

SENATE BILL NO. 146

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR BEGICH BY REQUEST

Introduced: 1/21/20

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to cigarettes and cigarette taxation; prohibiting the sale of cigarettes;**
2 **and providing for an effective date."**

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

4 *** Section 1.** AS 11.76.100(a) is amended to read:

5 (a) A person commits the offense of selling or giving tobacco to a minor if the
6 person

7 (1) negligently sells [A CIGARETTE,] a cigar, tobacco, or a product
8 containing tobacco to a person under 19 years of age;

9 (2) is 19 years of age or older and negligently exchanges or gives a
10 cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years
11 of age;

12 (3) maintains a vending machine that dispenses [CIGARETTES,]
13 cigars, tobacco, or products containing tobacco; or

14 (4) holds a business license endorsement under AS 43.70.075 and

1 allows a person under 19 years of age to sell [A CIGARETTE,] a cigar, tobacco, or a
2 product containing tobacco.

3 * **Sec. 2.** AS 11.76.106(a) is amended to read:

4 (a) Except as provided under (b) of this section, a person may not sell
5 [CIGARETTES,] cigars, tobacco, products containing tobacco, electronic smoking
6 products, or products containing nicotine unless the sale occurs in a manner that
7 allows only the sales clerk to control access to the [CIGARETTES,] cigars, tobacco,
8 products containing tobacco, electronic smoking products, or products containing
9 nicotine.

10 * **Sec. 3.** AS 11.76.106(b) is amended to read:

11 (b) Subsection (a) does not apply if the sale

12 (1) is by vending machine as provided under AS 11.76.100(b) or
13 11.76.109(f);

14 (2) is a wholesale transaction [, THE PERSON IS LICENSED AS A
15 MANUFACTURER OR DISTRIBUTOR UNDER AS 43.50.010,] and the sale occurs
16 on premises where no retail transactions occur;

17 (3) is by a retailer who sells primarily [CIGARETTES,] cigars,
18 tobacco, products containing tobacco, electronic smoking products, or products
19 containing nicotine and who restricts access to the premises to only those individuals
20 who are 19 years of age or older; or

21 (4) is of electronic smoking products over the Internet to a person 19
22 years of age or older.

23 * **Sec. 4.** AS 11.76.107(a) is amended to read:

24 (a) A person commits the offense of failure to supervise a vending machine if
25 the person owns premises licensed as a beverage dispensary under AS 04.11.090,
26 licensed as a club under AS 04.11.110, or licensed as a package store under
27 AS 04.11.150 and with criminal negligence fails to have an employee supervise a
28 vending machine on those premises that dispenses [CIGARETTES,] cigars, tobacco,
29 products containing tobacco, electronic smoking products, or products containing
30 nicotine as required by AS 11.76.100(b)(1)(B) and 11.76.109(d)(1)(B).

31 * **Sec. 5.** AS 11.76 is amended by adding a new section to read:

1 **Sec. 11.76.108. Selling a cigarette.** (a) A person commits the offense of
 2 selling a cigarette if the person offers for sale or possesses with intent to sell one or
 3 more cigarettes.

4 (b) In this section, "cigarette" means a roll of tobacco wrapped in
 5 (1) paper or another substance not containing tobacco; or
 6 (2) a substance containing tobacco that, because of its appearance, the
 7 type of tobacco used in the filler, or its packaging and labeling, is likely to be offered
 8 to, or purchased by, consumers as a cigarette described in (1) of this subsection.

9 (c) A person who violates (a) of this section is guilty of a violation and upon
 10 conviction is punishable by a fine of not less than \$300.

11 * **Sec. 6.** AS 18.35.301(i)(4) is amended to read:

12 (4) "retail tobacco or e-cigarette store"

13 (A) means a store

14 (i) that primarily sells [CIGARETTES,] e-cigarettes,
 15 cigars, tobacco and products containing tobacco, and pipes and other
 16 smoking or e-cigarette accessories;

17 (ii) in which the sale of other products is incidental; and

18 (iii) that derives at least 90 percent of its gross revenue
 19 from the sale of [CIGARETTES,] e-cigarettes, cigars, tobacco and
 20 products containing tobacco, and pipes and other smoking or e-
 21 cigarette accessories;

22 (B) does not include

23 (i) a tobacco or e-cigarette department or section of a
 24 business that does not meet the criteria in (A) of this paragraph; or

25 (ii) a business that is also a restaurant or grocery store.

