

**CS FOR HOUSE BILL NO. 260(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/15/05

Referred: Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

**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, to a person who is assisting an  
 3 agent or employee of the Department of Health and Social Services under  
 4 AS 44.29.092, or to a peace officer in the enforcement of this section,  
 5 AS 11.76.100, 11.76.106, or 11.76.107.

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

9 \* **Sec. 2.** AS 43.50.300 is amended to read:

10 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco  
 11 products in the state at the rate of 75 percent of the wholesale price of the tobacco  
 12 products. The tax is levied when a person

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

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

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

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

21 \* **Sec. 3.** AS 43.50.320(a) is repealed and reenacted to read:

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

26 \* **Sec. 4.** AS 43.50.320(b) is amended to read:

27 (b) The department, upon application and payment of a fee of \$50, shall issue  
 28 a license for one year to a person who applies for a distributor license. The  
 29 department, upon application and payment of a fee of \$25, shall issue a license  
 30 for one year to a person who applies for a buyer license [UNDER (a) OF THIS  
 31 SECTION].

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

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

5 \* **Sec. 6.** AS 43.50.320(e) is amended to read:

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

9 \* **Sec. 7.** AS 43.50.330(a) is amended to read:

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

15 \* **Sec. 8.** AS 43.50.390(1) is amended to read:

16 (1) "distributor" means a person who

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

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

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

23 \* **Sec. 9.** AS 43.50.390(2) is amended to read:

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

25 (A) licensed under AS 43.50.320; or

26 (B) exempted by AS 43.50.320(g) from licensing under  
27 AS 43.50.320;

28 \* **Sec. 10.** AS 43.50.390 is amended by adding a new paragraph to read:

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

31 \* **Sec. 11.** AS 43.50.510(a) is amended to read:

1 (a) The department shall design and furnish stamps of sizes and  
 2 denominations as determined by the department. **The stamps shall be printed with**  
 3 **the name of the state and a serial number, and whatever other markings the**  
 4 **department considers appropriate.**

5 \* **Sec. 12.** AS 43.50.510(d) is amended to read:

6 (d) For purposes of this section, a stamp is considered affixed only if more  
 7 than 80 percent of the stamp is attached to the individual package in accordance with  
 8 (c) of this section and regulations adopted by the department (d) For purposes of this  
 9 section, a stamp is considered affixed only if more than **55** [80] percent of the stamp is  
 10 attached to the individual package in accordance with (c) of this section and  
 11 regulations adopted by the department **and**

12 **(1) four of the letters of the state name printed on the stamp are**  
 13 **legible; or**

14 **(2) three of the serial numbers printed on the stamp are legible.**

15 \* **Sec. 13.** AS 45.53 is amended by adding a new section to read:

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

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

28 \* **Sec. 14.** AS 47.12.030(b) is amended to read:

29 (b) When a minor is accused of violating a statute specified in this subsection,  
 30 other than a statute the violation of which is a felony, this chapter and the Alaska  
 31 Delinquency Rules do not apply and the minor accused of the offense shall be

1 charged, prosecuted, and sentenced in the district court in the same manner as an  
2 adult; if a minor is charged, prosecuted, and sentenced for an offense under this  
3 subsection, the minor's parent, guardian, or legal custodian shall be present at all  
4 proceedings; the provisions of this subsection apply when a minor is accused of  
5 violating

6 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
7 a municipality;

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

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

11 (4) a parks and recreational facilities statute or regulation under  
12 AS 41.21;

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

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

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

28 **INDIRECT COURT RULE AMENDMENT.** AS 45.53.050, added by sec. 13 of this  
29 Act, has the effect of changing Rules 204, 205, and 603, Alaska Rules of Appellate  
30 Procedure, by limiting the court's discretion to determine the amount of a supersedeas bond in  
31 certain cases.

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

3           APPLICABILITY. AS 43.53.050, added by sec. 13 of this Act, applies to all cases  
4 pending on or filed on or after the effective date of this Act.

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

7           CONDITIONAL EFFECT OF SECTION 13. AS 45.53.050, added by sec. 13 of this  
8 Act takes effect only if sec. 15 of this Act receives the two-thirds majority vote of each house  
9 required 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).