

AMENDMENT #1

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE THOMPSON

1 Page 1, line 1:

2 Delete "raising the minimum age to purchase, sell, exchange, or possess"

3 Insert "relating to the purchase, sale, exchange, or possession of"

4

5 Page 1, line 8:

6 Delete "21"

7 Insert "19"

8

9 Page 1, line 10:

10 Delete "21 [19]"

11 Insert "19"

12

13 Page 1, line 12:

14 Delete "21 [19]"

15 Insert "19"

16

17 Page 2, line 3:

18 Delete "21 [19]"

19 Insert "19"

20

21 Page 2, lines 5 - 20:

22 Delete all material.

23

1 Renumber the following bill sections accordingly.

2

3 Page 2, line 23:

4 Delete "21"

5 Insert "19"

6

7 Page 2, line 24:

8 Delete "21 [19]"

9 Insert "19"

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11 Page 2, line 31:

12 Delete "21 [19]"

13 Insert "19"

14

15 Page 3, line 14:

16 Delete "21"

17 Insert "19"

18

19 Page 4, lines 3 - 4:

20 Delete "21 [19]"

21 Insert "19"

22

23 Page 4, line 9:

24 Delete "21"

25 Insert "19"

26

27 Page 4, line 12:

28 Delete "21 [19]"

29 Insert "19"

30

31 Page 4, line 13:

- 1 Delete "21 [19]"
- 2 Insert "19"
- 3
- 4 Page 4, lines 14 - 15:
- 5 Delete "21 [19]"
- 6 Insert "19"
- 7
- 8 Page 4, line 19:
- 9 Delete "21 [19]"
- 10 Insert "19"
- 11
- 12 Page 4, line 21, through page 5, line 20:
- 13 Delete all material.
- 14
- 15 Renumber the following bill sections accordingly.
- 16
- 17 Page 5, line 23:
- 18 Delete "21"
- 19 Insert "19"
- 20
- 21 Page 6, line 3:
- 22 Delete "21 [19]"
- 23 Insert "19"
- 24
- 25 Page 6, line 17:
- 26 Delete "21"
- 27 Insert "19"
- 28
- 29 Page 8, line 15:
- 30 Delete "21"
- 31 Insert "19"

1

2 Page 8, line 29:

3 Delete "21"

4 Insert "19"

5

6 Page 11, line 18, through page 14, line 27:

7 Delete all material.

8

9 Renumber the following bill sections accordingly.

10

11 Page 15, line 9:

12 Delete "21 [19]"

13 Insert "19"

14

15 Page 16, line 1:

16 Delete all material.

17

18 Renumber the following paragraphs accordingly.

19

20 Page 16, line 2:

21 Delete "sec. 3"

22 Insert "sec. 2"

23

24 Page 16, line 3:

25 Delete "sec. 4"

26 Insert "sec. 3"

27

28 Page 16, line 4:

29 Delete "sec. 5"

30 Insert "sec. 4"

31

1 Page 16, line 5:

2 Delete "sec. 6"

3 Insert "sec. 5"

4

5 Page 16, lines 6 - 7:

6 Delete all material.

7

8 Renumber the following paragraphs accordingly.

9

10 Page 16, line 8:

11 Delete "sec. 9"

12 Insert "sec. 6"

13

14 Page 16, line 9:

15 Delete "sec. 16"

16 Insert "sec. 13"

17

18 Page 16, line 10:

19 Delete "sec. 27"

20 Insert "sec. 20"

LEGAL SERVICES

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MEMORANDUM

May 7, 2021

SUBJECT: Minimum Age for Tobacco; Federal Law
(CSHB 110(L&C); Work Order No. 32-LS0466(L.2))

TO: Representative Steve Thompson
Attn: Tom Wright

FROM: Emily Nauman 
Deputy Director

You requested an amendment that returned the legal age for the purchase and possession in HB 110 back to 19 years.¹

On December 20, 2019, Public Law 116-94 raised the federal minimum age for tobacco purchase from 18 to 21. Under 21 U.S.C. 387f(d)(5), it is "unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age." Federal law preempts conflicting state law. Therefore, retailers in the state are currently only legally permitted to sell tobacco products to a person 21 or older, regardless of the contradictory state law.

