

**HOUSE BILL NO. 429**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/15/02

Referred: Labor and Commerce, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1    **"An Act relating to certain licenses for the sale of tobacco products; relating to tobacco**  
2    **taxes and sales and cigarette tax stamps; relating to provisions making certain cigarettes**  
3    **contraband and subject to seizure and forfeiture; relating to certain crimes, penalties,**  
4    **and interest concerning tobacco taxes and sales; relating to notification regarding a**  
5    **cigarette manufacturer's noncompliance with the tobacco product Master Settlement**  
6    **Agreement or related statutory provisions and to confiscation of the affected cigarettes;**  
7    **and providing for an effective date."**

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

9        \* **Section 1.** AS 43.50.035 is amended to read:

10            **Sec. 43.50.035. Wholesaler-distributor license.** A person outside of this  
11            state who sells cigarettes into this state and is not required to be licensed under  
12            AS 43.50.010 may apply [QUALIFY] for a wholesaler-distributor license [BY  
13            FURNISHING A GOOD AND SUFFICIENT SURETY BOND IN AN AMOUNT

1 EQUAL TO TWICE THE AVERAGE MONTHLY RETURN AND IN NO CASE  
 2 LESS THAN \$5,000, PAYABLE TO THE DEPARTMENT AND APPROVED BY  
 3 THE DEPARTMENT OF LAW. IF A WHOLESALER-DISTRIBUTOR FAILS TO  
 4 PAY THE CIGARETTE TAX WHEN DUE, THE BOND MAY BE FORFEITED  
 5 AND THE LICENSE REVOKED. THE DEPARTMENT MAY ISSUE PERMITS  
 6 IN PLACE OF BONDS TO RESIDENT HOLDERS OF WHOLESALER-  
 7 DISTRIBUTOR LICENSES DOING BUSINESS WHOLLY IN THE STATE WHO  
 8 PAY THE TAX BEFORE SHIPMENT]. **The department shall adopt reasonable**  
 9 **regulations that it considers necessary regarding the wholesaler-distributor**  
 10 **license, including standards for**

11 **(1) application and issuance of the license; and**

12 **(2) refusal to issue the license.**

13 \* **Sec. 2.** AS 43.50.040 is amended to read:

14 **Sec. 43.50.040. Expiration of licenses.** A license issued under AS 43.50.010  
 15 **or 43.50.035** expires on June 30, following the date of issue. If a license is revoked,  
 16 or the business for which the license is issued changes ownership or the licensee  
 17 changes the place of business from the premises covered by the license, the licensee  
 18 shall immediately return the license to the department. If the licensee moves the  
 19 business to another location in the state, the license shall, upon the payment of a fee of  
 20 50 cents, be reissued for the new location for the balance of the unexpired term. The  
 21 licensee, on application to the department accompanied by the renewal fee, may,  
 22 before the expiration of the license, renew the license for one year from the expiration  
 23 date of the license.

24 \* **Sec. 3.** AS 43.50.070 is amended to read:

25 **Sec. 43.50.070. Suspension or revocation [REVOCA**TION**] of licenses.**  
 26 The department may suspend or revoke a license issued under **this chapter**  
 27 [AS 43.50.010 - 43.50.180] (1) for a negligent violation of AS 11.76.100, 11.76.106,  
 28 11.76.107, or a violation of **this chapter** [AS 43.50.010 - 43.50.180] or a regulation of  
 29 the department adopted under **this chapter** [AS 43.50.010 - 43.50.180]; (2) if a  
 30 licensee ceases to act in the capacity for which the license was issued; or (3) if a  
 31 **licensee** [MANUFACTURER, DISTRIBUTOR, OR WHOLESALE DISTRIBUTOR]

1 negligently sells tobacco or products containing tobacco to a **person who is required**  
 2 **to, but does not, hold a license endorsement under AS 43.70.075 or**  
 3 **[NONLICENSED RETAILER OR A RETAILER]** whose license endorsement under  
 4 AS 43.70.075 has been suspended. A person whose license is suspended or revoked  
 5 may not sell cigarettes **or tobacco products**, or permit cigarettes **or tobacco products**  
 6 to be sold, during the period of the suspension or revocation on the premises occupied  
 7 or controlled by that person. A disciplinary proceeding or action is not barred or  
 8 abated by the expiration, transfer, surrender, renewal, or extension of a license issued  
 9 under **this chapter** [AS 43.50.010 - 43.50.180]. The department shall comply with  
 10 the provisions of **AS 44.62** [THE] **(Administrative Procedure Act)** [(AS 44.62)].