26 * **Sec. 7.** AS 18.56.230(b) is amended to read:

27 (b) The corporation may not authorize the commercial use of space in a multi-
 28 unit residential housing development owned or financed by the corporation for

29 (1) a business that offers adult entertainment;

30 (2) the sale of alcoholic beverages, unless the sale is in a restaurant or
 31 eating place licensed under AS 04.11.100 or is in premises designated by the

1 Alcoholic Beverage Control Board as a restaurant under AS 04.16.049;

2 (3) substance abuse treatment; or

3 (4) a business that primarily sells, transfers, or stores [CIGARETTES
4 OR] tobacco-related products.

5 * **Sec. 8.** AS 43.50.010(a) is amended to read:

6 (a) A person may not **import cigarettes** [SELL, PURCHASE, POSSESS, OR
7 ACQUIRE CIGARETTES AS A MANUFACTURER, DISTRIBUTOR, DIRECT-
8 BUYING RETAILER, VENDING MACHINE OPERATOR, OR BUYER] without a
9 license.

10 * **Sec. 9.** AS 43.50.010(b) is amended to read:

11 (b) The department, upon application and payment of the fee, shall issue a
12 license to each **importer** [MANUFACTURER, DISTRIBUTOR, DIRECT-BUYING
13 RETAILER, VENDING MACHINE OPERATOR, OR BUYER]. The department
14 shall adopt reasonable regulations that it considers necessary in respect to the
15 application for and the issuance of licenses.

16 * **Sec. 10.** AS 43.50.020 is amended to read:

17 **Sec. 43.50.020. Separate licenses.** If a person operates more than one **location**
18 [PLACE OF BUSINESS], the person must obtain a separate license for each **location**
19 [PLACE OF BUSINESS, EXCEPT THAT A PERSON OPERATING ONE OR
20 MORE CIGARETTE VENDING MACHINES IS CONSIDERED TO HAVE ONLY
21 ONE PLACE OF BUSINESS FOR THE PURPOSE OF A LICENSE UNDER
22 AS 43.50.010 - 43.50.180. A PERSON LICENSED ONLY AS A
23 MANUFACTURER, DISTRIBUTOR, DIRECT-BUYING RETAILER, VENDING
24 MACHINE OPERATOR, OR BUYER MAY NOT OPERATE IN ANOTHER
25 CAPACITY UNLESS THE APPROPRIATE LICENSE FOR IT IS FIRST
26 SECURED]. Each license shall be exhibited at the **location** [PLACE OF BUSINESS]
27 for which it is issued and in the manner prescribed by the department.

28 * **Sec. 11.** AS 43.50.030(e) is amended to read:

29 (e) For each license issued to **an importer** [A BUYER], and for each renewal,
30 the fee is \$25.

31 * **Sec. 12.** AS 43.50.040 is amended to read:

1 **Sec. 43.50.040. Expiration of licenses.** A license issued under AS 43.50.010
 2 [OR 43.50.035] expires on June 30 following the date of issue. If a license is revoked,
 3 or the **location** [BUSINESS] for which the license is issued changes [OWNERSHIP
 4 OR THE LICENSEE CHANGES THE PLACE OF BUSINESS FROM THE
 5 PREMISES COVERED BY THE LICENSE], the licensee shall immediately return
 6 the license to the department. If the licensee moves [THE BUSINESS] to another
 7 location in the state, the license shall, upon the payment of a fee of 50 cents, be
 8 reissued for the new location for the balance of the unexpired term. Before a license
 9 issued under AS 43.50.010 [OR 43.50.035] expires, the licensee may apply to renew
 10 the license for one year from the expiration date of the license. The renewal fee
 11 required by AS 43.50.030 must accompany the application. The department shall
 12 adopt reasonable regulations that it considers necessary regarding the renewal of
 13 licenses.

14 * **Sec. 13.** AS 43.50.050 is amended to read:

15 **Sec. 43.50.050. Transfer of licenses.** A license is not assignable or
 16 transferable. [HOWEVER IN THE CASE OF DEATH, BANKRUPTCY,
 17 RECEIVERSHIP, OR INCOMPETENCY OF THE LICENSEE, OR IF THE
 18 BUSINESS OF THE LICENSEE IS TRANSFERRED TO ANOTHER BY
 19 OPERATION OF LAW, THE DEPARTMENT MAY EXTEND THE LICENSE FOR
 20 A LIMITED TIME TO THE EXECUTOR, ADMINISTRATOR, TRUSTEE,
 21 RECEIVER, OR THE TRANSFEREE.]

