

HOUSE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 1/13/97

Referred: State Affairs, Health, Education and Social Services, Finance

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 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 is amended by adding a new section to read:

23 **Sec. 43.50.365. Tax adjustment.** (a) The amount in AS 43.50.300 changes,
 24 as provided in this section, according to and to the extent of changes in the Consumer
 25 Price Index for all urban consumers for the Anchorage Metropolitan Area compiled by
 26 the Bureau of Labor Statistics, United States Department of Labor. The index for
 27 January of 1998 is the reference base index.

28 (b) The amounts change 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 AS 43.50.300. However, the amounts do not change if the amounts

1 required by this section are those currently in effect as a result of earlier application
2 of this section.

3 (c) 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 United States Bureau of Labor
7 Statistics. If the index is superseded, the index referred to in this section is the one
8 represented by the Bureau of Labor Statistics as reflecting most accurately changes in
9 the purchasing power of the dollar for Alaska consumers.

10 * **Sec. 8.** AS 43.50 is amended by adding a new section to read:

11 **Sec. 43.50.380. Notice.** At the time of a change in the amount of the tax
12 under AS 43.50.365, the department shall promptly give public notice of the change.

13 The department shall also provide notification of a change to all persons licensed under
14 this chapter.

15 * **Sec. 9.** AS 43.50.090(d), added by sec. 2 of this Act, is repealed.

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

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

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

25 * **Sec. 11.** Sections 1, 3, and 6 - 8 of this Act take effect October 1, 1997.

26 * **Sec. 12.** If secs. 2, 4, 5, and 9 of this Act take effect under sec. 10 of this Act, they take
27 effect on the later of (1) the date a court enters a final judgment that the amendment made to
28 AS 43.50.090(a) by sec. 1 of this Act changing the rate of taxation on cigarettes violates the
29 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of
30 the proceeds of a state tax or license, and (2) the expiration of any time for appeal of that
31 judgment, or, if an appeal is taken, upon entry of a final order on the appeal that

- 1 AS 43.50.090(a), as amended by sec. 1 of this Act, violates art. IX, sec. 7, Constitution of the
- 2 State of Alaska. The attorney general shall promptly notify the lieutenant governor and the
- 3 revisor of statutes of a judgment described in this section.