11 \* **Sec. 4.** AS 43.50.070 is amended by adding a new subsection to read:

12 (b) In this section, "licensee" means a person licensed under AS 43.50.010 -  
 13 43.50.180 or under AS 43.50.300 - 43.50.390.

14 \* **Sec. 5.** AS 43.50.090(a) is amended to read:

15 (a) There is levied an excise tax of 38 mills on each cigarette imported or  
 16 acquired in the state. **The tax shall be paid through the use of stamps as provided**  
 17 **in AS 43.50.500 - 43.50.700. The failure to pay the tax through the use of stamps**  
 18 **does not relieve a person of the obligation to pay taxes due under this chapter.**  
 19 **The person shall still pay the tax and the tax is due on or before the end of the**  
 20 **month following the month in which cigarettes were manufactured, imported,**  
 21 **acquired, or sold in this state.** [EACH LICENSEE SHALL, AT THE TIME OF  
 22 FILING THE RETURN REQUIRED BY AS 43.50.080, PAY TO THE  
 23 DEPARTMENT THE EXCISE FOR THE CALENDAR MONTH COVERED BY  
 24 THE RETURN, DEDUCTING FOUR-TENTHS OF ONE PERCENT OF THE  
 25 TOTAL TAX DUE, WHICH THE LICENSEE SHALL RETAIN TO COVER THE  
 26 EXPENSE OF ACCOUNTING AND FILING RETURNS.] Cigarettes upon which  
 27 the excise is imposed are not again subject to the excise when acquired by another  
 28 person.

29 \* **Sec. 6.** AS 43.50.100(d) is amended to read:

30 (d) A person or licensee who is in control or possession of cigarettes contrary  
 31 to **this chapter** [AS 43.50.010 - 43.50.180], or who offers to sell or dispose of

1 cigarettes to others for the purpose of resale without being licensed to do so is  
 2 considered to have possession of the cigarettes as a consumer and is personally liable  
 3 for the **cigarette taxes imposed by this chapter** [TAX], plus a penalty of 100 **percent**  
 4 [PER CENT].

5 \* **Sec. 7.** AS 43.50.130(d) is amended to read:

6 (d) An invoice for the sale of cigarettes given or accepted by a licensee under  
 7 **this chapter** [AS 43.50.010 - 43.50.180] must state whether the **taxes** [TAX] imposed  
 8 by **this chapter have** [AS 43.50.010 - 43.50.180 HAS] been paid.

9 \* **Sec. 8.** AS 43.50.170(7) is amended to read:

10 (7) "person" includes an individual, company, partnership, **limited**  
 11 **liability partnership**, joint venture, joint agreement, **limited liability company**,  
 12 association, mutual or otherwise, corporation, estate, trust, business trust, receiver,  
 13 trustee, syndicate, or political subdivision of this state, or combination acting as a unit;

14 \* **Sec. 9.** AS 43.50.170 is amended by adding new paragraphs to read:

15 (11) "tobacco product" has the meaning given in AS 43.50.390;

16 (12) "wholesaler-distributor" means a person outside this state who  
 17 sells or distributes cigarettes into this state and is not required to be licensed under  
 18 AS 43.50.010.

19 \* **Sec. 10.** AS 43.50.190(b) is amended to read:

20 (b) The tax levied by this section is in addition to the tax levied by  
 21 AS 43.50.010 - 43.50.180. The tax shall be administered and collected in the same  
 22 manner as the tax levied by AS 43.50.010 - 43.50.180, except that receipts from the  
 23 tax shall be deposited in the general fund. The penalties provided in AS 43.05 **and**  
 24 **this chapter** apply to the tax levied in this section.

25 \* **Sec. 11.** AS 43.50.320(f) is amended to read:

26 (f) The department may suspend or revoke a license issued under this section  
 27 **as provided in AS 43.50.070** [IF THE LICENSEE VIOLATES A PROVISION OF  
 28 AS 43.50.300 - 43.50.390 OR A REGULATION ADOPTED UNDER AS 43.50.370].