22 * **Sec. 14.** AS 43.50.070(a) is amended to read:

23 (a) The department may suspend, revoke, or refuse to renew a license issued
 24 under this chapter (1) for a negligent violation of AS 11.76.100, 11.76.106, 11.76.107,
 25 11.76.109, or a violation of this chapter or a regulation of the department adopted
 26 under this chapter; (2) if a licensee ceases to act in the capacity for which the license
 27 was issued; or (3) if a licensee negligently sells tobacco or products containing
 28 tobacco to a person who is required to, but does not, hold a license endorsement under
 29 AS 43.70.075 or whose license endorsement under AS 43.70.075 has been suspended.
 30 A person whose license is suspended or revoked may not **import cigarettes**, sell
 31 [CIGARETTES OR] tobacco products, or permit [CIGARETTES OR] tobacco

1 products to be sold [,] during the period of the suspension or revocation on the
 2 premises occupied or controlled by that person. A disciplinary proceeding or action is
 3 not barred or abated by the expiration, transfer, surrender, renewal, or extension of a
 4 license issued under this chapter. The department shall comply with the provisions of
 5 AS 44.62 (Administrative Procedure Act), except that a hearing officer of the
 6 department, rather than a hearing officer assigned under AS 44.62.350, may conduct
 7 hearings.

8 * **Sec. 15.** AS 43.50.090(a) is amended to read:

9 (a) There is levied an excise tax of 38 mills on each cigarette imported [OR
 10 ACQUIRED] in the state. The tax shall be paid through the use of stamps as provided
 11 in AS 43.50.500 - 43.50.700. A person who imports [OR ACQUIRES] cigarettes in
 12 the state on [UPON] which a stamp required by this chapter has not been affixed in
 13 accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps as
 14 required by AS 43.50.540(a), and who fails to pay the tax through the use of stamps is
 15 not relieved of the obligation to pay taxes due under this chapter. The person shall still
 16 pay the tax, and the tax is due on or before the end of the month following the month
 17 in which cigarettes were [MANUFACTURED,] imported into [, ACQUIRED, OR
 18 SOLD IN] this state. [CIGARETTES UPON WHICH THE EXCISE IS IMPOSED
 19 ARE NOT AGAIN SUBJECT TO THE EXCISE WHEN ACQUIRED BY
 20 ANOTHER PERSON.]

21 * **Sec. 16.** AS 43.50.100(d) is amended to read:

22 (d) A person or licensee who is in control or possession of cigarettes contrary
 23 to this chapter [OR WHO OFFERS TO SELL OR DISPOSE OF CIGARETTES TO
 24 OTHERS FOR THE PURPOSE OF RESALE WITHOUT BEING LICENSED TO
 25 DO SO] is considered to have possession of the cigarettes as an importer [A
 26 CONSUMER] and is personally liable for the cigarette taxes imposed by this chapter,
 27 plus a penalty of 100 percent.

28 * **Sec. 17.** AS 43.50.105(c) is amended to read:

29 (c) A common or contract carrier may not knowingly transport cigarettes to a
 30 person in this state unless the person

31 (1) shipping the cigarettes is licensed under this chapter and, before

1 shipment, provides the common or contract carrier with a copy of the person's current
 2 license issued by the department and an affidavit from the intended recipient certifying
 3 that the person receiving the cigarettes is a person described under **(b)** [(b)(1) - (5)] of
 4 this section; or

5 (2) receiving the cigarettes is a person described under (a)(2) or (3) of
 6 this section or is licensed under this chapter and, before receipt, provides the common
 7 or contract carrier with a copy of the person's current license issued by the department.

8 * **Sec. 18.** AS 43.50.105(d) is amended to read:

9 (d) If the cigarettes are transported by a common or contract carrier to a home
 10 or residence, it is rebuttably presumed that the common or contract carrier knew that
 11 the person receiving the cigarettes was not a person described under **(b)** [(b)(1) - (5)]
 12 of this section, unless the person shipping the cigarettes has satisfied the requirements
 13 in (c)(1) of this section.

14 * **Sec. 19.** AS 43.50.105(e) is amended to read:

15 (e) A person, other than a common or contract carrier, may not knowingly
 16 transport cigarettes to a person in this state, unless the person receiving the cigarettes
 17 is a person described under **(b)** [(b)(1) - (5)] of this section.

18 * **Sec. 20.** AS 43.50.130(a) is amended to read:

19 (a) A licensee shall keep a complete and accurate record of all cigarettes
 20 **imported** [MANUFACTURED, PURCHASED, OR ACQUIRED]. The records [,
 21 EXCEPT IN THE CASE OF A MANUFACTURER,] must include a written
 22 statement containing the name and address of the **importer** [SELLER AND THE
 23 PURCHASER], the date of delivery, the quantity of cigarettes, **and** the trade name
 24 and brand [, AND THE PRICE PAID FOR EACH BRAND OF CIGARETTES
 25 PURCHASED]. The licensee shall keep such other records as the department
 26 prescribes. All statements and records required by this section shall be in the form
 27 prescribed by the department, shall be preserved for three years, and shall be offered
 28 for inspection upon demand by the department.

