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Bullock

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CS FOR HOUSE BILL NO. 188(HSS)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SIXTH LEGISLATURE - FIRST SESSION****BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE****Offered:****Referred:****Sponsor(s): REPRESENTATIVE HERRON****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the taxation of moist snuff tobacco, including spitless moist snuff
2 tobacco; including different types of moist snuff tobacco in the definition of 'tobacco
3 product' in provisions levying an excise tax on those products; relating to licensing for
4 and taxation of tobacco products, including tobacco products imported for personal use
5 and consumption; relating to the deposit of revenue from the taxation of moist snuff
6 tobacco into the tobacco use education and cessation fund; defining 'moist snuff
7 tobacco'; relating to the business license endorsement for the sale of tobacco products;
8 and providing for an effective date."

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

10 * **Section 1.** AS 37.05.580(a) is amended to read:

11 (a) There is created as a special account in the general fund the tobacco use
12 education and cessation fund into which shall be deposited 20 percent annually of the

revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated, et al, No. 1JU-97-915 CI (Alaska Super. 1997) and 25 percent of the annual revenue collected from the tax on moist snuff tobacco under AS 43.50.300 - 43.50.390. The purpose of the tobacco use education and cessation fund is to provide a source to finance the comprehensive smoking education, tobacco use prevention, and tobacco control program authorized by AS 44.29.020(a)(14). In this subsection, "moist snuff tobacco" has the meaning given in AS 43.50.390.

* Sec. 2. AS 43.50.070(b) is amended to read:

(b) In this section, "licensee" means a person licensed under AS 43.50.010 - 43.50.180 or 43.50.300 - 43.50.390, except for a buyer required to be licensed under AS 43.50.320(a)(2).

* Sec. 3. AS 43.50.300 is amended to read:

Sec. 43.50.300. Excise tax levied. (a) An excise tax is levied on tobacco products in the state at the rate in (b) of this section [RATE OF 75 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 or to an individual for personal consumption; or

(4) brings or causes to be brought a tobacco product into the state from outside the state for personal consumption.

* Sec. 4. AS 43.50.300 is amended by adding a new subsection to read:

(b) The excise tax rate on

(1) moist snuff tobacco, other than spitless moist snuff tobacco, is \$1.88 multiplied by the number of ounces of moist snuff tobacco, including fractions of an ounce;

(2) spitless moist snuff tobacco is 100 percent of the wholesale price;

(3) tobacco products other than moist snuff tobacco products subject to

the tax rates in (1) and (2) of this subsection is 75 percent of the wholesale price of the tobacco product.

* **Sec. 5.** AS 43.50.300, as amended by sec. 4 of this Act, is amended to read:

(b) The excise tax rate on

(1) [MOIST SNUFF TOBACCO, OTHER THAN SPITLESS MOIST SNUFF TOBACCO, IS \$1.88 MULTIPLIED BY THE NUMBER OF OUNCES OF MOIST SNUFF TOBACCO, INCLUDING FRACTIONS OF AN OUNCE;

(2)] spitless moist snuff tobacco is 100 percent of the wholesale price;

(2) [(3)] tobacco products other than spitless moist snuff tobacco products subject to the tax rate [RATES] in (1) [AND (2)] of this subsection is 75 percent of the wholesale price of the tobacco product.

* **Sec. 6.** AS 43.50 is amended by adding a new section to read:

Sec. 43.50.305. Packaging of certain tobacco products for sale. (a) Cigars, except for cigars that are hand-rolled and wrapped in whole tobacco leaf, shall be sold in packages containing at least five cigars.

(b) Smokeless tobacco sold

(1) as loose tobacco shall be sold in packages containing at least one ounce;

(2) in single-dose units shall be sold only in original unaltered manufacturer's packaging.

* **Sec. 7.** AS 43.50.320(a) is repealed and reenacted to read:

(a) Except as provided in (g) of this section, a person engaged in an activity described in

(1) AS 43.50.300(a)(1) or (3) must be licensed by the department as a distributor;

(2) AS 43.50.300(a)(4) must be licensed as a buyer.