Although federal law sets the minimum age for retail sales, it is my understanding that enforcement of tobacco laws is largely left to states. Under 42 U.S.C. 300x-26, a state may be denied certain federal grant funding² for failure to enforce the 21 year minimum age for tobacco purchases against retailers. There is a three year transition period for loss of federal funding; the three year period began December 20, 2019. Therefore, the state is not at risk of losing federal funding for failure to enforce the state law until December 20, 2022.³

In sum, if your amendment is adopted, or if the state law remains unchanged, the state law will conflict with federal law. The federal law, related to the minimum age for a retailer to sell tobacco products, will control.

If I can be of further assistance, please advise.

ELN:mjt
21-275.mjt

Attachment

¹ Under current state law, the legal age for tobacco purchase and possession is 19.

² The funding is in the form of federal grants to "prevent and treat substance use disorders and for related activities." 42 U.S.C. 300x-21.

³ 42 U.S.C. 300x-26(c)(1).

AMENDMENT #2

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

By Representative Thompson

1 Page 15, line 29, following "APPLICABILITY.":

2 Insert "(a)"

3

4 Page 16, following line 10:

5 Insert a new subsection to read:

6 "(b) AS 11.76.100(a)(4), as amended by sec. 1 of this Act, does not apply to a person
7 19 years of age or older who is employed on the effective date of sec. 1 of this Act by a
8 person with a business license endorsement under AS 43.70.075."

AMENDMENT #3

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE WOOL

1 Page 1, line 3, following "product;":

2 Insert "relating to possession of tobacco, electronic smoking products, or products
3 containing nicotine by a minor;"

4

5 Page 2, lines 17 - 20:

6 Delete "and the room or area contains a posted warning sign at least 11 inches by 14
7 inches indicating that possession of tobacco by a person under 21 [19] years of age is
8 prohibited under AS 11.76.105"

9 Insert "[AND THE ROOM OR AREA CONTAINS A POSTED WARNING SIGN
10 AT LEAST 11 INCHES BY 14 INCHES INDICATING THAT POSSESSION OF
11 TOBACCO BY A PERSON UNDER 19 YEARS OF AGE IS PROHIBITED UNDER AS
12 11.76.105]"

13

14 Page 2, line 21, through page 3, line 14:

15 Delete all material.

16

17 Renumber the following bill sections accordingly.

18

19 Page 5, lines 17 - 20:

20 Delete "and the room or area contains a posted warning sign at least 11 inches by 8.5
21 inches indicating that possession of electronic smoking products or products containing
22 nicotine by a person under 21 [19] years of age without a prescription is prohibited under AS
23 11.76.109"

1 Insert "[AND THE ROOM OR AREA CONTAINS A POSTED WARNING SIGN
 2 AT LEAST 11 INCHES BY 8.5 INCHES INDICATING THAT POSSESSION OF
 3 ELECTRONIC SMOKING PRODUCTS OR PRODUCTS CONTAINING NICOTINE BY
 4 A PERSON UNDER 19 YEARS OF AGE WITHOUT A PRESCRIPTION IS PROHIBITED
 5 UNDER AS 11.76.109]"

6
 7 Page 5, following line 24:

8 Insert a new bill section to read:

9 **** Sec. 9.** AS 22.15.060(a) is amended to read:

10 (a) The district court has jurisdiction

11 (1) of the following crimes:

12 (A) a misdemeanor, unless otherwise provided in this chapter;

13 (B) a violation of an ordinance of a political subdivision;

14 (C) a violation of AS 04.16.050 [OR AS 11.76.105];

15 (2) to provide post-conviction relief under the Alaska Rules of
 16 Criminal Procedure, if the conviction occurred in the district court."

17
 18 Renumber the following bill sections accordingly.

19
 20 Page 14, line 28, through page 15, line 25:

21 Delete all material.

22
 23 Renumber the following bill sections accordingly.

