

**HOUSE CS FOR CS FOR SENATE BILL NO. 89(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/8/24

Referred: Rules

Sponsor(s): SENATORS STEVENS, Giessel, Gray-Jackson, Kiehl, Tobin

REPRESENTATIVES Josephson, Mina

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to tobacco, tobacco products, electronic smoking products, nicotine,  
2 and products containing nicotine; raising the minimum age to purchase, exchange, or  
3 possess tobacco, a product containing nicotine, or an electronic smoking product;  
4 relating to the tobacco use education and cessation fund; relating to retailers of and the  
5 sale of electronic smoking products and vapor products; and providing for an effective  
6 date."

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

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

9 (a) A person commits the offense of selling or giving tobacco to a **person**  
10 **under 21 years of age** [MINOR] if the person

11 (1) negligently sells a cigarette, a cigar, tobacco, or a product  
12 containing tobacco to a person under **21** [19] years of age;

13 (2) is **21** [19] years of age or older and negligently exchanges or gives

1 a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 21 [19]  
2 years of age;

3 (3) maintains a vending machine that dispenses cigarettes, cigars,  
4 tobacco, or products containing tobacco; or

5 (4) holds a business license endorsement under AS 43.70.075 and  
6 allows a person under 21 [19] years of age to sell a cigarette, a cigar, tobacco, or a  
7 product containing tobacco.

8 \* **Sec. 2.** AS 11.76.100(b) is amended to read:

9 (b) Notwithstanding the provisions of (a) of this section, a person who  
10 maintains a vending machine is not in violation of (a)(3) of this section if the vending  
11 machine is located

12 (1) on premises licensed as a beverage dispensary under AS 04.09.200  
13 or 04.09.350, licensed as a club under AS 04.09.220, or licensed as a package store  
14 under AS 04.09.230 and

15 (A) as far as practicable from the primary entrance; and

16 (B) in a place that is directly and continually supervised by a  
17 person employed on the licensed premises during the hours the vending  
18 machine is accessible to the public; or

19 (2) in an employee break room or other controlled area of a private  
20 work place that is not generally considered a public place and the room or area  
21 contains a posted warning sign at least 11 inches by 14 inches indicating that  
22 possession of tobacco by a person under 21 [19] years of age is prohibited under  
23 AS 11.76.105.

24 \* **Sec. 3.** AS 11.76.105 is amended to read:

25 **Sec. 11.76.105. Possession of tobacco, electronic smoking products, or**  
26 **products containing nicotine by a person under 21 years of age [MINOR]. (a)**  
27 **Except as provided in (e) of this section, a [A] person under 21 [19] years of age**  
28 **may not knowingly possess a cigarette, a cigar, tobacco, a product containing tobacco,**  
29 **an electronic smoking product, or a product containing nicotine in this state. [THIS**  
30 **SUBSECTION DOES NOT APPLY TO A PERSON WHO IS A PRISONER AT AN**  
31 **ADULT CORRECTIONAL FACILITY.]**

1 (b) In a prosecution under (a) of this section for possession of an electronic  
 2 smoking product or a product containing nicotine, it is an affirmative defense that the  
 3 electronic smoking product or product containing nicotine possessed by the person  
 4 under 21 [19] years of age was intended or expected to be consumed without being  
 5 combusted, and the electronic smoking product or product containing nicotine

6 (1) has been approved by the United States Food and Drug  
 7 Administration for sale as a tobacco use cessation [OR HARM REDUCTION] product  
 8 or for other medical purposes;

9 (2) was being marketed and sold for the approved purposes; and

10 (3) was

11 (A) prescribed by a health care professional;

12 (B) given to the person by the person's parent or guardian;

13 (C) provided by a state-approved tobacco cessation program  
 14 administered by the Department of Health; or

15 (D) provided by a pharmacist to a person 18 years of age or  
 16 older without a prescription.

17 (c) Possession of tobacco, an electronic smoking product, or a product  
 18 containing nicotine by a person under 21 years of age [MINOR] is a violation  
 19 punishable by a fine of not more than \$150. Notwithstanding AS 12.55.035(b), in  
 20 place of any fine imposed for the violation of this subsection, the court may refer  
 21 a defendant, at the request of the defendant, to a tobacco education program.

22 \* **Sec. 4.** AS 11.76.105 is amended by adding new subsections to read:

23 (d) The supreme court shall establish by rule or order a schedule of bail  
 24 amounts that may be forfeited without court appearance for a violation of this section.  
 25 The supreme court, in establishing scheduled amounts of bail under this section, may  
 26 not allow for disposition of an offense without court appearance for a person under 18  
 27 years of age who is cited for a violation of this section.