29 * **Sec. 21.** AS 43.50.170 is repealed and reenacted to read:

30 **Sec. 43.50.170. Definitions.** In AS 43.50.010 - 43.50.180, unless the context
 31 otherwise requires,

1 (1) "cigarette" means a roll of tobacco wrapped in

2 (A) paper or another substance not containing tobacco; or

3 (B) a substance containing tobacco that, because of its
4 appearance, the type of tobacco used in the filler, or its packaging and labeling,
5 is likely to be offered to, or purchased by, consumers as a cigarette described
6 in (A) of this paragraph;

7 (2) "importer" means a person who brings tobacco purchased outside
8 this state into the state for personal consumption;

9 (3) "location" means a place where cigarettes are brought or kept for
10 the purpose of consumption;

11 (4) "person" includes an individual, company, partnership, limited
12 liability partnership, joint venture, joint agreement, limited liability company,
13 association, mutual or otherwise, corporation, estate, trust, business trust, receiver,
14 trustee, syndicate, or political subdivision of this state, or combination acting as a unit;

15 (5) "sale" includes a sale, barter, exchange, and every other manner of
16 transferring the ownership of personal property;

17 (6) "tobacco product" has the meaning given in AS 43.50.390.

18 * **Sec. 22.** AS 43.50.190(a) is amended to read:

19 (a) There is levied an excise tax on each cigarette imported **into** [OR
20 ACQUIRED IN] this state,

21 (1) after December 31, 2004, but before July 1, 2006, 42 mills;

22 (2) after June 30, 2006, but before July 1, 2007, 52 mills;

23 (3) after June 30, 2007, 62 mills.

24 * **Sec. 23.** AS 43.50.500 is amended to read:

25 **Sec. 43.50.500. Tax payment by use of stamps.** A licensee shall pay the tax
26 imposed under AS 43.50.090(a) **and** [,] 43.50.190(a) [, AND 43.50.200] through the
27 use of stamps issued under AS 43.50.500 - 43.50.700.

28 * **Sec. 24.** AS 43.50.510(b) is amended to read:

29 (b) **A** [NOTWITHSTANDING THE PACKAGING REQUIREMENTS OF
30 AS 43.70.075(g)(1), A] stamp required under AS 43.50.500 - 43.50.700 must be
31 affixed

1 (1) on the smallest package that will be handled, [SOLD,] used, **or**
 2 consumed [, OR DISTRIBUTED] in this state; and

3 (2) in a denomination equal to the amount of tax due under this chapter
 4 on the cigarettes in the package.

5 * **Sec. 25.** AS 43.50.520 is amended to read:

6 **Sec. 43.50.520. Stamp required before [SALE, DISTRIBUTION, OR]**
 7 **consumption.** (a) Except as provided in AS 43.50.580, a licensee or the authorized
 8 agent or designee of the licensee shall affix a stamp, in the manner required by
 9 AS 43.50.510, to each package of cigarettes immediately upon the opening of the
 10 shipping container containing the package and before [SALE, DISTRIBUTION, OR]
 11 consumption in this state.

12 (b) Except as provided in AS 43.50.580 and 43.50.610, a person may not
 13 **import cigarettes into** [ENGAGE IN THE FOLLOWING ACTIVITIES IN] this state
 14 unless the package containing the cigarettes is affixed with the required stamp [:

15 (1) SELL OR DISTRIBUTE CIGARETTES TO A PERSON WHO IS
 16 A CONSUMER IN THIS STATE;

17 (2) ACQUIRE, HOLD, OWN, POSSESS, OR TRANSPORT
 18 CIGARETTES FOR SALE OR DISTRIBUTION IN THIS STATE;

19 (3) IMPORT OR CAUSE TO BE IMPORTED CIGARETTES INTO
 20 THIS STATE FOR SALE, DISTRIBUTION, OR CONSUMPTION; OR

21 (4) PLACE OR STORE CIGARETTE PACKAGES IN A VENDING
 22 MACHINE IN THIS STATE].

