

**SENATE BILL NO. 61**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR ELLIS

Introduced: 1/24/97

Referred: HESS, Finance

**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 FINDINGS. The legislature finds that

5 (1) tobacco use is the leading cause of death in Alaska and that half of  
6 long-term smokers will die from tobacco related illness;

7 (2) unless action is taken, the Centers for Disease Control and  
8 Prevention estimate that nearly 18,000 young Alaskans alive today will become  
9 addicted to and die from tobacco use;

10 (3) tobacco use affects the Alaska economy by generating hundreds of  
11 millions of dollars each year in needless costs;

12 (4) the 1995 Youth Risk Behavior Survey determined that Alaska high  
13 school students have smoking rates higher than the national average;

14 (5) nearly all new smokers start smoking before the age of 19, with an

1 average age of new smokers of 14.5 years;

2 (6) despite considerable efforts to control tobacco use among children,  
3 smoking is on the rise and that a proven way to substantially decrease adolescent use  
4 of tobacco products is to raise the cost of tobacco through increased taxes;

5 (7) the state cancer control plan recommends an increase in tobacco  
6 taxes of \$2 per pack of cigarettes; and

7 (8) every major health organization in the state has supported increased  
8 taxes of at least \$1 per pack of cigarettes as an appropriate and necessary part of  
9 tobacco control efforts, and surveys in the state have repeatedly shown that the general  
10 public strongly supports increased cigarette and tobacco taxes.

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

12 (a) There is levied an excise tax of 65 [TWO AND ONE-HALF] mills on each  
13 cigarette imported or acquired in the state. Each licensee shall, at the time of filing  
14 the return required by AS 43.50.080, pay to the department the excise for the calendar  
15 month covered by the return, deducting one percent of the total tax due, which the  
16 licensee shall retain to cover the expense of accounting and filing returns. Cigarettes  
17 upon which the excise is imposed are not again subject to the excise when acquired  
18 by another person.

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

20 (a) There is levied an excise tax of two and one-half [65] mills on each  
21 cigarette imported or acquired in the state. Each licensee shall, at the time of filing  
22 the return required by AS 43.50.080, pay to the department the excise for the calendar  
23 month covered by the return, deducting one percent of the total tax due, which the  
24 licensee shall retain to cover the expense of accounting and filing returns. Cigarettes  
25 upon which the excise is imposed are not again subject to the excise when acquired  
26 by another person.

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

28 (a) There is levied an excise tax of 74.5 [12] mills on each cigarette imported  
29 or acquired in this state.

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

31 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products

1 in the state at the rate of **100** [25] percent of the wholesale price of the tobacco  
2 products. The tax is levied when a person

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

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

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

9 \* **Sec. 6.** AS 43.50.350 is amended to read:

10 **Sec. 43.50.350. Disposition of proceeds.** (a) The tax collected under  
11 AS 43.50.300 by the department shall be deposited in the general fund. The amount  
12 of those proceeds in excess of 25 percent of the wholesale price of tobacco  
13 products shall be accounted for separately within an account called the "tobacco  
14 control and health promotion account." At the end of each fiscal year, the  
15 commissioner of revenue shall report on the balance of the tobacco control and  
16 health promotion account. The governor, after consulting with the commissioner  
17 of health and social services, shall make recommendations to the legislature for  
18 appropriation of the balance of the account for tobacco control programs as  
19 designated grants or contracts to provide for tobacco control activities to include  
20 public media, youth education, and law enforcement.

21 (b) Except as provided in (a) of this section, the annual estimated balance  
22 in the account maintained by the commissioner of administration under AS 37.05.142  
23 may be used by the legislature to make appropriations for health care, health research,  
24 health promotion, and health education programs.

25 \* **Sec. 7.** AS 43.50.350 is amended by adding a new subsection to read:

26 (c) The deposit required and appropriate authorized by this section are not  
27 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State  
28 of Alaska.

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

30 **Sec. 43.50.365. Tax adjustment.** (a) The amounts in AS 43.50.090(a), in  
31 AS 43.50.190(a), and in AS 43.50.300 change, as provided in this section, according

1 to and to the extent of changes in the Consumer Price Index for all urban consumers  
 2 for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics,  
 3 United States Department of Labor. The index for January of 1998 is the reference  
 4 base index.

5 (b) The amounts change on July 1 of each even-numbered year in an amount  
 6 equal to the percentage of change, calculated to the nearest whole percentage point,  
 7 between the index for January of that year and the most recent index used to change  
 8 the amount in AS 43.50.300. However, the amounts do not change if the amounts  
 9 required by this section are those currently in effect as a result of earlier application  
 10 of this section.

11 (c) If the index is revised, the percentage of change is calculated on the basis  
 12 of the revised index. If a revision of the index changes the reference base index, a  
 13 revised reference base index is determined by multiplying the reference base index  
 14 applicable by the rebasing factor furnished by the United States Bureau of Labor  
 15 Statistics. If the index is superseded, the index referred to in this section is the one  
 16 represented by the Bureau of Labor Statistics as reflecting most accurately changes in  
 17 the purchasing power of the dollar for Alaska consumers.

18 \* **Sec. 9.** AS 43.50 is amended by adding a new section to read:

19 **Sec. 43.50.380. Notice.** At the time of a change under AS 43.50.365 in the  
 20 amount of a tax, the department shall promptly give public notice of the change. The  
 21 department shall also provide notification of a change to all persons licensed under this  
 22 chapter.

23 \* **Sec. 10.** Sections 1, 2, and 5 - 9 of this Act take effect October 1, 1997.

24 \* **Sec. 11.** Sections 3 and 4 of this Act take effect on the later of (1) the date a court enters  
 25 a final judgment that the amendment made to AS 43.50.090(a) by sec. 2 of this Act changing  
 26 the rate of taxation on cigarettes violates the prohibition set out in art. IX, sec. 7, Constitution  
 27 of the State of Alaska, against dedication of the proceeds of a state tax or license and (2) the  
 28 expiration of any time for appeal of that judgment, or upon entry of a final order on the  
 29 appeal of that judgment. The attorney general shall promptly notify the lieutenant governor  
 30 and the revisor of statutes of a judgment described in this section.