28 (e) The provisions of (a) of this section do not apply to a person 19 or 20 years  
 29 of age who is employed by a person with a business license endorsement under  
 30 AS 43.70.075 and, as part of that employment, is selling a cigarette, a cigar, tobacco, a  
 31 product containing tobacco, an electronic smoking product, or a product containing

1 nicotine.

2 \* **Sec. 5.** AS 11.76.106(b) is amended to read:

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

4 (1) is by vending machine as provided under AS 11.76.100(b) or  
5 11.76.109(d);

6 (2) is a wholesale transaction, the person is licensed as a manufacturer  
7 or distributor under AS 43.50.010, and the sale occurs on premises where no retail  
8 transactions occur;

9 (3) is by a retailer who sells primarily cigarettes, cigars, tobacco,  
10 products containing tobacco, electronic smoking products, or products containing  
11 nicotine and who restricts access to the premises to only those individuals who are **21**  
12 [19] years of age or older; or

13 (4) is of electronic smoking products over the Internet to a person **21**  
14 [19] years of age or older.

15 \* **Sec. 6.** AS 11.76.109(a) is amended to read:

16 (a) A person commits the offense of selling or giving an electronic smoking  
17 product or a product containing nicotine to a **person under 21 years of age** [MINOR]  
18 if the person

19 (1) negligently sells an electronic smoking product or a product  
20 containing nicotine to a person under **21** [19] years of age;

21 (2) is **21** [19] years of age or older and negligently exchanges or gives  
22 an electronic smoking product or a product containing nicotine to a person under **21**  
23 [19] years of age;

24 (3) maintains a vending machine that dispenses electronic smoking  
25 products or products containing nicotine; or

26 (4) holds a business license endorsement under AS 43.70.075 and  
27 allows a person under **21** [19] years of age to sell an electronic smoking product or a  
28 product containing nicotine.

29 \* **Sec. 7.** AS 11.76.109(b) is amended to read:

30 (b) The provisions of (a) of this section do not apply to the sale, exchange, or  
31 gift to a person under **21** [19] years of age of an electronic smoking product or a

1 product containing nicotine that is intended or expected to be consumed without being  
2 combusted if the electronic smoking product or product containing nicotine

3 (1) has been approved by the United States Food and Drug  
4 Administration for sale as a tobacco use cessation [OR HARM REDUCTION] product  
5 or for other medical purposes;

6 (2) is being marketed and sold solely for the approved purposes; and

7 (3) is

8 (A) prescribed by a health care professional;

9 (B) given to a person by the person's parent or legal guardian;

10 (C) provided by a state-approved tobacco cessation program  
11 administered by the Department of Health; or

12 (D) provided by a pharmacist to a person 18 years of age or  
13 older without a prescription.

14 \* **Sec. 8.** AS 11.76.109(d) is amended to read:

15 (d) Notwithstanding (a)(3) of this section, a person who maintains a vending  
16 machine is not in violation of (a)(3) of this section if the vending machine is located

17 (1) on premises licensed as a beverage dispensary under AS 04.09.200  
18 or 04.09.350, licensed as a club under AS 04.09.220, or licensed as a package store  
19 under AS 04.09.230, and is located

20 (A) as far as practicable from the primary entrance; and

21 (B) in a place that is directly and continually supervised by a  
22 person employed on the licensed premises during the hours the vending  
23 machine is accessible to the public; or

24 (2) in an employee break room or other controlled area of a private  
25 work place that is not generally considered a public place and the room or area  
26 contains a posted warning sign at least 11 inches by 8.5 inches indicating that  
27 possession of electronic smoking products or products containing nicotine by a person  
28 under 21 [19] years of age without a prescription is prohibited under AS 11.76.105  
29 [THIS SECTION].

30 \* **Sec. 9.** AS 11.76.109(g) is amended to read:

31 (g) Selling or giving an electronic smoking product or a product containing

1 nicotine to a **person under 21 years of age** [MINOR] is a violation and, upon  
 2 conviction, is punishable by a fine of not less than \$300.

3 \* **Sec. 10.** AS 11.81.900(b) is amended by adding a new paragraph to read:

4 (69) "nicotine" includes a chemical or chemical compound intended,  
 5 when introduced into the human body, to mimic or simulate the effect of nicotine from  
 6 tobacco.