23 * **Sec. 26.** AS 43.50.530(c) is amended to read:

24 (c) The department may limit the number of stamps sold to a licensee during
 25 the three months immediately preceding the effective date of a tax increase under
 26 AS 43.50.090 **or** [,] 43.50.190 [, OR 43.50.200] to minimize the amount of cigarette
 27 stockpiling by a licensee. The department may not set the limit of stamps that a
 28 licensee may purchase during that three-month period below an amount equal to three
 29 times the average monthly stamp purchases made by the licensee during the 12-month
 30 period immediately preceding that three-month period.

31 * **Sec. 27.** AS 43.50.580(b) is amended to read:

1 (b) A licensee may possess unstamped cigarettes in this state if

2 [(1)] the licensee posts a surety bond in an amount satisfactory to the
3 department to ensure performance of its duties under this chapter [; AND

4 (2) UNSTAMPED CIGARETTES ARE NECESSARY FOR THE
5 CONDUCT OF THE LICENSEE'S BUSINESS IN MAKING SALES OR
6 DISTRIBUTIONS TO

7 (A) AN INSTRUMENTALITY OF THE FEDERAL
8 GOVERNMENT OR AN INDIAN TRIBAL ORGANIZATION
9 AUTHORIZED BY LAW TO POSSESS CIGARETTES NOT TAXED
10 UNDER THIS CHAPTER; OR

11 (B) CUSTOMERS OUTSIDE THE STATE AND THE
12 LICENSEE PROVIDES PROOF ACCEPTABLE TO THE DEPARTMENT
13 THAT THE LICENSEE IS PROPERLY LICENSED IN THE
14 JURISDICTIONS OUTSIDE THE STATE WHERE THE SALES OR
15 DISTRIBUTIONS ARE MADE].

16 * **Sec. 28.** AS 43.50.590(a) is amended to read:

17 (a) The department shall adopt procedures for a refund or credit to a licensee
18 in the amount of the denominated value, less the discount given under AS 43.50.540,
19 for

20 (1) unused or damaged stamps; or

21 (2) stamps affixed to cigarette packages that have become unfit for use
22 [OR SALE], are destroyed, or are returned to the manufacturer for credit or
23 replacement if the licensee provides proof acceptable to the department that the
24 cigarettes have not been and will not be consumed in this state [; OR

25 (3) STAMPS AFFIXED TO CIGARETTE PACKAGES THAT ARE
26 SOLD OR DISTRIBUTED OUTSIDE THE STATE IF THE LICENSEE PROVIDES
27 PROOF ACCEPTABLE TO THE DEPARTMENT THAT THE CIGARETTES
28 HAVE NOT BEEN AND WILL NOT BE CONSUMED IN THIS STATE AND THE
29 LICENSEE IS PROPERLY LICENSED IN THE JURISDICTIONS OUTSIDE THE
30 STATE WHERE THE SALES OR DISTRIBUTIONS ARE MADE].

31 * **Sec. 29.** AS 43.50.600 is amended to read:

1 **Sec. 43.50.600. Stamps prohibited on cigarette packages not complying**
 2 **with federal and state laws.** A licensee or the licensee's authorized agent or designee
 3 may not affix a stamp to a cigarette package if the cigarettes

4 (1) may not be [ACQUIRED, HELD,] owned, imported, **or** possessed
 5 [, SOLD, OR DISTRIBUTED] in this state [UNDER AS 43.50.400]; or

6 (2) are not in compliance with other state or federal laws.

7 * **Sec. 30.** AS 43.50.630(a) is amended to read:

8 (a) On or before the last day of each calendar month, a licensee shall file **with**
 9 **the department** the following information for each **location for which a license is**
 10 **issued** [PLACE OF BUSINESS WITH THE DEPARTMENT], on a form or in a
 11 format prescribed by the department:

12 (1) the quantity and brands of cigarettes [MANUFACTURED,]
 13 imported [, ACQUIRED, OR SOLD] in the state during the preceding calendar month;

14 (2) the number and dollar amount of stamps

15 (A) purchased during the preceding calendar month;

16 (B) affixed to cigarette packages during the preceding calendar
 17 month;

18 (C) not affixed to cigarette packages and on hand at the end of
 19 the preceding calendar month; and

20 (D) refunded or credited to a licensee under AS 43.50.590; and

21 (3) any other information that the department requires to carry out its
 22 duties under this chapter.

