

SENATE BILL NO. 117

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR MCGUIRE

Introduced: 2/20/09

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring the Department of Revenue to set the minimum price for cigarettes
2 for sale by wholesalers and retailers; and prohibiting a wholesaler or retailer from
3 selling at wholesale or retail cigarettes at a lower price than the price set by the
4 Department of Revenue."

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

6 * **Section 1.** AS 43.50.710(a) is amended to read:

7 (a) A wholesaler or retailer may not, with intent to injure competitors or
8 destroy or substantially lessen competition,

9 (1) advertise, offer to sell, or sell, at retail or wholesale, cigarettes at
10 less than **the minimum price determined by the department under**

11 **(A) AS 43.50.810(a) for a sale at wholesale; or**

12 **(B) AS 43.50.810(b) for a sale at retail** [ACTUAL COST TO
13 THE WHOLESALER OR RETAILER]; or

14 (2) offer a rebate in price, give a rebate in price, offer a concession of

1 any kind, or give a concession of any kind or nature in connection with the sale of
2 cigarettes.

3 * **Sec. 2.** AS 43.50.710(b) is amended to read:

4 (b) A retailer may not induce or attempt to induce or procure or attempt to
5 procure

6 (1) the purchase of cigarettes at a price less than the **wholesale**
7 **minimum price determined under AS 43.50.810(a)** [ACTUAL COST TO A
8 WHOLESALER];

9 (2) a rebate or concession of any kind or nature in connection with the
10 purchase of cigarettes.

11 * **Sec. 3.** AS 43.50.710(c) is amended to read:

12 (c) Evidence of advertisement, offering to sell, or sale of cigarettes by a
13 wholesaler or retailer at less than **the applicable minimum price determined by the**
14 **department under AS 43.50.810** [ACTUAL COST], or evidence of an offer of a
15 rebate in the price, the giving of a rebate in price, offer of a concession, or the giving
16 of a concession of any kind or nature in connection with the sale of cigarettes, or the
17 inducing, attempt to induce, the procuring, or the attempt to procure the purchase of
18 cigarettes at a price less than **the applicable minimum price determined by the**
19 **department under AS 43.50.810** [ACTUAL COST TO A WHOLESALER OR
20 RETAILER] is prima facie evidence of intent to injure competitors and to destroy or
21 substantially lessen competition.

22 * **Sec. 4.** AS 43.50.720 is amended to read:

23 **Sec. 43.50.720. Sale at less than minimum price [COST]; with gift or**
24 **concession.** In all advertisements, offers for sale, or sales involving two or more items
25 when at least one of the items is cigarettes at a combined price, and in all
26 advertisements, offers for sale, or sales involving the giving of any gift, concession, or
27 coupon of any kind in conjunction with the sale of cigarettes, the wholesaler's or
28 retailer's combined selling price may not be **less than** [BELOW] the **applicable**
29 **minimum price determined by the department under AS 43.50.810** [ACTUAL
30 COST TO THE WHOLESALER OR THE ACTUAL COST TO THE RETAILER,
31 RESPECTIVELY,] of the total of all articles, products, commodities, gifts, and

1 concessions included in the transactions, except that, if any articles, products,
 2 commodities, gifts, or concessions are not cigarettes, the **price** [ACTUAL COST]
 3 shall be **the applicable minimum price determined by the department under**
 4 **AS 43.50.810** [DETERMINED AS PROVIDED UNDER AS 43.50.800].

5 * **Sec. 5.** AS 43.50.790(a) is amended to read:

6 (a) The department

7 (1) shall administer AS 43.50.710 - 43.50.849;

8 (2) may adopt regulations relating to the administration and
 9 enforcement of AS 43.50.710 - 43.50.849;

10 (3) **shall** [MAY] determine the **applicable minimum price for**
 11 [ACTUAL COST OF] cigarettes **sold by** [TO] a wholesaler or retailer as provided in
 12 **AS 43.50.810** [AS 43.50.800];

13 (4) may, after reasonable notice and hearing, revoke or suspend a
 14 license issued under AS 43.50.010 or 43.50.035 to a person who refuses or neglects to
 15 comply with a provision of AS 43.50.710 - 43.50.849.

16 * **Sec. 6.** AS 43.50 is amended by adding a new section to read:

17 **Sec. 43.50.810. Minimum prices for cigarette sales.** (a) For the purposes of
 18 AS 43.50.710 - 43.50.849, the department shall determine the minimum price for
 19 which a wholesaler may advertise, offer to sell, or sell cigarettes at wholesale by
 20 applying the following formula:

$$21 \text{ Wholesale Minimum Price} = 1.045(M - D + T),$$

22 where M = the manufacturer's list price;

23 D = trade discounts; and

24 T = the full face value of all cigarette taxes.

25 (b) For the purposes of AS 43.50.710 - 43.50.849, the department shall
 26 determine the minimum price for which a retailer or wholesaler may advertise, offer to
 27 sell, or sell cigarettes at retail by multiplying by 1.06 the wholesale minimum price
 28 determined under (a) of this section.

29 * **Sec. 7.** AS 43.50.730, 43.50.740(a), 43.50.760, 43.50.770, 43.50.800, and 43.50.849(4)
 30 are repealed.