

CS FOR HOUSE BILL NO. 429(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/17/02

Referred: Judiciary, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain licenses for the sale, distribution, or manufacture of tobacco
2 products; relating to tobacco taxes and sales and cigarette tax stamps; relating to
3 provisions making certain cigarettes contraband and subject to seizure and forfeiture;
4 relating to certain crimes, penalties, and interest concerning tobacco taxes and sales;
5 relating to notification regarding a cigarette manufacturer's noncompliance with the
6 tobacco product Master Settlement Agreement or related statutory provisions and to
7 confiscation of the affected cigarettes; 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 **shall adopt reasonable**
 6 **regulations that it considers necessary regarding the** [MAY ISSUE PERMITS IN
 7 PLACE OF BONDS TO RESIDENT HOLDERS OF] wholesaler-distributor **license,**
 8 **including standards for**

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

10 **(2) refusal to issue the license** [LICENSES DOING BUSINESS

11 WHOLLY IN THE STATE WHO PAY THE TAX BEFORE SHIPMENT].

12 * **Sec. 2.** AS 43.50.040 is amended to read:

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

23 * **Sec. 3.** AS 43.50.070 is amended to read:

24 **Sec. 43.50.070. Suspension or revocation [REVOICATION] of licenses.**

25 The department may suspend or revoke a license issued under **this chapter**
 26 [AS 43.50.010 - 43.50.180] (1) for a negligent violation of AS 11.76.100, 11.76.106,
 27 11.76.107, or a violation of **this chapter** [AS 43.50.010 - 43.50.180] or a regulation of
 28 the department adopted under **this chapter** [AS 43.50.010 - 43.50.180]; (2) if a
 29 licensee ceases to act in the capacity for which the license was issued; or (3) if a
 30 **licensee** [MANUFACTURER, DISTRIBUTOR, OR WHOLESALE DISTRIBUTOR]
 31 negligently sells tobacco or products containing tobacco to a **person who is required**

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

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

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

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

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

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

29 (d) A person or licensee who is in control or possession of cigarettes contrary
 30 to **this chapter** [AS 43.50.010 - 43.50.180,] or who offers to sell or dispose of
 31 cigarettes to others for the purpose of resale without being licensed to do so is

1 considered to have possession of the cigarettes as a consumer and is personally liable
 2 for the **cigarette taxes imposed by this chapter** [TAX], plus a penalty of 100 **percent**
 3 [PER CENT].

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

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

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

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

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

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

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

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

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

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

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

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

29 (5) "wholesale price" means

30 (A) the established price for which a manufacturer sells a
 31 tobacco product to a distributor after deduction of a discount or other reduction

1 received by the distributor for quantity or cash if the manufacturer's established
 2 price is adequately supported by bona fide arm's length sales as determined by
 3 the department; or

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

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

9 **Sec. 43.50.395. Notification of noncompliance; confiscation of**
 10 **noncomplying cigarettes.** (a) The department shall notify a licensee in writing when
 11 a determination has been made that a tobacco product manufacturer has failed to
 12 comply with AS 45.53.020 or 45.53.040(a). The department's notification must
 13 contain the name of the tobacco product manufacturer that failed to comply and its
 14 affected brands of cigarettes. Upon receipt of the department's notification under this
 15 section, the licensee may not sell or distribute the affected brands of cigarettes in this
 16 state, and the licensee has 30 days to destroy the affected brands of cigarettes or return
 17 the affected brands of cigarettes to the manufacturer or the distributor from which the
 18 cigarettes were purchased. Beginning on the 31st day after the receipt of the notice,
 19 the brands of cigarettes affected by the notice are contraband and subject to immediate
 20 confiscation regardless of whether cigarette tax stamps have been affixed under
 21 AS 43.50.500 - 43.50.700 to cigarette packages affected by the notice. The
 22 department may allow a credit for the tax on the cigarettes destroyed or returned under
 23 this section.

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

27 (c) In this section,

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

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

31 (3) "tobacco product manufacturer" has the meaning given in

1 AS 45.53.100.

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

3 **Article 5. Cigarette Tax Stamps.**

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

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

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

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

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

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

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

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

23 (a) Except as provided in AS 43.50.580, a licensee or the authorized agent or designee
24 of the licensee shall affix a stamp, in the manner required by AS 43.50.510, to each
25 package of cigarettes immediately upon the opening of the shipping container
26 containing the package and before sale, distribution, or consumption in this state.