23 * **Sec. 31.** AS 43.50.640(a) is amended to read:

24 (a) A person commits the crime of misconduct involving unstamped cigarettes
 25 or stamps in the first degree if the person

26 (1) with reckless disregard that the cigarettes are unstamped

27 [(A) SELLS OR DISTRIBUTES 5,000 OR MORE
 28 UNSTAMPED CIGARETTES IN A SINGLE TRANSACTION;

29 (B) OWNS OR POSSESSES 5,000 OR MORE UNSTAMPED
 30 CIGARETTES WITH THE INTENT TO SELL; OR

31 (C) ACQUIRES, HOLDS, TRANSPORTS,] imports [,] or

1 possesses 10,000 or more unstamped cigarettes; or

2 (2) with reckless disregard that the stamp was previously affixed to
3 another cigarette package

4 (A) affixes a previously used stamp to a cigarette package; or

5 (B) possesses [, SELLS, OR DISTRIBUTES] a previously
6 used stamp.

7 * **Sec. 32.** AS 43.50.650(a) is amended to read:

8 (a) A person commits the crime of misconduct involving unstamped cigarettes
9 or stamps in the second degree if the person

10 (1) with reckless disregard that the cigarettes are unstamped

11 (A) [SELLS OR DISTRIBUTES AT LEAST ONE BUT
12 FEWER THAN 5,000 UNSTAMPED CIGARETTES IN A SINGLE
13 TRANSACTION;

14 (B) OWNS OR POSSESSES AT LEAST ONE BUT FEWER
15 THAN 5,000 UNSTAMPED CIGARETTES, WITH INTENT TO SELL;

16 (C) ACQUIRES, HOLDS, TRANSPORTS,] imports [,] or
17 possesses at least 601 but fewer than 10,000 unstamped cigarettes; or

18 **(B)** [(D) ACQUIRES, HOLDS, TRANSPORTS,] imports [,] or
19 possesses at least one but fewer than 601 unstamped cigarettes that are not for
20 personal consumption; or

21 (2) is not licensed under this chapter or otherwise authorized by the
22 department to possess stamps and possesses a stamp that is not affixed to a cigarette
23 package.

24 * **Sec. 33.** AS 43.50.700(4) is amended to read:

25 (4) "licensee" means a person licensed by the department under
26 AS 43.50.010 [OR 43.50.035] to **import** [SELL, DISTRIBUTE, PURCHASE,
27 POSSESS, OR ACQUIRE] cigarettes;

28 * **Sec. 34.** AS 43.70.075(a) is amended to read:

29 (a) Unless a person has a business license endorsement issued under this
30 section for each location or outlet in a location where the person offers tobacco
31 products, electronic smoking products, or products containing nicotine for sale, a

1 person may not sell or allow a vending machine to sell in its location or outlet
 2 [CIGARETTES,] cigars, tobacco, products containing tobacco, electronic smoking
 3 products, or products containing nicotine as a retailer at that location or outlet. Each
 4 endorsement required under this section is in addition to any other license or
 5 endorsement required by law. A person may not apply for an endorsement under this
 6 section for a location or outlet if an endorsement issued for the same location or outlet
 7 is currently suspended or revoked. An endorsement issued for a location or outlet to a
 8 person in violation of this subsection is void.

9 * **Sec. 35.** AS 43.70.075(i) is amended to read:

10 (i) The commissioner or the commissioner of revenue may seize
 11 [CIGARETTES,] electronic smoking products [,] or products containing nicotine that
 12 do not comply with this section. After notice and an opportunity for a hearing, the
 13 commissioner or the commissioner of revenue shall destroy [CIGARETTES,]
 14 electronic smoking products [,] or products containing nicotine seized under this
 15 subsection.

16 * **Sec. 36.** AS 43.70.075(k) is amended to read:

17 (k) If a person, or an agent or employee of the person while acting within the
 18 scope of the agency or employment of the person, violates a provision of (a) [OR (g)]
 19 of this section, the department may suspend the person's business license endorsement
 20 or right to obtain a business license endorsement for a period of not more than

21 (1) 45 days; or

22 (2) 90 days if, within the 24 months before the date of the department's
 23 notice under (m) of this section, the person, or an agent or employee of the person
 24 while acting within the scope of the agency or employment of the person, violates a
 25 provision of (a) [OR (g)] of this section.

26 * **Sec. 37.** AS 43.70.075(l) is amended to read:

27 (l) Notwithstanding (a) of this section, a person owning vending machines that
 28 offer tobacco products, electronic smoking products, or products containing nicotine
 29 for sale need obtain only one business license endorsement under this section even if
 30 the person has vending machines in more than one outlet or location in the state. The
 31 person who owns a vending machine that offers tobacco products, electronic smoking

1 products, or products containing nicotine for sale and the person who owns the
2 premises where the vending machine is located are both required to obtain a business
3 license endorsement issued under this section. If the endorsement of the person
4 owning the vending machine is suspended or revoked, the person may not sell
5 [CIGARETTES,] cigars, products containing tobacco, electronic smoking products, or
6 products containing nicotine during the period of suspension or revocation through the
7 use of vending machines at the location or outlet where the violation occurred. During
8 the period of suspension or revocation, the person owning that vending machine may
9 not use that machine to sell tobacco products, electronic smoking products, or
10 products containing nicotine at another location or outlet.