29 \* **Sec. 12.** AS 43.50.390(5) is repealed and reenacted to read:

30 (5) "wholesale price" means

31 (A) if the manufacturer's established price is adequately

1 supported by bona fide arm's length sales as determined by the department, the  
 2 established price for which a manufacturer sells a tobacco product to a  
 3 distributor, after deduction of a discount or other reduction received by the  
 4 distributor for quantity or cash; or

5 (B) if the manufacturer's established price does not meet the  
 6 standards of (A) of this paragraph, the price, as determined by the department,  
 7 for which tobacco products of comparable retail price are sold to distributors in  
 8 the ordinary course of trade.

9 \* **Sec. 13.** AS 43.50 is amended by adding a new section to article 4 to read:

10 **Sec. 43.50.395. Notification of noncompliance; confiscation of**

11 **noncomplying cigarettes.** (a) The department shall notify licensees in writing when  
 12 a determination has been made that a tobacco product manufacturer has failed to  
 13 comply with AS 45.53.020 or 45.53.040(a). The department's notification shall  
 14 contain the name of the tobacco product manufacturer that failed to comply and its  
 15 affected brands of cigarettes. Upon receipt of the department's notification under this  
 16 section, the licensee may not sell or distribute in this state the affected brands of  
 17 cigarettes, and the licensee has 30 days to destroy the affected brands of cigarettes or  
 18 return the affected brands of cigarettes to the manufacturer or the distributor from  
 19 which the cigarettes were purchased. Beginning on the 31st day after the receipt of  
 20 the notice, the brands of cigarettes affected by the notice are contraband and subject to  
 21 immediate confiscation, regardless of whether cigarette tax stamps have been affixed  
 22 in accordance with AS 43.50.500 - 43.50.700 to cigarette packages affected by the  
 23 notice. The department may allow a credit for the tax on the cigarettes destroyed or  
 24 returned under this section.

25 (b) Cigarettes confiscated under this section are forfeited to the state. After  
 26 notice and an opportunity for a hearing, the commissioner shall destroy the cigarettes  
 27 forfeited under this section.

28 (c) In this section,

29 (1) "cigarette" has the meaning given in AS 45.53.100;

30 (2) "licensee" means a person licensed by the department under  
 31 AS 43.50.010, 43.50.035, or 43.50.320;

1 (3) "tobacco product manufacturer" has the meaning given in  
2 AS 45.53.100.

3 \* **Sec. 14.** AS 43.50 is amended by adding new sections to read:

4 **Article 5. Cigarette Tax Stamps.**

5 **Sec. 43.50.500. Tax payment by use of stamps.** A licensee shall pay the tax  
6 imposed under AS 43.50.090(a) and 43.50.190(a) through the use of stamps issued  
7 under AS 43.50.500 - 43.50.700.

8 **Sec. 43.50.510. Stamp design; manner of affixing.** (a) The department shall  
9 design and furnish stamps of sizes and denominations as determined by the  
10 department.

11 (b) Notwithstanding the packaging requirements of AS 43.70.075(g)(1), a  
12 stamp required under AS 43.50.500 - 43.50.700 must be affixed

13 (1) on the smallest package that will be handled, sold, used, consumed,  
14 or distributed in this state; and

15 (2) in a denomination equal to the amount of tax due under this chapter  
16 on the cigarettes in the package.

17 (c) A stamp required under AS 43.50.500 - 43.50.700 shall be affixed to the  
18 bottom of each individual package of cigarettes in a manner so that the stamp cannot  
19 be removed from the package without being mutilated or destroyed.

20 (d) For purposes of this section, a stamp is considered affixed only if more  
21 than 60 percent of the stamp is attached to the individual package in accordance with  
22 (c) of this section and regulations adopted by the department.

23 **Sec. 43.50.520. Stamp required before sale, distribution, or consumption.**

24 (a) Except as provided in AS 43.50.570, a licensee or the authorized agent or designee  
25 of the licensee shall affix a stamp, in the manner required by AS 43.50.510, to each  
26 package of cigarettes immediately upon the opening of the shipping container  
27 containing the package and before sale, distribution, or consumption in this state.

