

**HOUSE BILL NO. 260**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 4/7/05

Referred: Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to purchase and possession of cigarettes or tobacco products by a  
2 person under 19 years of age, to licenses for persons engaged in activities involving  
3 tobacco products, to taxes on cigarettes and tobacco products, and to the amount of the  
4 bond required to stay execution of a judgment in civil litigation involving a signatory, a  
5 successor of a signatory, or an affiliate of a signatory to the tobacco product Master  
6 Settlement Agreement during an appeal; amending Rules 204, 205, and 603, Alaska  
7 Rules of Appellate Procedure; and providing for an effective date."

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

9 \* **Section 1.** AS 11.76.105 is amended to read:

10 **Sec. 11.76.105. Purchase, possession, attempted purchase, or attempted**  
11 **possession [POSSESSION] of tobacco by a person under 19 years of age**  
12 **[MINOR]. (a) A person under 19 years of age may not knowingly purchase,**  
13 **possess, attempt to purchase, or attempt to possess a cigarette, a cigar, tobacco, or a**

1 product containing tobacco in this state. This subsection does not apply to a person  
 2 who is a prisoner at an adult correctional facility or to a person who is assisting a  
 3 peace officer in the enforcement of this section.

4 (b) Purchase, possession, attempted purchase, or attempted possession  
 5 [POSSESSION] of tobacco by a person under 19 years of age [MINOR] is a  
 6 violation.

7 \* **Sec. 2.** AS 43.50.190(a) is amended to read:

8 (a) There is levied an excise tax on each cigarette imported or acquired in this  
 9 state,

10 (1) after December 31, 2004, but before January [JULY ]1, 2006, 42  
 11 mills;

12 (2) on or after January 1 [JUNE 30], 2006 [, BUT BEFORE JULY 1,  
 13 2007, 52 MILLS;

14 (3) AFTER JUNE 30, 2007], 62 mills.

15 \* **Sec. 3.** AS 43.50.300 is amended to read:

16 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco  
 17 products in the state. The rate of the tax is 100 [AT THE RATE OF 75] percent of  
 18 the wholesale price of the tobacco products. The tax is levied when a person

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

21 (2) makes, manufactures, or fabricates a tobacco product in the state  
 22 for sale in the state; [OR]

23 (3) ships or transports a tobacco product to a retailer in the state for  
 24 sale by the retailer or to an individual for personal consumption; or

25 (4) brings, or causes to be brought, a tobacco product into the state  
 26 from outside the state for personal consumption.

27 \* **Sec. 4.** AS 43.50.320(a) is repealed and reenacted to read:

28 (a) Except as provided in (g) of this section, a person engaging in an activity  
 29 described in AS 43.50.300(1) - (3) must be licensed by the department as a distributor,  
 30 and a person engaging in an activity described in AS 43.50.300(4) must be licensed as  
 31 a buyer.

1 \* **Sec. 5.** AS 43.50.320(b) is amended to read:

2 (b) The department, upon application and payment of a fee of \$50, shall issue  
3 a license for one year to a person who applies for a **distributor** license. **The**  
4 **department, upon application and payment of a fee of \$25, shall issue a license**  
5 **for one year to a person who applies for a buyer license** [UNDER (a) OF THIS  
6 SECTION].

7 \* **Sec. 6.** AS 43.50.320(d) is amended to read:

8 (d) A **distributor** license issued under this section must include the name and  
9 address of the licensee, the type of business to be conducted, and the year for which  
10 the license is issued.

11 \* **Sec. 7.** AS 43.50.320(e) is amended to read:

12 (e) The department may renew a **distributor** license issued under this section  
13 for a fee of \$50. **The department may renew a buyer license issued under this**  
14 **section for a fee of \$25.**

15 \* **Sec. 8.** AS 43.50.330(a) is amended to read:

16 (a) On or before the last day of each calendar month, a licensee shall file a  
17 return with the department. The return must state the number or amount of tobacco  
18 products sold **or imported for personal consumption** by the licensee during the  
19 preceding calendar month, the selling price **or purchase price** of the tobacco  
20 products, and the amount of tax imposed on the tobacco products.