27 (b) Except as provided in AS 43.50.580 and 43.50.610, a person may not
28 engage in the following activities in this state unless the package containing the
29 cigarettes is affixed with the required stamp:

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

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

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

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

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

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

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 must be in writing and must be signed by the licensee. The licensee shall
18 provide a copy of the authorization to the department. The authorization continues in
19 effect until the department receives the licensee's written notice of revocation of the
20 authorization.

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 The discount under this subsection is provided as compensation for affixing stamps to
24 packages as required by AS 43.50.500 - 43.50.700. The department may reduce or
25 eliminate the discount to a licensee under this subsection if the licensee fails to meet
26 the requirements of AS 43.50.500 - 43.50.700. The discount under this subsection is
27 equal to the sum of the amounts calculated using the following percentages of
28 denominated value of stamps purchased by a licensee under this section in a calendar
29 year:

30 (1) \$1,000,000 or less, three percent;

31 (2) the amount that is more than \$1,000,000 but not more than

1 \$2,000,000, two percent;

2 (3) the amount that is more than \$2,000,000 but not more than
3 \$5,000,000, 0.5 percent;

4 (4) the amount that is over \$5,000,000, zero percent.

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

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

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

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

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

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

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

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

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

9 **Sec. 43.50.560. Suspension of deferred-payment basis privilege.** The
 10 department may suspend, without prior notice, a licensee's privilege to purchase
 11 stamps on a deferred-payment basis or may reduce the monthly dollar amount of
 12 purchases the licensee may make under AS 43.50.550 if

- 13 (1) the licensee fails to pay for stamps when payment is due;
 14 (2) the licensee's bond is cancelled or becomes void, impaired, or
 15 unenforceable;
 16 (3) the department determines that the collection of an amount unpaid
 17 or due from the licensee under this chapter is jeopardized; or
 18 (4) the licensee violates a state statute or regulation related to the
 19 collection of taxes under this chapter.

20 **Sec. 43.50.570. Interest.** A licensee who fails to pay an amount due for the
 21 purchase of stamps within the time required

- 22 (1) is considered to have failed to pay the cigarette taxes due under this
 23 chapter; and
 24 (2) shall pay interest at the rate established under AS 43.05.225 from
 25 the date on which the amount became due until the date of payment.

26 **Sec. 43.50.580. Possession of unstamped cigarettes.** (a) Except as provided
 27 in (b) of this section and in AS 43.50.610, a person may not possess unstamped
 28 cigarettes in this state.

- 29 (b) A licensee may possess unstamped cigarettes in this state if
 30 (1) the licensee posts a surety bond in an amount satisfactory to the
 31 department to ensure performance of its duties under this chapter; and

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

5 (c) At the time of shipping or delivering cigarettes to an instrumentality of the
 6 federal government or an Indian tribal organization authorized by law to possess
 7 cigarettes not taxed under this chapter, a licensee shall make a duplicate invoice
 8 showing complete details of the shipment or other distribution and a statement
 9 indicating whether stamps were affixed to each cigarette package in accordance with
 10 AS 43.50.500 - 43.50.700. The licensee shall transmit the duplicate invoice to the
 11 department as an attachment to the monthly report required under AS 43.50.630.

12 (d) If a licensee who is authorized to possess unstamped cigarettes under (b)
 13 of this section fails to comply with the requirements of this section, the licensee is no
 14 longer authorized to and may not possess unstamped cigarettes under this section and
 15 is subject to the imposition of any applicable penalty under this title or other law.

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

18 **Sec. 43.50.590. Refunds or credits for unused stamps and for unsalable,**
 19 **destroyed, or certain returned cigarette packages.** (a) The department shall adopt
 20 procedures for a refund or credit to a licensee in the amount of the denominated value,
 21 less the discount given under AS 43.50.540, for

22 (1) unused or damaged stamps; or

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

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

29 **Sec. 43.50.600. Stamps prohibited on cigarette packages not complying**
 30 **with federal and state laws.** A licensee or the licensee's authorized agent or designee
 31 may not affix a stamp to a cigarette package if

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

3 (2) the licensee has received notification from the department under
4 AS 43.50.395 that the manufacturer of the cigarettes has not complied with
5 AS 45.53.020 or filed a certification of compliance with the state under
6 AS 45.53.040(a).

7 **Sec. 43.50.610. Unstamped cigarettes as contraband; seizure.** Unstamped
8 cigarettes found in this state are contraband and may be seized by the commissioner or
9 an agent or employee of the commissioner or by any peace officer of the state, unless

10 (1) the cigarettes are

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

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

14 (2) possession of the unstamped cigarettes is not a violation of this
15 chapter.