28 (b) Except as provided in AS 43.50.570 and 43.50.600, a person may not  
29 engage in the following activities in this state unless the package containing the  
30 cigarettes is affixed with the required stamp:

31 (1) sell or distribute cigarettes to a person who is a consumer in this

1 state;

2 (2) acquire, hold, own, possess, or transport cigarettes for sale or  
3 distribution in this state;

4 (3) import or cause to be imported into this state cigarettes for sale,  
5 distribution, or consumption; or

6 (4) place or store cigarette packages in a vending machine in this state.

7 **Sec. 43.50.530. Sale of stamps.** (a) The department shall furnish stamps for  
8 sale to licensees.

9 (b) The department may enter into agreements with financial institutions to  
10 permit the sale of stamps by those institutions. The department shall make available to  
11 the public a list of financial institutions authorized to sell stamps under this section.

12 **Sec. 43.50.540. Purchase of and payment for stamps.** (a) A licensee shall  
13 apply to the department or a financial institution authorized under AS 43.50.530(b) to  
14 purchase stamps required by AS 43.50.500 - 43.50.700.

15 (b) A licensee may authorize an agent or designee to purchase stamps for the  
16 licensee at a location where stamps are sold. The licensee's authorization of an agent  
17 or designee shall be in writing and shall be signed by the licensee. The licensee shall  
18 provide to the department a copy of the authorization. The authorization continues in  
19 effect until the licensee's written notice of revocation of the authorization is received  
20 by the department.

21 (c) Except as otherwise provided in this subsection, each stamp shall be sold  
22 to a licensee at its denominated value less the discount provided in this subsection.  
23 For the first \$1,000,000 in denominated value of stamps purchased by a licensee under  
24 this section in a calendar year, the discount to the licensee is equal to two percent of  
25 the stamps' denominated values. The discount on additional stamps purchased by the  
26 licensee under this section in the same calendar year is equal to one percent of the  
27 denominated values of the additional stamps. The discount under this subsection is  
28 provided as compensation for affixing stamps to packages as required by  
29 AS 43.50.500 - 43.50.700. The department may reduce or eliminate the discount to a  
30 licensee under this subsection if the licensee fails to meet the requirements of  
31 AS 43.50.500 - 43.50.700.

1 (d) Payment for stamps shall be made at the time of purchase, except that the  
2 department may permit a licensee to defer payments as provided in AS 43.50.550.

3 (e) The licensee or the licensee's agent or designee must obtain the stamps in  
4 person from the department or a financial institution authorized to sell stamps under  
5 AS 43.50.530(b). Alternatively, the licensee may request in writing that the stamps be  
6 shipped or transported in a manner specified by the licensee that is acceptable to the  
7 department. The department may accept as a shipping or transportation method only  
8 United States mail or common or private carrier.

9 (f) Title to the stamps passes immediately to the licensee at the time the  
10 stamps are obtained in person or, if the stamps are shipped or transported, at the time  
11 the stamps are placed in the United States mail or received by the common or private  
12 carrier. The licensee bears all costs associated with shipping or transporting the  
13 stamps and all risks of possible loss or damage while in transit.

14 (g) Loss, destruction, or theft of the stamps does not absolve the licensee of its  
15 obligation to make payment for the stamps, including payment on a deferred-payment  
16 basis under AS 43.50.550.

17 (h) For purposes of the discount provided in (c) of this section, stamps  
18 purchased by a licensee includes stamps purchased by affiliated licensees.

19 **Sec. 43.50.550. Deferred-payment basis for stamps.** (a) A licensee may  
20 apply to the department to purchase stamps on a deferred-payment basis. Upon  
21 receipt of the application and the bond required under (b) of this section, the  
22 department may set the maximum dollar amount of stamps that the licensee is  
23 authorized to purchase on a deferred-payment basis in a calendar month.

24 (b) A licensee who submits an application for the purchase of stamps on a  
25 deferred-payment basis shall post a bond acceptable to the department in an amount  
26 equal to 200 percent of the maximum dollar amount of allowed monthly purchases  
27 under this section as a condition of department approval of the application.

