

**CS FOR SENATE BILL NO. 13(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/7/97

Referred: Rules

Sponsor(s): SENATORS SHARP, Ellis

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to taxes on cigarettes and tobacco products, and to the use of  
2 the proceeds of those taxes; and providing for an effective date."

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

4 \* **Section 1.** LEGISLATIVE INTENT. It is the intent of the legislature that, of the tax  
5 revenue derived

6 (1) from the amendment to the cigarette tax made by sec. 2 of this Act, the  
7 amount obtained be deposited into the school fund (AS 43.50.140) and used as required by  
8 that section for state support of elementary and secondary education;

9 (2) from the amendment contingently made to the cigarette tax by sec. 4 of this  
10 Act, subject to appropriation, the amount obtained be expended for state support of elementary  
11 and secondary education; and

12 (3) from the amendment made to the tobacco tax by sec. 5 of this Act, subject  
13 to appropriation, the amount obtained be used to establish and maintain an aggressive anti-  
14 tobacco campaign targeting children, to be administered by the Department of Health and

1 Social Services, and be used to establish and maintain a program of pass-through grants to  
 2 municipalities to detect and prosecute those who sell or otherwise supply tobacco to children,  
 3 to be administered by the Department of Public Safety.

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

5 (a) There is levied an excise tax of **38** [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.

12 \* **Sec. 3.** AS 43.50.090(a) is amended to read:

13 (a) There is levied an excise tax of **two and one-half** [38] mills on each  
 14 cigarette imported or acquired in the state. Each licensee shall, at the time of filing  
 15 the return required by AS 43.50.080, pay to the department the excise for the calendar  
 16 month covered by the return, deducting four-tenths of one percent of the total tax due,  
 17 which the licensee shall retain to cover the expense of accounting and filing returns.  
 18 Cigarettes upon which the excise is imposed are not again subject to the excise when  
 19 acquired by another person.

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

21 (a) There is levied an excise tax of **47.5** [12] mills on each cigarette imported  
 22 or acquired in this state.

23 \* **Sec. 5.** AS 43.50.300 is amended to read:

24 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products  
 25 in the state at the rate of **75** [25] percent of the wholesale price of the tobacco  
 26 products. The tax is levied when a person

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

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

31 (3) ships or transports a tobacco product to a retailer in the state for

1 sale by the retailer.

2 \* **Sec. 6.** AS 43.50.330(b) is amended to read:

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

7 \* **Sec. 7.** AS 43.50.350 is amended to read:

8 **Sec. 43.50.350. Disposition of proceeds.** (a) The tax collected by the  
9 department **under AS 43.50.300 - 43.50.390** shall be deposited in the general fund.

10 (b) The annual estimated balance in the account maintained by the  
11 commissioner of administration under AS 37.05.142 may be used by the legislature to  
12 make appropriations

13 (1) for health care, health research, health promotion, and health  
14 education programs;

15 (2) **to establish and maintain an aggressive anti-tobacco campaign**  
16 **targeting children; and**

17 (3) **to establish and maintain a program of grants to municipalities**  
18 **to detect and prosecute those who sell or otherwise supply tobacco to children.**

19 \* **Sec. 8.** AS 43.50.350 is amended by adding a new subsection to read:

20 (c) The appropriations authorized by (b) of this section are not intended to  
21 create a dedication in violation of art. IX, sec. 7, Constitution of the State of Alaska.

22 \* **Sec. 9.** **CONDITIONAL EFFECT OF CERTAIN SECTIONS.** Sections 3 and 4 of this  
23 Act take effect only if

24 (1) a court enters a final judgment that the amendment made to  
25 AS 43.50.090(a) by sec. 2 of this Act changing the rate of taxation on cigarettes violates the  
26 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of  
27 the proceeds of a state tax or license; and

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

31 \* **Sec. 10.** **RETROACTIVITY.** If secs. 3 and 4 of this Act take effect under sec. 9 of this

1 Act, then the amendments to AS 43.50.090(a) and 43.50.190(a) made by secs. 3 and 4 of this  
2 Act are retroactive to the effective date of this section and 35.5 mills per cigarette of the tax  
3 levied under AS 43.50.090(a), as amended by sec. 2 of this Act, for cigarettes sold on or after  
4 the effective date of this section shall be credited to the tax levied under AS 43.50.190(a), as  
5 amended by sec. 4 of this Act.

6 \* **Sec. 11.** Sections 1, 2, 5 - 8, and 10 of this Act take effect October 1, 1997.

7 \* **Sec. 12.** If secs. 3 and 4 of this Act take effect under sec. 9 of this Act, they take effect  
8 on the later of (1) the date a court enters a final judgment that the amendment made to  
9 AS 43.50.090(a) by sec. 2 of this Act changing the rate of taxation on cigarettes violates the  
10 prohibition set out in art. IX, sec. 7, Constitution of the State of Alaska, against dedication of  
11 the proceeds of a state tax or license, and (2) the expiration of any time for appeal of that  
12 judgment, or upon entry of a final order on the appeal that AS 43.50.090(a), as amended by  
13 sec. 2 of this Act, violates art. IX, sec. 7, Constitution of the State of Alaska. The attorney  
14 general shall promptly notify the lieutenant governor and the revisor of statutes of a judgment  
15 described in this section.