

**HOUSE BILL NO. 219**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE CHENAULT**

**Introduced: 3/28/03**

**Referred: Labor and Commerce**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to cigarette sales."**

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

3 \* **Section 1.** AS 45.50.566 is amended to read:

4           **Sec. 45.50.566. Transactions and agreements not to use or deal in**  
5           **commodities or services unlawful. Except as provided under AS 45.53.200, it [IT]**  
6           is unlawful for a person to lease or make a sale or contract for sale of goods, wares,  
7           merchandise, machinery, supplies, or other commodities, or services, whether patented  
8           or unpatented, for use, consumption, enjoyment, or resale, or fix a price charged for it,  
9           or discount from, or rebate upon, that price, on the condition, agreement, or  
10          understanding that the lessee or purchaser will not use or deal in the goods, wares,  
11          merchandise, machinery, supplies, or other commodity or service of a competitor or  
12          competitors of the lessor or seller, if the effect of the lease, sale or contract for sale, or  
13          of the condition, agreement, or understanding may be substantially to lessen  
14          competition or tend to create a monopoly in any line of commerce.

15 \* **Sec. 2.** AS 45.53 is amended by adding a new section to read:

1 **Article 2. Cigarette Sales and Promotions.**

2 **Sec. 45.53.200. Cigarette sales and promotions.** (a) A retailer may enter  
3 into and participate in a tobacco product manufacturer's merchandising, advertising,  
4 display, or consumer discount or promotional agreement or program in which the  
5 retailer

6 (1) provides merchandising, shelf space, advertising, stocking, or  
7 display to the manufacturer;

8 (2) conducts the tobacco product manufacturer's consumer promotion  
9 or discount program and provides a promotion or discount to a consumer; and

10 (3) is paid or compensated by the tobacco product manufacturer for  
11 performing activities described in this subsection.

12 (b) A tobacco product manufacturer may

13 (1) offer and enter into a retailer agreement or program described  
14 under (a) of this section;

15 (2) pay or provide other compensation to a retailer for participating in  
16 a retailer agreement or program described in (a) of this section; and

17 (3) provide a consumer promotion or discount to a retailer that the  
18 retailer provides a consumer.

19 (c) A tobacco product manufacturer may not, directly or indirectly,

20 (1) condition a retailer's receipt of a consumer promotion or consumer  
21 price discount on the retailer's conduct or action relating to a manufacturer's products,  
22 except for a requirement that the retailer

23 (A) provide the promotion or discount to a consumer; or

24 (B) advertise and display the promotion and the promoted or  
25 discounted product to a consumer;

26 (2) require or cause the retailer to allocate a specified percentage or  
27 fraction of the retailer's merchandising, stocking, display, shelf, or advertising space to  
28 the manufacturer;

29 (3) prevent, restrict, or limit a retailer from stocking, advertising,  
30 displaying, or participating in a program for another manufacturer's product;

31 (4) prevent, restrict, or limit the retailer from determining the size or

1 location of the space that the retailer uses to stock, display, promote, or advertise  
2 cigarettes; or

3 (5) require the retailer to raise the retailer's prices on, or prevent the  
4 retailer from setting, retaining, or reducing its prices on, another manufacturer's  
5 products.

6 (d) In this section, "retailer" means a person in the state who is engaged in the  
7 business of selling cigarettes at retail.

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

10 REVISOR INSTRUCTION. In AS 45.53.100, the revisor of statutes shall substitute  
11 the spanned reference "AS 45.53.010 - 45.53.100" for the reference to "this chapter."