

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	CSHB 328(HSS)
Fiscal Note Number:	4
(H) Publish Date:	4/1/2016

Identifier: HB328-DHSS-CDPHP-3-18-16  
 Title: REGULATION OF SMOKING  
 Sponsor: TALERICO  
 Requester: House HSS

Department: Department of Health and Social Services  
 Appropriation: Public Health  
 Allocation: Chronic Disease Prevention and Health Promotion  
 OMB Component Number: 2818

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**  
 If yes, by what date are the regulations to be adopted, amended or repealed? **10/31/17**

**Why this fiscal note differs from previous version:**

Not applicable; initial version.
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Division:	Public Health	Date:	03/18/2016 03:00 PM
Approved By:	Sana Efird, Asst. Commissioner, Finance and Management Services	Date:	03/18/16
Agency:	Health and Social Services		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

## Analysis

This is a zero fiscal note. The department believes these efforts could be made with existing resources in combination with ongoing comprehensive tobacco prevention and control efforts across the state.

This bill repeals Article 3 and adds a new Article 4 (Regulation of Smoking in Public), which designates the Commissioner of the Department of Health and Social Services as responsible to implement and enforce a statewide smoking prohibition in enclosed public spaces, public transportation vehicles and facilities, places of employment, government owned or operated places, buildings or residences used to provide paid child care, health care facilities, Alaska Pioneer Homes and Veterans Homes, vehicles that are places of employment, and certain marine vessels. Also included are school grounds or public parks for children, outdoor arena seating, and areas within certain distances from entrances, open windows, and air intake vents of places where smoking is prohibited. DEC is currently responsible for enforcing Article 3.

Currently, enforcement of this nature is not a core function of any of the DHSS divisions. Until regulations are established, it is difficult to know the full extent of the work involved in enforcement. The Division of Behavioral Health's Prevention and Early Intervention Section currently monitors retail tobacco sales to minors required by federal Synar legislation. The Tobacco Enforcement Team, comprised of three staff, works with minors to conduct compliance operations to assure that tobacco retailers are not selling to minors. Under this bill, the Tobacco Enforcement Team would monitor and respond to all complaints and provide ongoing education to businesses. Ideally, the Division of Behavioral Health would consider this as a form of "passive enforcement" which could be performed in addition to the other duties assigned to the Tobacco Investigators. An online complaint form would be created and monitored along with a 1-800 number for complaints via phone. For the first complaint the business would be informed about the law; a second complaint would generate a warning letter. If needed the business would receive an in-person follow up visit with local law enforcement, followed by a citation and fine. Citations could be made by DHSS designated staff or another agency (Sec. 18.35.316). The department does not anticipate many calls or complaints based on the experience of other jurisdictions with similar laws such as the Municipality of Anchorage. Under a complaint-driven enforcement model, the division does not expect to require an additional appropriation.

Under section 18.36.321, the Division of Public Health's Tobacco Prevention and Control Program would be responsible for developing public education materials regarding the requirements within the law and educate business owners, our grantees and the public on the specifics of the law. Current grantees and contractors would refocus their efforts to the implementation related to this statewide smoking prohibition, possibly at the expense of current educational efforts. A website and other public education materials would educate business owners and the public on the specifics of the law. Sample signage and information would be provided to business owners online and distributed prior to the effective dates. Signage for all state owned or operated buildings would be produced and distributed. Sec. 18.35.306(c) requires the department to furnish signs to any person who requests them. If the intent is that the type of sign provided is an electronic downloadable copy of a sample sign, the cost would be minimal regardless of the number of signs requested. However, if the intent is for more durable manufactured or printed signage, then additional resources would be needed.

The bill allows the Commissioner to delegate to other agencies any of the responsibilities to enforce the bill's provisions. The bill requires the Commissioner to adopt regulations for filing, processing, and investigating reports of violations of the smoking prohibition, which may include filing complaints and issuing citations. Regulations adopted by the Commissioner can create a series of notices, warnings and other interventions in order to minimize costs prior to investigations and sanctions.