

CS FOR SENATE BILL NO. 13(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/10/97

Referred: Calendar

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 increasing by at least 35.5 mills the amount of
3 excise tax levied on each cigarette imported or acquired in the state; and
4 providing for an effective date."

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

6 * **Section 1.** LEGISLATIVE INTENT. It is the intent of the legislature that, of the tax
7 revenue derived

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

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

14 (3) from the amendment made to the tobacco tax by sec. 5 of this Act, subject

1 to appropriation, the amount obtained be used to establish and maintain an aggressive anti-
 2 tobacco campaign targeting children, to be administered by the Department of Health and
 3 Social Services, and be used to establish and maintain a program of pass-through grants to
 4 municipalities to detect and prosecute those who sell or otherwise supply tobacco to children,
 5 to be administered by the Department of Public Safety.

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

7 (a) There is levied an excise tax of **38** [TWO AND ONE-HALF] mills on each
 8 cigarette imported or acquired in the state. Each licensee shall, at the time of filing
 9 the return required by AS 43.50.080, pay to the department the excise for the calendar
 10 month covered by the return, deducting **four-tenths of** one percent of the total tax due,
 11 which 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.

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

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

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

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

25 * **Sec. 5.** AS 43.50.300 is amended to read:

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

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

31 (2) makes, manufactures, or fabricates a tobacco product in the state

1 for sale in the state; or

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

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

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

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

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

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

15 (1) for health care, health research, health promotion, and health
16 education programs;

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

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

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

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

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

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

30 (2) either the time for appeal of that judgment expires or, if an appeal is taken,
31 the court enters a final order on appeal that AS 43.50.090(a), as amended by sec. 2 of this

1 Act, violates art. IX, sec. 7, Constitution of the State of Alaska.

2 * **Sec. 10. RETROACTIVITY.** If secs. 3 and 4 of this Act take effect under sec. 9 of this
3 Act, then the amendments to AS 43.50.090(a) and 43.50.190(a) made by secs. 3 and 4 of this
4 Act are retroactive to the effective date of this section and 35.5 mills per cigarette of the tax
5 levied under AS 43.50.090(a), as amended by sec. 2 of this Act, for cigarettes sold on or after
6 the effective date of this section shall be credited to the tax levied under AS 43.50.190(a), as
7 amended by sec. 4 of this Act.

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

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