11 * **Sec. 38.** AS 43.70.075(m) is amended to read:

12 (m) The department may initiate suspension of a business license endorsement
13 or the right to obtain a business license endorsement under this section by sending the
14 person subject to the suspension a notice by certified mail, return receipt requested, or
15 by delivering the notice to the person. The notice must contain information that
16 informs the person of the grounds for suspension, the length of any suspension sought,
17 and the person's right to administrative review. A suspension begins 30 days after
18 receipt of notice described in this subsection unless the person delivers a timely
19 written request for a hearing to the department in the manner provided by regulations
20 of the department. If a hearing is requested under this subsection, an administrative
21 law judge of the office of administrative hearings (AS 44.64.010) shall determine the
22 issues by using the preponderance of the evidence test and shall, to the extent they do
23 not conflict with regulations adopted under AS 44.64.060, conduct the hearing in the
24 manner provided by regulations of the department. A hearing under this subsection is
25 limited to the following questions:

26 (1) was the person holding the business license endorsement, or an
27 agent or employee of the person while acting within the scope of the agency or
28 employment of the person, convicted by plea or judicial finding of violating
29 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

30 (2) if the department does not allege a conviction of AS 11.76.100,
31 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the

1 person while acting within the scope of the agency or employment of the person,
2 violate a provision of (a) [OR (g)] of this section;

3 (3) within the 24 months before the date of the department's notice
4 under this subsection, was the person, or an agent or employee of the person while
5 acting within the scope of the agency or employment of the person, convicted of
6 violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 or adjudicated for
7 violating a provision of (a) [OR (g)] of this section;

8 (4) did the person holding the business license endorsement establish
9 that the person holding the business license endorsement had adopted and enforced an
10 education, a compliance, and a disciplinary program for agents and employees of the
11 person as provided in (t) of this section;

12 (5) did the person holding the business license endorsement overcome
13 the rebuttable presumption established in (w) of this section;

14 (6) within five years before the date of the violation that is the subject
15 of the hearing, did the department establish that the person holding the business
16 license endorsement

17 (A) previously violated (a) [OR (g)] of this section;

18 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or
19 11.76.109 at a location or outlet in a location for which the person holds a
20 business license endorsement, or had an agent or employee previously violate
21 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not
22 apply to a prior conviction that served to enhance a suspension period under
23 (d)(2) - (4) of this section; or

24 (C) engaged at a location owned by the person in other conduct
25 that was or is likely to result in the sale of tobacco, electronic smoking
26 products, or products containing nicotine to a person under 19 years of age in
27 violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

28 * **Sec. 39.** AS 43.70.075(t) is amended to read:

29 (t) Based on evidence provided at the hearing under (m)(4) - (6) of this
30 section, the department may reduce the license suspension period under (d) of this
31 section if the person holding the business license endorsement establishes that, before

1 the date of the violation, the person had

2 (1) adopted and enforced a written policy against selling
3 [CIGARETTES,] cigars, tobacco, products containing tobacco, electronic smoking
4 products, or products containing nicotine to a person under 19 years of age in violation
5 of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

6 (2) informed the person's agents and employees of the applicable laws
7 and their requirements and conducted training on complying with the laws and
8 requirements;

9 (3) required each agent and employee of the person to sign a form
10 stating that the agent and employee has been informed of and understands the written
11 policy and the requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

12 (4) determined that the agents and employees of the person had
13 sufficient experience and ability to comply with the written policy and requirements of
14 AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

15 (5) required the agents and employees of the person to verify the age
16 of purchasers of [CIGARETTES,] cigars, tobacco, other products containing tobacco,
17 electronic smoking products, or products containing nicotine by means of a valid
18 government issued photographic identification;

19 (6) established and enforced disciplinary sanctions for noncompliance
20 with the written policy or the requirements of AS 11.76.100, 11.76.106, 11.76.107,
21 and 11.76.109; and

22 (7) monitored the compliance of the agents and employees of the
23 person with the written policy and the requirements of AS 11.76.100, 11.76.106,
24 11.76.107, and 11.76.109.

