

CS FOR HOUSE BILL NO. 1(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/14/97
Referred: Finance

Sponsor(s): REPRESENTATIVES BUNDE, Ivan, Croft, Porter, Hudson, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to taxes on cigarettes and tobacco products; and providing for
2 an effective date."

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

4 * **Section 1.** AS 43.50.090(a) is amended to read:

5 (a) There is levied an excise tax [OF TWO AND ONE-HALF MILLS] on each
6 cigarette imported or acquired in the state. Each licensee shall, at the time of filing
7 the return required by AS 43.50.080, pay to the department the excise for the calendar
8 month covered by the return, deducting one percent of the total tax due, which the
9 licensee shall retain to cover the expense of accounting and filing returns. Cigarettes
10 upon which the excise is imposed are not again subject to the excise when acquired
11 by another person. **The excise tax is levied at the following rates:**

12 **(1) on and after the effective date of this bill section and through**
13 **June 30, 2000 - 52 1/2 mills;**

14 **(2) after June 30, 2000, and through June 30, 2003 - 64 1/2 mills;**

1 **(3) after June 30, 2003, and through June 30, 2006 - 76 1/2 mills;**
 2 **and**

3 **(4) after June 30, 2006 - 76 1/2 mills plus an additional 12 mills**
 4 **during each succeeding three-year period, the increase to be effective on the first**
 5 **day of the succeeding three-year period.**

6 * **Sec. 2.** AS 43.50.090(a) is amended to read:

7 (a) There is levied an excise tax **of two and one-half mills** on each cigarette
 8 imported or acquired in the state. Each licensee shall, at the time of filing the return
 9 required by AS 43.50.080, pay to the department the excise for the calendar month
 10 covered by the return, deducting one percent of the total tax due, which the licensee
 11 shall retain to cover the expense of accounting and filing returns. Cigarettes upon
 12 which the excise is imposed are not again subject to the excise when acquired by
 13 another person. [THE EXCISE TAX IS LEVIED AT THE FOLLOWING RATES:

14 (1) ON AND AFTER THE EFFECTIVE DATE OF THIS BILL
 15 SECTION AND THROUGH JUNE 30, 2000 - 52 1/2 MILLS;

16 (2) AFTER JUNE 30, 2000, AND THROUGH JUNE 30, 2003 - 64 1/2
 17 MILLS;

18 (3) AFTER JUNE 30, 2003, AND THROUGH JUNE 30, 2006 - 76 1/2
 19 MILLS; AND

20 (4) AFTER JUNE 30, 2006 - 76 1/2 MILLS PLUS AN ADDITIONAL
 21 12 MILLS DURING EACH SUCCEEDING THREE-YEAR PERIOD, THE
 22 INCREASE TO BE EFFECTIVE ON THE FIRST DAY OF THE SUCCEEDING
 23 THREE-YEAR PERIOD.]

24 * **Sec. 3.** AS 43.50.090 is amended by adding a new subsection to read:

25 (d) At the time of a change in the amount of tax under (a) of this section, the
 26 department shall give public notice of the change. The department shall also provide
 27 notification of the change to all persons licensed under this chapter.

28 * **Sec. 4.** AS 43.50.190(a) is amended to read:

29 (a) **On** [THERE IS LEVIED AN EXCISE TAX OF 12 MILLS ON] each
 30 cigarette imported or acquired in this state, **there is levied an excise tax at the**
 31 **following rates:**

1 (1) on and after the effective date of this bill section and through
 2 June 30, 2000 - 62 mills;

3 (2) after June 30, 2000, and through June 30, 2003 - 74 mills;

4 (3) after June 30, 2003, and through June 30, 2006 - 86 mills; and

5 (4) after June 30, 2006 - 86 mills plus an additional 12 mills during
 6 each succeeding three-year period, the increase to be effective on the first day of
 7 the succeeding three-year period.

8 * **Sec. 5.** AS 43.50.190 is amended by adding a new subsection to read:

9 (c) At the time of a change in the amount of tax under (a) of this section, the
 10 department shall give public notice of the change. The department shall also provide
 11 notification of the change to all persons licensed under this chapter.