24
 25 Page 15, line 26:

26 Delete "AS 11.76.100(e) and 11.76.106(b)(4)"

27 Insert "AS 11.76.100(e), 11.76.105, 11.76.106(b)(4); and AS 47.12.030(b)(2)"

28
 29 Page 16, line 2:

30 Delete all material.

1 Renumber the following paragraphs accordingly.

2

3 Page 16, line 3:

4 Delete "sec. 4"

5 Insert "sec. 3"

6

7 Page 16, line 4:

8 Delete "sec. 5"

9 Insert "sec. 4"

10

11 Page 16, line 5:

12 Delete "sec. 6"

13 Insert "sec. 5"

14

15 Page 16, line 6:

16 Delete "sec. 7"

17 Insert "sec. 6"

18

19 Page 16, line 7:

20 Delete "sec. 8"

21 Insert "sec. 7"

22

23 Page 16, line 8:

24 Delete "sec. 9"

25 Insert "sec. 8"

26 Following "Act;":

27 Insert "and"

28

29 Page 16, lines 9 - 10:

30 Delete "; and"

31 (11) AS 47.12.030(b), as amended by sec. 27 of this Act"

AMENDMENT #4

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOSEPHSON

TO: CSHB 110(L&C)

1 Page 11, lines 10 - 17:

2 Delete all material and insert:

3 "(6) "electronic smoking product" includes a product that can be used
4 to deliver aerosolized or vaporized nicotine to the person inhaling; an e-cigarette, e-
5 cigar, e-pipe, e-hookah, or vape pen and any component, part, accessory, or device
6 related to an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen; and a substance
7 intended to be aerosolized or vaporized by a device described in this subparagraph,
8 whether or not the substance includes nicotine , but does not include a battery or
9 battery charger when sold separately."

AMENDMENT #5

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE JOSEPHSON

1 Page 3, line 3:

2 Delete "or harm reduction"

3 Insert "[OR HARM REDUCTION]"

4

5 Page 4, line 27:

6 Delete "or harm reduction"

7 Insert "[OR HARM REDUCTION]"

AMENDMENT #6

OFFERED IN THE HOUSE

BY REPRESENTATIVE WOOL

TO: CSHB 110(L&C)

1 Page 1, line 2, following "product;":

2 Insert "relating to possession of tobacco, electronic smoking products, or products
3 containing nicotine by a person under 21 years of age;"

4

5 Page 3, line 14, following "violation":

6 Insert "punishable by a fine of not more than \$50"

7

8 Page 3, following line 14:

9 Insert a new bill section to read:

10 "** Sec. 4. AS 11.76.105 is amended by adding a new subsection to read:

11 (d) The supreme court shall establish a schedule of bail amounts for violations
12 of this section that allows the disposition of a citation without a court appearance. A
13 bail amount may not exceed the maximum fine that may be imposed for the violation
14 under (c) of this section."

15

16 Renumber the following bill sections accordingly.

17

18 Page 16, line 2:

19 Delete "sec. 3"

20 Insert "secs. 3 and 4"

21

22 Page 16, line 3:

23 Delete "sec. 4"

1 Insert "sec. 5"
2
3 Page 16, line 4:
4 Delete "sec. 5"
5 Insert "sec. 6"
6
7 Page 16, line 5:
8 Delete "sec. 6"
9 Insert "sec. 7"
10
11 Page 16, line 6:
12 Delete "sec. 7"
13 Insert "sec. 8"
14
15 Page 16, line 7:
16 Delete "sec. 8"
17 Insert "sec. 9"
18
19 Page 16, line 8:
20 Delete "sec. 9"
21 Insert "sec. 10"
22
23 Page 16, line 9:
24 Delete "sec. 16"
25 Insert "sec. 17"
26
27 Page 16, line 10:
28 Delete "sec. 27"
29 Insert "sec. 28"

AMENDMENT # 7

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE JOSEPHSON

- 1 Page 16, line 11:
- 2 Delete "2022"
- 3 Insert "2023"

AMENDMENT

8

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOSEPHSON

TO: CSHB 110(L&C)

1 Page 15, lines 9 - 11:

2 Delete "notwithstanding AS 12.55.035(b), in place of any fine imposed for the
3 violation of AS 11.76.105, the court shall refer a defendant to a tobacco education
4 program;"

9

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE JOSEPHSON

1 Page 1, line 2, following "product;":

2 Insert "relating to possession of tobacco, electronic smoking products, or products
3 containing nicotine by a person under 21 years of age;"

4
5 Page 3, line 14, following "violation":

6 Insert "punishable by a fine of \$100"

7
8 Page 3, following line 14:

9 Insert a new bill section to read:

10 "** Sec. 4. AS 11.76.105 is amended by adding a new subsection to read:

11 (d) The supreme court shall establish a schedule of bail amounts for violations
12 of this section that allows the disposition of a citation without a court appearance. A
13 bail amount may not exceed the fine for the violation under (c) of this section."

