

CS FOR HOUSE BILL NO. 1(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 2/27/97

Referred: Rules

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 **four-tenths of** one percent of the total tax due,
9 which the licensee shall retain to cover the expense of accounting and filing returns.
10 Cigarettes upon which the excise is imposed are not again subject to the excise when
11 acquired 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 four-tenths of one percent of the total tax due, which
 11 the licensee shall retain to cover the expense of accounting and filing returns.
 12 Cigarettes upon which the excise is imposed are not again subject to the excise when
 13 acquired by another person. [THE EXCISE TAX IS LEVIED AT THE FOLLOWING
 14 RATES:

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

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

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

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

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

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

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

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

1 **following rates:**

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) The amount changes on July 1 of each even-numbered year in an amount
 30 equal to the percentage of change, calculated to the nearest whole percentage point,
 31 between the index for January of that year and the most recent index used to change

1 the amount in (a) of this section. However, the amount does not change if the amount
 2 required by (b) - (d) of this section is that currently in effect as a result of earlier
 3 application of (b) - (d) of this section.

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

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

14 * **Sec. 8.** AS 43.50.330(b) is amended to read:

15 (b) The licensee shall remit with the return the tax due under AS 43.50.300
 16 for the month covered by the return, after deducting **four-tenths of** one percent of the
 17 tax due, which the licensee shall retain to cover the expense of accounting and filing
 18 the return.

19 * **Sec. 9.** AS 43.50.090(d), added by sec. 3 of this Act, is repealed.

20 * **Sec. 10.** CONDITIONAL EFFECT OF CERTAIN SECTIONS. Sections 2, 4, 5, 8, and
 21 9 of this Act take effect only if

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

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

29 * **Sec. 11.** CONDITIONAL RETROACTIVITY OF CERTAIN PROVISIONS. If secs. 2
 30 and 4 of this Act take effect under sec. 10 of this Act, then the amendments to
 31 AS 43.50.090(a) and 43.50.190(a) made by secs. 2 and 4 of this Act are retroactive to October

1 1, 1997, and the revenue derived from the levy of mills per cigarette of the tax levied under
2 AS 43.50.090(a), as amended by sec. 1 of this Act, for cigarettes sold after October 1, 1997,
3 that exceeds two and one-half mills shall be credited to the tax levied under AS 43.50.190(a),
4 as amended by sec. 4 of this Act.

5 * **Sec. 12.** Sections 1, 3, 6, 7, and 8 of this Act take effect October 1, 1997.

6 * **Sec. 13.** If secs. 2, 4, 5, and 9 of this Act take effect under sec. 10 of this Act, they take
7 effect on the later of (1) the date a court enters a final judgment that the amendment made to
8 AS 43.50.090(a) by sec. 1 of this Act changing the rate of taxation on cigarettes violates the
9 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of
10 the proceeds of a state tax or license, and (2) the expiration of any time for appeal of that
11 judgment, or, if an appeal is taken, upon entry of a final order on the appeal that
12 AS 43.50.090(a), as amended by sec. 1 of this Act, violates art. IX, sec. 7, Constitution of the
13 State of Alaska. The attorney general shall promptly notify the lieutenant governor and the
14 revisor of statutes of a judgment described in this section.