28 (c) Amounts owing for stamps purchased on a deferred-payment basis in a  
29 calendar month are due on or before the last day of the next calendar month. Payment  
30 shall be made by a remittance acceptable to the department that is made payable to the  
31 department.

1 (d) The department may designate the sales locations where the licensee may  
 2 make purchases of stamps on a deferred-payment basis and fix the dollar amount of  
 3 purchases that the licensee may make under this section each month at each designated  
 4 sales location.

5 **Sec. 43.50.560. Suspension of deferred-payment basis privilege.** The  
 6 department may suspend, without prior notice, a licensee's privilege to purchase  
 7 stamps on a deferred-payment basis or may reduce the monthly dollar amount of  
 8 purchases allowed the licensee under AS 43.50.550 if

9 (1) the licensee fails to pay for stamps when payment is due;

10 (2) the licensee's bond is canceled or becomes void, impaired, or  
 11 unenforceable;

12 (3) the department determines that the collection of an amount unpaid  
 13 or due from the licensee under this chapter is jeopardized; or

14 (4) the licensee violates a state statute or regulation related to the  
 15 collection of taxes under this chapter.

16 **Sec. 43.50.565. Interest.** A licensee who fails to pay an amount due for the  
 17 purchase of stamps within the time required is considered to have failed to pay the  
 18 cigarette taxes due under this chapter and is subject to pay interest at the rate  
 19 established under AS 43.05.225 from the date on which the amount became due until  
 20 the date of payment.

21 **Sec. 43.50.570. Possession of unstamped cigarettes.** (a) Except as provided  
 22 in (b) of this section and in AS 43.50.600, a person may not possess unstamped  
 23 cigarettes in this state.

24 (b) A licensee may possess unstamped cigarettes in this state if

25 (1) the licensee posts a surety bond in an amount satisfactory to the  
 26 department to ensure performance of its duties under this chapter; and

27 (2) unstamped cigarettes are necessary for the conduct of the licensee's  
 28 business in making sales or distributions to an instrumentality of the federal  
 29 government or an Indian tribal organization authorized by law to possess cigarettes not  
 30 taxed under this chapter.

31 (c) At the time of shipping or delivering cigarettes to an instrumentality of the

1 federal government or an Indian tribal organization authorized by law to possess  
 2 cigarettes not taxed under this chapter, a licensee shall make a duplicate invoice  
 3 showing complete details of the shipment or other distribution and a statement  
 4 indicating whether stamps were affixed to each cigarette package in accordance with  
 5 AS 43.50.500 - 43.50.700. The licensee shall transmit the duplicate invoice to the  
 6 department as an attachment to the monthly report required under AS 43.50.620.

7 (d) If a licensee who is authorized to possess unstamped cigarettes under (b)  
 8 of this section fails to comply with the requirements of this section, the licensee is no  
 9 longer authorized to, and may not, possess unstamped cigarettes under this section,  
 10 and is subject to the imposition of any other penalty available under this title or other  
 11 law.

12 (e) For purposes of (a) of this section, "person" does not include entities to  
 13 whom sales or distributions are made as described in (b)(2) of this section.

14 **Sec. 43.50.580. Refunds or credits for unused stamps and for unsalable,**  
 15 **destroyed, or certain returned cigarette packages.** (a) The department shall adopt  
 16 procedures for a refund or credit to a licensee in the amount of the denominated value,  
 17 less the discount given under AS 43.50.540, for

18 (1) unused or damaged stamps; or

19 (2) stamps affixed to cigarette packages that have become unfit for use  
 20 or sale, are destroyed, or are returned to the manufacturer for credit or replacement, if  
 21 the licensee provides proof acceptable to the department that the cigarettes have not  
 22 been and will not be consumed in this state.

23 (b) A refund or credit under (a) of this section may not be allowed for stamps  
 24 affixed to cigarette packages in violation of this chapter.