14
15 Renumber the following bill sections accordingly.

16
17 Page 15, lines 9 - 11:

18 Delete "notwithstanding AS 12.55.035(b), in place of any fine imposed for the
19 violation of AS 11.76.105, the court shall refer a defendant to a tobacco education
20 program;"

21
22 Page 16, line 2:

23 Delete "sec. 3"

1 Insert "secs. 3 and 4"
2
3 Page 16, line 3:
4 Delete "sec. 4"
5 Insert "sec. 5"
6
7 Page 16, line 4:
8 Delete "sec. 5"
9 Insert "sec. 6"
10
11 Page 16, line 5:
12 Delete "sec. 6"
13 Insert "sec. 7"
14
15 Page 16, line 6:
16 Delete "sec. 7"
17 Insert "sec. 8"
18
19 Page 16, line 7:
20 Delete "sec. 8"
21 Insert "sec. 9"
22
23 Page 16, line 8:
24 Delete "sec. 9"
25 Insert "sec. 10"
26
27 Page 16, line 9:
28 Delete "sec. 16"
29 Insert "sec. 17"
30
31 Page 16, line 10:

- 1 Delete "sec. 27"
- 2 Insert "sec. 28"

AMENDMENT # 10

OFFERED IN THE HOUSE
TO: CSHB 110(L&C)

BY REPRESENTATIVE RASMUSSEN

1 Page 1, lines 2 - 4:

2 Delete "relating to transporting tobacco, a product containing nicotine, or an
3 electronic smoking product; relating to the taxation of electronic smoking products;"

4

5 Page 2, following line 20:

6 Insert a new bill section to read:

7 "** Sec. 3. AS 11.76.100(e) is amended to read:

8 (e) The provisions of (a) of this section do not apply to a person who sells or
9 gives tobacco to a person under 21 years of age [MINOR], if the person under 21
10 years of age [MINOR] is a prisoner at an adult correctional facility."

11

12 Renumber the following bill sections accordingly.

13

14 Page 2, lines 26 - 27:

15 Delete "[THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS A
16 PRISONER AT AN ADULT CORRECTIONAL FACILITY.]"

17 Insert "This subsection does not apply to a person who is a prisoner at an adult
18 correctional facility."

19

20 Page 3, lines 15 - 23:

21 Delete all material.

22

23 Renumber the following bill sections accordingly.

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Page 3, line 25:

Delete "**Paragraph (a)(1) of this section** [SUBSECTION (a)]"
Insert "Subsection (a)"

Page 4, line 5:

Delete "19"
Insert "**21** [19]"

Page 6, lines 3 - 5:

Delete "**and the individual's age was verified at the time of purchase by a third-party verification service, the individual is**"

Page 6, line 5:

Delete "1"

Page 6, line 7, through page 11, line 17:

Delete all material.

Renumber the following bill sections accordingly.

Page 15, lines 9 - 11:

Delete "**notwithstanding AS 12.55.035(b), in place of any fine imposed for the violation of AS 11.76.105, the court shall refer a defendant to a tobacco education program;**"

Page 15, line 26:

Delete all material.

Renumber the following bill sections accordingly.

1 Page 16, following line 1:

2 Insert a new paragraph to read:

3 "(3) AS 11.76.100(e), as amended by sec. 3 of this Act;"

4

5 Renumber the following paragraphs accordingly.

6

7 Page 16, line 2:

8 Delete "sec. 3"

9 Insert "sec. 4"

10

11 Page 16, line 3:

12 Delete all material.

13

14 Renumber the following paragraphs accordingly.

15

16 Page 16, line 9:

17 Delete all material.

18

19 Renumber the following paragraph accordingly.

20

21 Page 16, line 10:

22 Delete "sec. 27"

23 Insert "sec. 15"

24

25 Page 16, line 11:

26 Delete "2022"

27 Insert "2023"

AMENDMENT

11

OFFERED IN THE HOUSE

BY REPRESENTATIVE THOMPSON

TO: CSHB 110(L&C)

- 1 Page 6, line 31:
- 2 Delete "[TOBACCO] products"
- 3 Insert "tobacco products **and 15 percent of the wholesale price of the electronic**
- 4 **smoking products**"