

SENATE CS FOR CS FOR HOUSE BILL NO. 37(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/13/00

Referred: Rules

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft, Kemplen, Smalley

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to restricting sale of cigarettes, to enforcement of certain laws**
2 **relating to sales of cigarettes, and to smoking education and cessation programs**
3 **administered by the Department of Health and Social Services."**

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

5 *** Section 1.** AS 43.50 is amended by adding new sections to read:

6 **Article 4. Compliance with Federal Laws Relating to Cigarettes.**

7 **Sec. 43.50.400. Sale or distribution of cigarettes; prohibitions.** A person
8 may not

9 (1) sell or distribute to consumers in this state, acquire, hold, own,
10 possess, or transport for sale or distribution in this state, or import or cause to be
11 imported into this state for sale or distribution in this state cigarettes

12 (A) the package of which

13 (i) bears a statement, label, stamp, sticker, or notice
14 indicating that the manufacturer did not intend the cigarettes to be sold,

1 distributed, or used in the United States, including labels stating, "for
2 export only," "U.S. tax-exempt," "for use outside U.S.," or similar
3 wording; or

4 (ii) does not comply with all requirements of federal law
5 regarding health warnings and other information on packages of
6 cigarettes manufactured, packaged, or imported for sale, distribution, or
7 use in the United States, including the warning labels required by 15
8 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act), and all
9 federal trademark and copyright laws;

10 (B) imported into the United States on or after January 1, 2000,
11 in violation of 26 U.S.C. 5754; or

12 (C) for which a list of the ingredients added to tobacco in the
13 manufacture of those cigarettes has not been submitted to the Secretary of the
14 United States Department of Health and Human Services as required under 15
15 U.S.C. 1335a (Federal Cigarette Labeling and Advertising Act);

16 (2) alter a package of cigarettes before sale or distribution to the
17 consumer so as to remove, conceal, or obscure

18 (A) a statement, label, stamp, sticker, or notice described in
19 (1)(A)(i) of this section; or

20 (B) any health warning, including a health warning that is
21 specified in 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act).

22 **Sec. 43.50.410. Imported cigarettes: requirements.** A person that imports
23 into this state for sale or distribution in this state cigarettes manufactured outside of
24 the United States shall file with the department, on or before the last day of each
25 calendar quarter, for the cigarettes that the person imported into this state in the
26 preceding calendar quarter, a statement signed by the person under penalty of perjury
27 that the commissioner shall treat as confidential and that shall not be considered a
28 public record under AS 09.25.110, identifying the brand and brand styles of the
29 cigarettes, the quantity of each brand style of cigarettes, and the person or persons to
30 whom the cigarettes have been shipped. In this section, "calendar quarter" means each
31 of the three-month periods ending March 31, June 30, September 30, and

1 December 31.

2 **Sec. 43.50.420. Enforcement.** For the purpose of enforcing AS 43.50.400 -
3 43.50.450, the commissioner may share information with any local, state, or federal
4 government agency.

5 **Sec. 43.50.430. Applicability.** AS 43.50.400 - 43.50.450 do not apply to
6 cigarettes

7 (1) imported into the United States for personal use free of federal tax
8 or duty, or voluntarily abandoned to the United States Secretary of the Treasury at the
9 time of entry; or

10 (2) sold or intended to be sold as duty-free merchandise by a duty-free
11 sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b); however,
12 AS 43.50.400 - 43.50.450 apply to duty-free cigarettes that are brought back into the
13 customs territory for resale within the customs territory.

14 **Sec. 43.50.450. Definitions.** In AS 43.50.400 - 43.50.450, unless the context
15 otherwise requires,

16 (1) "cigarette" has the meaning given in AS 43.50.170;

17 (2) "manufacturer" has the meaning given in AS 43.50.170.

18 * **Sec. 2.** AS 43.70.075 is amended by adding new subsections to read:

19 (g) A person who is required to hold a business license endorsement under this
20 section, or who is required to be licensed or agrees to be licensed under AS 43.50.010,
21 or an agent or employee of the person, may not

22 (1) sell cigarettes to another person unless the cigarettes are sold in
23 groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack
24 or contained in a cigarette carton or box; or

25 (2) sell or possess cigarettes if the cigarette package

26 (A) differs in any respect from the requirements of 15 U.S.C.
27 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of
28 warnings or of any other information upon a package of cigarettes that is sold
29 within the United States;

30 (B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use
31 Outside U.S.," or with similar wording indicating that the manufacturer did not

1 intend that the product be sold in the United States; this subparagraph does not
 2 apply to cigarettes sold or intended to be sold as duty-free merchandise by a
 3 duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph
 4 does apply to duty-free cigarettes that are brought back into the state for resale
 5 in the state;

6 (C) has been altered by adding, masking, or deleting wording
 7 described in (B) of this paragraph.

8 (h) A violation of (g) of this section is an unfair or deceptive act or practice
 9 under AS 45.50.471.

10 (i) The commissioner or the commissioner of revenue may seize cigarettes that
 11 do not comply with this section. After notice and an opportunity for a hearing, the
 12 commissioner or the commissioner of revenue shall destroy cigarettes seized under this
 13 subsection.

14 (j) A person who violates (g) of this section is guilty of a class B
 15 misdemeanor.

16 * **Sec. 3.** AS 44.29.020(a) is amended to read:

17 (a) The Department of Health and Social Services shall administer the state
 18 programs of public health and social services, including

- 19 (1) maternal and child health services;
- 20 (2) preventive medical services;
- 21 (3) public health nursing services;
- 22 (4) nutrition services;
- 23 (5) health education;
- 24 (6) laboratories;
- 25 (7) mental health treatment and diagnosis;
- 26 (8) management of state institutions, except for adult penal institutions;
- 27 (9) medical facilities;
- 28 (10) adult public assistance;
- 29 (11) Alaska temporary assistance program;
- 30 (12) child welfare services;
- 31 (13) general relief; [AND]

1 (14) licensing and supervision of child care facilities; and
2 (15) a comprehensive smoking education, tobacco use prevention,
3 and tobacco control program; to the maximum extent possible, the department
4 shall administer the program required under this paragraph by grant or contract
5 with more than one organization in the state; the department's program must
6 include

7 (A) a community-based tobacco use prevention and cessation
8 component addressing the needs of youth and adults that includes use of
9 cessation aids such as a nicotine patch or a nicotine gum tobacco
10 substitute;

11 (B) youth-based efforts that involve youth in the design and
12 implementation of tobacco control efforts;

13 (C) anti-tobacco counter-marketing targeting both youth and
14 adult populations designed to communicate messages to help prevent youth
15 initiation of tobacco use, promote cessation among tobacco users, and
16 educate the public about the lethal effects of exposure to secondhand
17 smoke;

18 (D) tobacco use surveys of youth and adult populations
19 concerning knowledge, awareness, attitude, and use of tobacco products;
20 and

21 (E) an enforcement component.