25 **Sec. 43.50.590. Stamps prohibited on cigarette packages not complying**  
 26 **with federal and state laws.** A licensee, or the licensee's authorized agent or  
 27 designee, may not affix a stamp to a cigarette package if

28 (1) the cigarettes may not be acquired, held, owned, imported,  
 29 possessed, sold, or distributed in this state under AS 43.50.400; or

30 (2) the licensee has received notification from the department under  
 31 AS 43.50.395 that the manufacturer of the cigarettes has not complied with

1 AS 45.53.020 or filed with the state a certification of compliance under  
2 AS 45.53.040(a).

3 **Sec. 43.50.600. Unstamped cigarettes as contraband; seizure.** Unstamped  
4 cigarettes found in this state are contraband, and may be seized by the commissioner  
5 of revenue or an agent or employee of the commissioner of revenue or by any peace  
6 officer of the state, unless

7 (1) the cigarettes are

8 (A) in the possession of a licensee or are in transit from outside  
9 the state and are consigned to a licensee; and

10 (B) in the original and unopened shipping container; or

11 (2) possession of the unstamped cigarettes is not a violation of this  
12 chapter.

13 **Sec. 43.50.610. Forfeiture and destruction of seized cigarettes.** Cigarettes  
14 seized under AS 43.50.500 - 43.50.700 are forfeited to the state. After notice and an  
15 opportunity for a hearing, the commissioner of revenue shall destroy the cigarettes  
16 forfeited under this section.

17 **Sec. 43.50.620. Monthly reports; records retention; inspection of records.**

18 (a) On or before the last day of each calendar month, a licensee shall file with the  
19 department, on a form or in a format prescribed by the department, the following  
20 information for each place of business:

21 (1) the quantity and brands of cigarettes manufactured, imported,  
22 acquired, or sold in the state during the preceding calendar month;

23 (2) the number and dollar amount of stamps purchased during the  
24 preceding calendar month;

25 (3) the number and dollar amount of stamps affixed to cigarette  
26 packages during the preceding calendar month;

27 (4) the number and dollar amount of stamps not affixed to cigarette  
28 packages and on hand at the end of the preceding calendar month; and

29 (5) any other information that the department requires to carry out its  
30 duties under this chapter.

31 (b) If a licensee ceases to manufacture, import, acquire, or sell cigarettes, the

1 licensee shall immediately file with the department the form required under (a) of this  
2 section, containing the required information, for the period ending with the cessation.

3 (c) All statements and other records required by AS 43.50.500 - 43.50.700  
4 shall be in a form or format prescribed by the department, shall be preserved by a  
5 licensee for a period of three years, and shall be available for inspection at any time  
6 upon oral or written demand by the department or its authorized agent.

7 **Sec. 43.50.630. Misconduct involving unstamped cigarettes or stamps in**  
8 **the first degree.** (a) A person commits the crime of misconduct involving unstamped  
9 cigarettes or stamps in the first degree if the person

10 (1) sells or distributes 1,000 or more unstamped cigarettes in a single  
11 transaction;

12 (2) owns or possesses with the intent to sell 1,000 or more unstamped  
13 cigarettes;

14 (3) acquires, holds, transports, imports, or possesses 10,000 or more  
15 unstamped cigarettes;

16 (4) affixes to a cigarette package a stamp that was previously affixed to  
17 another cigarette package; or

18 (5) possesses, sells, or distributes a stamp that was previously affixed  
19 to a cigarette package.

20 (b) Each sale or distribution of, or ownership or possession with intent to sell,  
21 1,000 or more cigarettes in violation of (a)(1) or (2) of this section is a separate  
22 violation.

23 (c) Misconduct involving unstamped cigarettes or stamps in the first degree is  
24 a class C felony.

25 **Sec. 43.50.640. Misconduct involving unstamped cigarettes or stamps in**  
26 **the second degree.** (a) A person commits the crime of misconduct involving  
27 unstamped cigarettes or stamps in the second degree if the person

28 (1) sells or distributes less than 1,000 unstamped cigarettes in a single  
29 transaction;

30 (2) owns or possesses with the intent to sell less than 1,000 unstamped  
31 cigarettes;

1 (3) acquires, holds, transports, imports, or possesses less than 10,000  
2 unstamped cigarettes; or

3 (4) is not licensed under this chapter or otherwise authorized by the  
4 department to possess stamps, and possesses a stamp that is not affixed to a cigarette  
5 package.

6 (b) Each sale or distribution of, or ownership or possession with intent to sell,  
7 less than 1,000 cigarettes in violation of (a)(1) or (2) of this section is a separate  
8 violation.