12 * **Sec. 6.** AS 43.50.300 is amended to read:

13 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products
 14 in the state at the rate of 100 [25] percent of the wholesale price of the tobacco
 15 products. The tax is levied when a person

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

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

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

22 * **Sec. 7.** AS 43.50.300 is amended by adding new subsections to read:

23 (b) The amount in (a) of this section changes, as provided in (b) - (d) of this
 24 section, according to and to the extent of changes in the Consumer Price Index for all
 25 urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of
 26 Labor Statistics, United States Department of Labor. The index for January of 1998
 27 is the reference base index.

28 (c) The amount changes on July 1 of each even-numbered year in an amount
 29 equal to the percentage of change, calculated to the nearest whole percentage point,
 30 between the index for January of that year and the most recent index used to change
 31 the amount in (a) of this section. However, the amount does not change if the amount

1 required by (b) - (d) of this section is that currently in effect as a result of earlier
2 application of (b) - (d) of this section.

3 (d) If the index is revised, the percentage of change is calculated on the basis
4 of the revised index. If a revision of the index changes the reference base index, a
5 revised reference base index is determined by multiplying the reference base index
6 applicable by the rebasing factor furnished by the Bureau of Labor Statistics, United
7 States Department of Labor. If the index is superseded, the index referred to in (b) -
8 (d) of this section is the one represented by the Bureau of Labor Statistics as reflecting
9 most accurately changes in the purchasing power of the dollar for Alaska consumers.

10 (e) At the time of a change in the amount of the tax under this section, the
11 department shall promptly give public notice of the change. The department shall also
12 provide notification of a change to all persons licensed under this chapter.

13 * **Sec. 8.** AS 43.50.090(d), added by sec. 3 of this Act, is repealed.

14 * **Sec. 9.** CONDITIONAL EFFECT OF CERTAIN SECTIONS. Sections 2, 4, 5, and 8
15 of this Act take effect only if

16 (1) a court enters a final judgment that the amendment made to
17 AS 43.50.090(a) by sec. 1 of this Act changing the rate of taxation on cigarettes violates the
18 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of
19 the proceeds of a state tax or license; and

20 (2) either the time for appeal of that judgment expires or, if an appeal is taken,
21 the court enters a final order on appeal that AS 43.50.090(a), as amended by sec. 1 of this
22 Act, violates art. IX, sec. 7, Constitution of the State of Alaska.

23 * **Sec. 10.** CONDITIONAL RETROACTIVITY OF CERTAIN PROVISIONS. If secs. 2
24 and 4 of this Act take effect under sec. 9 of this Act, then the amendments to AS 43.50.090(a)
25 and 43.50.190(a) made by secs. 2 and 4 of this Act are retroactive to October 1, 1997, and
26 the revenue derived from the levy of mills per cigarette of the tax levied under
27 AS 43.50.090(a), as amended by sec. 1 of this Act, for cigarettes sold after October 1, 1997,
28 that exceeds two and one-half mills shall be credited to the tax levied under AS 43.50.190(a),
29 as amended by sec. 4 of this Act.

30 * **Sec. 11.** Sections 1, 3, 6, and 7 of this Act take effect October 1, 1997.

31 * **Sec. 12.** If secs. 2, 4, 5, and 8 of this Act take effect under sec. 9 of this Act, they take

1 effect on the later of (1) the date a court enters a final judgment that the amendment made to
2 AS 43.50.090(a) by sec. 1 of this Act changing the rate of taxation on cigarettes violates the
3 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of
4 the proceeds of a state tax or license, and (2) the expiration of any time for appeal of that
5 judgment, or, if an appeal is taken, upon entry of a final order on the appeal that
6 AS 43.50.090(a), as amended by sec. 1 of this Act, violates art. IX, sec. 7, Constitution of the
7 State of Alaska. The attorney general shall promptly notify the lieutenant governor and the
8 revisor of statutes of a judgment described in this section.