b); and

(3) borough

(A) 50 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the area of the borough outside cities and accounted for under AS 43.77.050(b); and

(B) 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in cities located within the borough and accounted for under AS 43.77.050(b).

* **Sec. 38.** AS 43.77.060(b) is amended to read:

(b) **The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund.**

Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and subject to appropriation by the legislature, **and not including the revenue equal to one percent of the value of each fishery taxed under this section deposited in the general fund,** the commissioner shall pay to each

(1) city that is located in a borough incorporated after January 1, 1994, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b):

(A) 45 percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) borough that is incorporated after January 1, 1994, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the cities located within the borough and accounted for under AS 43.77.050(b):

(A) five percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the tax revenue collected during the second

calendar year after the calendar year in which the borough is incorporated; and
 (D) 20 percent of the tax revenue collected during the third
 calendar year after the calendar year in which the borough is incorporated.

*** Sec. 39.** The uncodified law of the State of Alaska enacted in sec. 4, ch. 48, SLA 1997, as repealed and reenacted by sec. 42, ch.1, FSSLA 2004, is repealed and reenacted to read:

Sec. 4. AS 43.50.190(a) is repealed and reenacted to read:

(a) There is levied an excise tax on each cigarette imported or acquired in this
 state,

(1) after September 30, 1997, but before January 1, 2005, 47.5 mills;

(2) after December 31, 2004, but before July 1, 2006, 77.5 mills;

(3) after June 30, 2006, but before July 1, 2007, 87.5 mills;

(4) after June 30, 2007, but before July 1, 2016, 97.5 mills;

(5) after June 30, 2016, 147.5 mills.

*** Sec. 40.** AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed.

*** Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The changes to the applicability of the exploration incentive credit made in AS 27.30.030(a) and (b), as amended by secs. 3 and 4 of this Act, AS 27.30.040, as amended by sec. 5 of this Act, and AS 27.30.050, as amended by sec. 6 of this Act, apply to a royalty payment period beginning on or after the effective date of sec. 3 of this Act.

(b) AS 43.22.010 - 43.22.190, added by sec. 7 of this Act, apply to income received on or after the effective date of sec. 7 of this Act.

(c) AS 43.40.010(a), as amended by sec. 8 of this Act, applies to motor fuel sold or transferred in the state on or after the effective date of sec. 8 of this Act.

(d) AS 43.40.010(b), as amended by sec. 9 of this Act, applies to motor fuel consumed by a user on or after the effective date of sec. 9 of this Act.

(e) AS 43.40.030(a), as amended by sec. 10 of this Act, applies to a motor fuel tax refund on motor fuel used on or after the effective date of sec. 10 of this Act.

(f) AS 43.50.190(a), as amended by sec. 13 of this Act, and AS 43.50.300, as amended by sec. 14 of this Act, apply to tobacco products sold on or after the effective date of

secs. 13 and 14 of this Act.

(g) AS 43.50.305, added by sec. 15 of this Act, applies to electronic smoking products sold on or after the effective date of sec. 15 of this Act.

(h) AS 43.50.330(a), as amended by sec. 18 of this Act, applies to the first monthly return submitted after the first full month after the effective date of sec. 18 of this Act.

(i) AS 43.60.010(a), as amended by sec. 24 of this Act, and AS 43.60.010(c), as amended by sec. 25 of this Act, apply to alcoholic beverages sold on or after the effective date of secs. 24 and 25 of this Act.

(j) AS 43.60.040(a), as amended by sec. 26 of this Act, applies to surety bonds on or after the effective date of sec. 26 of this Act.

(k) AS 43.65.010(a), as amended by sec. 29 of this Act, applies to a mining operation that begins production on or after the effective date of sec. 29 of this Act.

(l) AS 43.65.010(c), as amended by sec. 30 of this Act, applies to net income of the taxpayer from property in the state during a taxable year that begins on or after the effective date of sec. 30 of this Act.

(m) AS 43.75.015(a) and 43.75.015(d), as amended by sec. 32 and 33 of this Act, apply to a fisheries resource processed on or after the effective date of secs. 32 and 33 of this Act.

(n) AS 43.77.010, as amended by sec. 36 of this Act, applies to a fisheries resource landed in the state on or after the effective date of sec. 36 of this Act.

*** Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Notwithstanding AS 17.38.200, enacted by sec. 2 of this Act, the Marijuana Control Board may approve the issuance of a marijuana cultivation facility license to an applicant who submits a completed application on or after February 24, 2016, and before the effective date of sec. 2 of this Act, provided that the cash or surety bond as required by AS 43.61.050 enacted by sec. 28 of this Act is furnished and approved not later than 30 days after the effective date of this Act.

*** Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. In administering the application of the exploration incentive credit

1 under AS 27.30, AS 27.30.030(b)(2), as that subsection read on June 30, 2016, applies to an
 2 accounting under AS 27.30.030(b) for a person who began mining production before the
 3 effective date of this Act.

4 * **Sec. 44.** The uncoded law of the State of Alaska is amended by adding a new section to
 5 read:

6 TRANSITION: REGULATIONS. (a) The Alaska Commercial Fisheries Entry
 7 Commission, the Department of Fish and Game, the Department of Revenue, the Department
 8 of Natural Resources, and the Marijuana Control Board may adopt regulations necessary to
 9 implement the changes made by this Act. The regulations take effect under AS 44.62
 10 (Administrative Procedure Act), but not before the effective date of the law implemented by
 11 the regulation.

12 * **Sec. 45.** The uncoded law of the State of Alaska is amended by adding a new section to
 13 read:

14 RETROACTIVITY: REGULATIONS. Notwithstanding AS 44.62.240, if the

15 (1) Marijuana Control Board expressly designates in a regulation
 16 implementing AS 17.38.200, added by sec. 2 of this Act, a regulation adopted by the
 17 Marijuana Control Board to implement AS 17.38.200 may apply retroactively to February 24,
 18 2016;

19 (2) Department of Revenue expressly designates in a regulation implementing
 20 AS 43.61.50, enacted by sec. 28 of this Act, a regulation adopted by the Department of
 21 Revenue to implement AS 43.61.050 may apply retroactively to February 24, 2016.

22 * **Sec. 46.** The uncoded law of the State of Alaska is amended by adding a new section to
 23 read:

24 RETROACTIVITY. Sections 2 and 28 of this Act are retroactive to February 24,
 25 2016.

26 * **Sec. 47.** Section 1 of this Act takes effect January 1, 2017.

27 * **Sec. 48.** Section 7 of this Act takes effect January 1, 2018.

28 * **Sec. 49.** Sections 2, 28, 44, and 45 of this Act take effect immediately under
 29 AS 01.10.070(c).

30 * **Sec. 50.** Except as provided in secs. 47 - 49 of this Act, this Act takes effect July 1, 2016.