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SENATOR LESIL MCGUIRE

SECTIONAL ANALYSIS **Senate Bill No. 117 (26-LS0386S)**

Section 1. Amends AS 43.50.710(a) by removing language that currently allows wholesalers and retailers to price cigarettes as low as that seller's actual cost. This section replaces that language by setting the Department's minimum price as the lowest price at which a wholesaler or retailer can sell cigarettes.

Section 2. Amends AS 43.50.710(b) by removing language that currently permits a retailer to attempt to procure the purchase of cigarettes at a price as low as the actual cost to a wholesaler. This section replaces that language by setting the Department's minimum price as the lowest price.

Section 3. Amends AS 43.50.710(c). This section of law allows the State to utilize evidence of advertisement or offers to sell cigarettes at less than actual cost as prima facie evidence of intent to injure competition. The proposed change simply replaces the actual cost with the minimum price set by the Department as the new benchmark for constituting prima facie evidence.

Section 4. Amends AS 43.50.720. This section of law requires that when cigarettes are priced together with other merchandise the selling price may not be less than the wholesaler or retailer's actual cost. This section will again replace the seller's actual cost with the minimum price set by the Department as the lowest price available.

Section 5. Amends AS 43.50.790(a). This section removes the Department's authority to calculate and set the actual cost of doing business as the lowest price available to sell cigarettes. It would now require the Department to instead determine only the applicable minimum price for cigarette sales.

Section 6. Adds a new section to AS 43.50 at 43.50.810. This section requires the Department to set the minimum price for which a wholesaler or retailer may advertise or sell cigarettes, and it sets forth the applicable formula for determining that minimum price.

Section 7. Repeals several sections of Title 43 to make the law consistent with the foregoing changes.

AS 43.50.730 is repealed, which currently requires wholesalers to provide their actual costs to one another when selling cigarettes. Since the actual cost is no longer available for setting a sales price, this provision is irrelevant.

AS 43.50.740(a) is repealed, which allows sellers to cut their prices to match the actual cost.

AS 43.50.760, AS 43.50.770, and AS 43.50.800 are repealed, which all currently set forth the factors used in determining the actual cost to a wholesaler or retailer. Since actual cost will not be utilized to set the lowest price, these provisions are irrelevant.

AS 43.50.849(4) is repealed, which is the definition of a direct-buying retailer.