* **Sec. 8.** AS 43.50.320(b) is amended to read:

(b) The department, upon application and payment of a fee of

(1) \$50, shall issue a license for one year to a person who applies for a license as a distributor under (a)(1) of this section;

(2) \$25, shall issue a license for one year to a person who applies

for a license as a buyer under (a)(2) of this section.

* **Sec. 9.** AS 43.50.320(d) is amended to read:

(d) A license issued under **(b)(1) of this section** must include the name and address of the licensee, the type of business to be conducted, and the year for which the license is issued.

* **Sec. 10.** AS 43.50.320(e) is amended to read:

(e) The department may renew a license issued under

(1) (b)(1) of this section for a fee of \$50;

(2) (b)(2) of this section for a fee of \$25.

* **Sec. 11.** 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 sold by the licensee during the preceding calendar month, the **wholesale price or purchase** [SELLING] price of the tobacco products, and the amount of tax imposed on

(1) [THE] tobacco products other than moist snuff tobacco;

(2) moist snuff tobacco other than spitless moist snuff tobacco; and

(3) spitless moist snuff tobacco.

* **Sec. 12.** AS 43.50.350 is repealed and reenacted to read:

Sec. 43.50.350. Disposition of proceeds. (a) The tax collected by the department, other than the tax collected on moist snuff tobacco, shall be deposited in the general fund.

(b) Of the tax collected by the department on moist snuff tobacco,

(1) 25 percent shall be deposited in the tobacco use education and cessation fund established in AS 37.05.580; and

(2) 75 percent shall be deposited in the general fund.

(c) The annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 may be used by the legislature to make appropriations for health care, health research, health promotion, and health education programs.

* **Sec. 13.** AS 43.50.390(1) is amended to read:

(1) "distributor" means a person who

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

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

(C) ships or transports a tobacco product to a retailer in the state for sale by the retailer **or to an individual for personal consumption;**

* Sec. 14. AS 43.50.390(2) is amended to read:

(2) "licensee" means a distributor **or buyer** who is

(A) licensed under AS 43.50.320; or

(B) exempted by AS 43.50.320(g) from licensing under AS 43.50.320;

* Sec. 15. AS 43.50.390(4) is amended to read:

(4) "tobacco product" means

(A) a cigar, **including any roll of tobacco wrapped in leaf tobacco;**

(B) a cheroot;

(C) a stogie;

(D) a perique;

(E) snuff **tobacco, including moist snuff tobacco,** and snuff flour;

(F) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;

(G) chewing tobacco, including cavendish, twist, plug, scrap, and tobacco suitable for chewing; [OR]

(H) an article or product made of tobacco or a tobacco substitute, but not including a cigarette as defined in AS 43.50.170; **or**

(I) any other product containing tobacco or nicotine that is intended or expected to be consumed without being combusted unless it has been approved by the United States Food and Drug Administration

for sale as a tobacco use cessation or harm reduction product or for other medical purposes and is being marketed and sold solely for the approved purposes;

* **Sec. 16.** AS 43.50.390 is amended by adding new paragraphs to read:

(6) "buyer" means a person who imports tobacco products for the person's own consumption from any source other than licensee;

(7) "moist snuff tobacco" includes spitless moist snuff tobacco and means any finely cut, ground, or powdered tobacco that is not intended to be

(A) smoked; or

(B) placed in the nasal cavity;

(8) "smokeless tobacco" means a tobacco product defined in (4)(E), (G), (H), (I), and (9) of this section;

(9) "spitless moist snuff tobacco" means moist snuff tobacco that is typically steam-pasteurized smokeless tobacco in a tea-bag-like pouch designed to be placed between the cheek and gum and is manufactured to obviate the need for spitting.

* **Sec. 17.** AS 43.70.110 is amended by adding a new paragraph to read:

(5) "cigarette" has the meaning given in AS 43.50.170.

* **Sec. 18.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Sections 1 - 4 and 6 - 17 of this Act are applicable starting on the first day of the month immediately following the effective date of this section.

(b) Section 5 of this Act is applicable starting on the first day of the month immediately following the effective date of sec. 5.

* **Sec. 19.** Section 5 of this Act takes effect three years after the effective date of sec. 4 of this Act.

* **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect immediately under AS 01.10.070(c).