25 * **Sec. 40.** AS 43.70.105(b) is amended to read:

26 (b) Notwithstanding an exemption provided by (a) of this section, a person
27 who sells [CIGARETTES,] cigars, tobacco, products containing tobacco, electronic
28 smoking products, or products containing nicotine as a retailer must have a business
29 license under AS 43.70.020 and a business license endorsement required under
30 AS 43.70.075.

31 * **Sec. 41.** AS 45.45.770(a) is amended to read:

1 (a) AS 45.45.700 - 45.45.790 do not apply to

2 (1) a distributorship agreement that would be considered a franchise
3 regulated by 15 U.S.C. 2801 - 2841 (Petroleum Marketing Practices Act);

4 (2) a situation regulated by AS 45.50.800 - 45.50.850;

5 (3) a distributorship agreement, including a franchise agreement, for
6 the sale, repair, or servicing of motor vehicles that are required to be registered under
7 AS 28.10;

8 (4) an activity or agreement by a person licensed under AS 04 if the
9 activity or agreement is within the scope of the license or is incidental to the activity
10 or agreement that is within the scope of the license;

11 (5) a distributorship agreement or another contract between a person
12 licensed under AS 04 and a distributor, manufacturer, importer, supplier, or wholesaler
13 of alcoholic beverages who is not located in this state if the subject of the agreement
14 or contract is the distribution of alcoholic beverages to the licensed person by the
15 distributor, manufacturer, importer, supplier, or wholesaler;

16 (6) a distributor, manufacturer, importer, supplier, or wholesaler of
17 alcoholic beverages;

18 (7) a distributorship agreement for the sale or distribution of, or other
19 transaction involving, [CIGARETTES,] food, drink, or a component of food or drink;
20 [IN THIS PARAGRAPH, "CIGARETTE" HAS THE MEANING GIVEN IN
21 AS 43.50.170;]

22 (8) a manufacturer with 50 or fewer employees; or

23 (9) a marine product or motorized recreational product agreement
24 under AS 45.27.

25 * **Sec. 42.** The uncodified law of the State of Alaska enacted in sec. 4, ch. 48, SLA 1997, as
26 repealed and reenacted by sec. 42, ch. 1, FSSLA 2004, is amended to read:

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

28 (a) There is levied an excise tax on each cigarette imported **into** [OR
29 ACQUIRED IN] this state,

30 (1) after December 31, 2004, but before July 1, 2006, 77.5 mills;

31 (2) after June 30, 2006, but before July 1, 2007, 87.5 mills;

1 (3) after June 30, 2007, 97.5 mills.

2 * **Sec. 43.** AS 18.56.230(d)(2); AS 18.74.010, 18.74.030, 18.74.040, 18.74.050, 18.74.060,
 3 18.74.065, 18.74.070, 18.74.080, 18.74.090, 18.74.100, 18.74.110, 18.74.120, 18.74.130,
 4 18.74.150, 18.74.160, 18.74.180, 18.74.190, 18.74.200, 18.74.210, 18.74.220, 18.74.230,
 5 18.74.240, 18.74.250, 18.74.260, 18.74.270, 18.74.280, 18.74.290; AS 37.05.146(c)(69);
 6 AS 40.25.105; AS 43.50.010(e)(2), 43.50.030(a), 43.50.030(b), 43.50.030(c), 43.50.030(d),
 7 43.50.035, 43.50.090(c), 43.50.105(b)(2), 43.50.130(b), 43.50.130(c), 43.50.130(d),
 8 43.50.200, 43.50.400, 43.50.410, 43.50.420, 43.50.430, 43.50.450, 43.50.460, 43.50.465,
 9 43.50.470, 43.50.475, 43.50.480, 43.50.485, 43.50.490, 43.50.495, 43.50.580(c),
 10 43.50.580(e), 43.50.625, 43.50.660(b), 43.50.710, 43.50.720, 43.50.740, 43.50.750,
 11 43.50.780, 43.50.790, 43.50.810, 43.50.845, 43.50.849; AS 43.70.075(g), 43.70.075(h),
 12 43.70.075(j); AS 44.62.330(a)(38); AS 45.53.010, 45.53.020, 45.53.030, 45.53.040, and
 13 45.53.100 are repealed.

14 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
 15 read:

16 APPLICABILITY. The changes made by secs. 1 - 43 of this Act apply to conduct that
 17 occurs on or after the effective date of secs. 1 - 43 of this Act.

18 * **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations
 21 necessary to implement the changes made by this Act. The regulations take effect under
 22 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
 23 implemented by the regulation.

24 * **Sec. 46.** Section 45 of this Act takes effect immediately under AS 01.10.070(c).

25 * **Sec. 47.** Except as provided in sec. 46 of this Act, this Act takes effect July 1, 2021.