21 \* **Sec. 9.** AS 43.50.390(1) is amended to read:

22 (1) "distributor" means a person who

23 (A) brings, or causes to be brought, a tobacco product into the  
24 state from outside the state for sale;

25 (B) makes, manufactures, or fabricates a tobacco product in the  
26 state for sale in the state; or

27 (C) ships or transports a tobacco product to a retailer in the  
28 state for sale by the retailer **or to an individual for personal consumption;**

29 \* **Sec. 10.** AS 43.50.390(2) is amended to read:

30 (2) "licensee" means a distributor **or buyer** who is

31 (A) licensed under AS 43.50.320; or

1 (B) exempted by AS 43.50.320(g) from licensing under  
2 AS 43.50.320;

3 \* **Sec. 11.** AS 43.50.390 is amended by adding a new paragraph to read:

4 (6) "buyer" means a person who imports tobacco products for the  
5 person's own consumption from a source other than a licensee.

6 \* **Sec. 12.** AS 45.53 is amended by adding a new section to read:

7 **Sec. 45.53.050. Stays pending appeal in civil cases.** (a) Except as provided  
8 in (b) of this section, in order to secure and protect the money to be received as a result  
9 of the Master Settlement Agreement, in civil tobacco-related litigation under any legal  
10 theory involving a signatory, a successor of a signatory, or an affiliate of a signatory to  
11 the Master Settlement Agreement, the supersedeas bond to be furnished in order to  
12 stay the execution of the judgment during the entire course of appellate review shall be  
13 set in accordance with applicable laws or court rules, except that the total bond that is  
14 required of all appellants collectively may not exceed \$100,000,000 regardless of the  
15 value of the judgment.

16 (b) If an appellee proves by a preponderance of the evidence that an appellant  
17 is dissipating assets to avoid the payment of a judgment, a court may require the  
18 appellant to post a bond in an amount up to the full amount of the judgment.

19 \* **Sec. 13.** AS 47.12.030(b) is amended to read:

20 (b) When a minor is accused of violating a statute specified in this subsection,  
21 other than a statute the violation of which is a felony, this chapter and the Alaska  
22 Delinquency Rules do not apply and the minor accused of the offense shall be  
23 charged, prosecuted, and sentenced in the district court in the same manner as an  
24 adult; if a minor is charged, prosecuted, and sentenced for an offense under this  
25 subsection, the minor's parent, guardian, or legal custodian shall be present at all  
26 proceedings; the provisions of this subsection apply when a minor is accused of  
27 violating

28 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
29 a municipality;

30 (2) AS 11.76.105, relating to the **purchase, possession, attempted**  
31 **purchase, or attempted possession** of tobacco by a person under 19 years of age;

1 (3) a fish and game statute or regulation under AS 16;

2 (4) a parks and recreational facilities statute or regulation under  
3 AS 41.21;

4 (5) AS 04.16.050, relating to possession, control, or consumption of  
5 alcohol, except for conduct constituting habitual minor consuming or in possession or  
6 control under AS 04.16.050(d); and

7 (6) a municipal curfew ordinance, whether adopted under  
8 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its  
9 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for  
10 the violation of a municipal curfew ordinance, the court shall allow a defendant the  
11 option of performing community work; the value of the community work, which may  
12 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);  
13 in this paragraph, "community work" includes the work described in AS 12.55.055(b)  
14 or work that, on the recommendation of the municipal or borough assembly, city  
15 council, or traditional village council of the defendant's place of residence, would  
16 benefit persons within the municipality or village who are elderly or disabled.

17 \* **Sec. 14.** Section 4, ch. 48, SLA 1997, as amended by sec. 42, ch. 1, FSSLA 2004, is  
18 repealed and reenacted to read:

19 Sec. 4. AS 43.50.190(a) is repealed and reenacted to read:

20 (a) There is levied an excise tax on each cigarette imported or acquired in this  
21 state,

22 (1) after December 31, 2004, but before January 1, 2006, 77.5 mills;

23 (2) on or after January 1, 2006, 97.5 mills.

24 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 **INDIRECT COURT RULE AMENDMENT.** AS 45.53.050, added by sec. 12 of this  
27 Act, has the effect of changing Rules 204, 205, and 603, Alaska Rules of Appellate  
28 Procedure, by limiting the court's discretion to determine the amount of a supersedeas bond in  
29 certain cases.

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

1           APPLICABILITY. AS 43.53.050, added by sec. 12 of this Act, applies to all cases  
2 pending on or filed on or after the effective date of this Act.

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

5           CONDITIONAL EFFECT OF SECTIONS 2, 3, 12, and 14. AS 45.53.050, added by  
6 sec. 12 of this Act, the amendments to AS 43.50.190(a) and 43.50.300 made in secs. 2 and 3  
7 of this Act, and the repeal and reenactment of AS 43.50.190(a) by sec. 14 of this Act take  
8 effect only if sec. 15 of this Act receives the two-thirds majority vote of each house required  
9 by art. IV, sec. 15, Constitution of the State of Alaska.

10       \* **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).