9 (c) Misconduct involving unstamped cigarettes or stamps in the second degree  
10 is a class A misdemeanor.

11 **Sec. 43.50.650. Construction of criminal statutes.** (a) The provisions of  
12 AS 11.16, AS 11.81.600, 11.81.610, and 11.81.900 apply to AS 43.50.630 and  
13 43.50.640.

14 (b) For purposes of AS 43.50.630 and 43.50.640, display of cigarettes by a  
15 person, or possession other than in the original and unopened shipping container of  
16 cigarettes by a person who holds a business license endorsement under AS 43.70.075,  
17 is prima facie evidence of possession with intent to sell cigarettes.

18 (c) In AS 43.50.630, 43.50.640, and (b) of this section, "display" means to  
19 openly exhibit.

20 **Sec. 43.50.660. Unauthorized transfer of unaffixed stamps.** (a) A licensee  
21 may not sell, exchange, or otherwise transfer stamps not affixed to a package of  
22 cigarettes in accordance with this chapter to another person without the prior written  
23 approval of the department.

24 (b) After notice and hearing, the department may assess a civil fine of not less  
25 than \$500 nor more than \$1,000 for a violation of (a) of this section. The fine assessed  
26 is in addition to any other penalty available under the law.

27 **Sec. 43.50.700. Definitions.** In AS 43.50.500 - 43.50.700, unless the context  
28 otherwise requires,

29 (1) "affiliated licensees" means two or more licensees in which the  
30 same person holds, directly or indirectly, at least a 50 percent ownership interest;

31 (2) "carton" means a box or container originating from the

1 manufacturer that contains packages of that manufacturer's cigarettes;

2 (3) "cigarette" has the meaning given in AS 43.50.170;

3 (4) "licensee" means a person licensed by the department under  
4 AS 43.50.010 or 43.50.035 to sell, distribute, purchase, possess, or acquire cigarettes;

5 (5) "package" means the individual packet, box, or other container,  
6 originating from the manufacturer, in which retail sales of cigarettes are normally  
7 made or intended to be made; "package" does not include containers that are cartons,  
8 cases, bales, or boxes that contain packages of cigarettes;

9 (6) "person" has the meaning given in AS 43.50.170;

10 (7) "shipping container" means the case, box, parcel, or other container  
11 in which cartons or packages of cigarettes are placed for shipment or transportation  
12 from one place to another; "shipping container" does not include a package in which  
13 retail sales of cigarettes are normally made or intended to be made;

14 (8) "stamp" means a stamp or other indicia that is

15 (A) printed, manufactured, or made under authorization of the  
16 department under this chapter;

17 (B) issued, sold, or circulated by the department; and

18 (C) used to pay the cigarette taxes levied under this chapter;

19 (9) "unstamped cigarettes" means a package containing cigarettes that  
20 is not affixed with the stamp required by AS 43.50.500 - 43.50.700.

21 \* **Sec. 15.** AS 43.50.080 and 43.50.145 are repealed.

22 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 TRANSITION: REGULATIONS. Notwithstanding sec. 20 of this Act, the  
25 Department of Revenue may immediately proceed to adopt regulations necessary to  
26 implement the changes made by this Act. The regulations take effect under AS 44.62  
27 (Administrative Procedure Act), but not before the effective date of the respective statutory  
28 changes.

29 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 TRANSITION: ACTIVITIES INVOLVING UNSTAMPED CIGARETTES

1 THROUGH MARCH 31, 2003. (a) Notwithstanding the requirements of AS 43.50.500 -  
2 43.50.700, enacted by sec. 14 of this Act, a person may acquire, hold, own, import, possess,  
3 sell, distribute, or consume unstamped cigarettes in this state on or after January 1, 2003, and  
4 until March 31, 2003, if the cigarettes were in this state before January 1, 2003.

5 (b) In this section, "unstamped cigarettes" has the meaning given in AS 43.50.700,  
6 enacted by sec. 14 of this Act.

7 \* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
10 heading of art. 4 of AS 43.50 from "Compliance With Federal Laws Relating to Cigarettes" to  
11 "Compliance With Other Laws Relating to Cigarettes."

12 \* **Sec. 19.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

13 \* **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect January 1, 2003.