16 **Sec. 43.50.620. Forfeiture and destruction of seized cigarettes.** Cigarettes
17 seized under AS 43.50.500 - 43.50.700 are forfeited to the state. After notice and an
18 opportunity for a hearing, the commissioner shall destroy the cigarettes forfeited under
19 this section.

20 **Sec. 43.50.630. Monthly reports; records retention; inspection of records.**

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

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

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

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

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

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

3 (b) If a licensee ceases to manufacture, import, acquire, or sell cigarettes, the
4 licensee shall immediately file the form required under (a) of this section with the
5 department, for the period ending with the cessation.

6 (c) All statements and other records required by AS 43.50.500 - 43.50.700
7 must be

8 (1) in a form or format prescribed by the department;

9 (2) preserved by a licensee for a period of three years; and

10 (3) available for inspection at any time upon oral or written demand by
11 the department or its authorized agent.

12 **Sec. 43.50.640. Misconduct involving unstamped cigarettes or stamps in**
13 **the first degree.** (a) A person commits the crime of misconduct involving unstamped
14 cigarettes or stamps in the first degree if the person

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

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

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

21 (4) affixes a stamp to a cigarette package if the stamp was previously
22 affixed to another cigarette package; or

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

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

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

30 **Sec. 43.50.650. Misconduct involving unstamped cigarettes or stamps in**
31 **the second degree.** (a) A person commits the crime of misconduct involving

1 unstamped cigarettes or stamps in the second degree if the person

2 (1) sells or distributes at least one but less than 1,000 unstamped
3 cigarettes in a single transaction;

4 (2) with the intent to sell, owns or possesses at least one but less than
5 1,000 unstamped cigarettes;

6 (3) acquires, holds, transports, imports, or possesses at least one but
7 less than 10,000 unstamped cigarettes; or

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

11 (b) Each sale or distribution of at least one but less than 1,000 cigarettes in
12 violation of (a)(1) of this section or ownership or possession of at least one but less
13 than 1,000 cigarettes with intent to sell under (a)(2) of this section is a separate
14 violation.

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

17 **Sec. 43.50.660. Construction of criminal statutes.** (a) The provisions of
18 AS 11.16, AS 11.81.600, 11.81.610, and 11.81.900 apply to AS 43.50.640 and
19 43.50.650.

20 (b) For purposes of AS 43.50.640 and 43.50.650, display of cigarettes by a
21 person, or possession other than in the original and unopened shipping container of
22 cigarettes by a person who holds a business license endorsement under AS 43.70.075,
23 is prima facie evidence of possession with intent to sell cigarettes. In this subsection,
24 "display" means to openly exhibit.

25 **Sec. 43.50.670. Unauthorized transfer of unaffixed stamps.** (a) A licensee
26 may not sell, exchange, or otherwise transfer stamps not affixed to a package of
27 cigarettes in accordance with this chapter to another person without the prior written
28 approval of the department.

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

1 **Sec. 43.50.700. Definitions.** In AS 43.50.500 - 43.50.700, unless the context
2 otherwise requires,

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

5 (2) "carton" means a box or container originating from the
6 manufacturer that contains packages of that manufacturer's cigarettes;

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

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

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

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

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

19 (8) "stamp" means a stamp or other indicium that is

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

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

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

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

26 * **Sec. 15.** AS 43.50.080 and 43.50.145 are repealed.

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

29 TRANSITION: REGULATIONS. Notwithstanding sec. 20 of this Act, the
30 Department of Revenue may immediately proceed to adopt regulations necessary to
31 implement the changes made by this Act. The regulations take effect under AS 44.62

1 (Administrative Procedure Act), but not before the effective date of the respective statutory
2 changes.

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

5 TRANSITION: ACTIVITIES INVOLVING UNSTAMPED CIGARETTES
6 THROUGH MARCH 31, 2003. (a) Notwithstanding the requirements of AS 43.50.500 -
7 43.50.700, enacted by sec. 14 of this Act, a person may acquire, hold, own, import, possess,
8 sell, distribute, or consume unstamped cigarettes in this state on or after January 1, 2003, and
9 on or before March 31, 2003, if the cigarettes were in this state before January 1, 2003.

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

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

14 REVISOR INSTRUCTION. The revisor of statutes is instructed to change the
15 heading of art. 4 of AS 43.50 from "Compliance with Federal Laws Relating to Cigarettes" to
16 "Compliance with Other Laws Relating to Cigarettes."

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

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