7 \* **Sec. 11.** AS 37.05.580(a) is amended to read:

8 (a) **The** [THERE IS CREATED AS A SPECIAL ACCOUNT IN THE  
 9 GENERAL FUND THE] tobacco use education and cessation fund **is established as a**  
 10 **separate fund in the state treasury. Each year,** [INTO WHICH SHALL BE  
 11 DEPOSITED] 20 percent **of annual** [ANNUALLY OF THE] revenue derived from  
 12 the settlement of State of Alaska v. Philip Morris, Incorporated, et al, No. 1JU-97-915  
 13 CI (Alaska Super. 1997) **shall be deposited into the fund.** The purpose of the tobacco  
 14 use education and cessation fund is to provide a source to finance the comprehensive  
 15 smoking education, tobacco use prevention, and tobacco control program authorized  
 16 by AS 44.29.020(a)(12).

17 \* **Sec. 12.** AS 43.50.070 is amended to read:

18 **Sec. 43.50.070. Suspension or revocation of or refusal to renew a license.**

19 (a) The department may suspend, revoke, or refuse to renew a license issued under this  
 20 chapter (1) for a negligent violation of AS 11.76.100, 11.76.106, 11.76.107,  
 21 11.76.109, or a violation of this chapter or a regulation of the department adopted  
 22 under this chapter; (2) if a licensee ceases to act in the capacity for which the license  
 23 was issued; or (3) if a licensee negligently sells tobacco or products containing  
 24 tobacco to a person who is required to, but does not, hold a license endorsement under  
 25 AS 43.70.075 or whose license endorsement under AS 43.70.075 has been suspended.  
 26 A person whose license is suspended or revoked may not sell cigarettes, [OR] tobacco  
 27 products, **or electronic smoking products,** or permit cigarettes, [OR] tobacco  
 28 products, **or electronic smoking products** to be sold, during the period of the  
 29 suspension or revocation on the premises occupied or controlled by that person. A  
 30 disciplinary proceeding or action is not barred or abated by the expiration, transfer,  
 31 surrender, renewal, or extension of a license issued under this chapter. The department

1 shall comply with the provisions of AS 44.62 (Administrative Procedure Act), except  
 2 that a hearing officer of the department, rather than a hearing officer assigned under  
 3 AS 44.62.350, may conduct hearings.

4 (b) In this section, "licensee" means a person licensed under AS 43.50.010 -  
 5 43.50.180, [OR] 43.50.300 - 43.50.390, or 43.50.850 - 43.50.880.

6 \* **Sec. 13.** AS 43.50.105(b) is amended to read:

7 (b) A person who is licensed under this chapter may not ship or cause to be  
 8 shipped cigarettes to a person in this state unless the person receiving the cigarettes

9 (1) is licensed under this chapter;

10 (2) holds a business license endorsement under AS 43.70.075;

11 (3) is an operator of a customs bonded warehouse under 19 U.S.C.  
 12 1311 or 19 U.S.C. 1555;

13 (4) is an instrumentality of the federal government or an Indian tribal  
 14 organization authorized by law to possess cigarettes not taxed under this chapter; or

15 (5) is an individual 21 [19] years of age or older and the individual's  
 16 age was verified at the time of purchase by a third-party verification service, the  
 17 individual is receiving the cigarettes for personal consumption, and the tax imposed  
 18 on the cigarettes under this chapter has been paid.

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

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

22 (1) shipping the cigarettes is licensed under this chapter and, before  
 23 shipment, provides the common or contract carrier with a copy of the person's current  
 24 license issued by the department and

25 (A) an affidavit from the intended recipient certifying that the  
 26 person receiving the cigarettes is a person described under (b)(1) - (4) [(b)(1) -  
 27 (5)] of this section; or

28 (B) the common or contract carrier verifies the age of the  
 29 recipient as 21 years of age or older before delivery; or

30 (2) receiving the cigarettes is a person described under (a)(2) or (3) of  
 31 this section or is licensed under this chapter and, before receipt, provides the common

1 or contract carrier with a copy of the person's current license issued by the department.

2 \* **Sec. 15.** AS 43.50.190(d) is amended to read:

3 (d) A portion of the annual proceeds of the tax levied under (a) of this section  
4 equal to 8.9 percent of the total proceeds of the tax shall be deposited into the tobacco  
5 use education and cessation fund established in AS 37.05.580. [THIS DEPOSIT  
6 SHALL BE IN ADDITION TO ANY SUMS DEPOSITED INTO THE FUND  
7 UNDER AS 37.05.580(a).]

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

9 **Sec. 43.50.325. Restrictions on shipping or transporting tobacco products.**

10 (a) A person who is not licensed under this chapter may not ship or cause to be  
11 shipped a tobacco product to a person in this state unless the person receiving the  
12 tobacco product is

13 (1) licensed under this chapter;

14 (2) an operator of a customs bonded warehouse under 19 U.S.C. 1311  
15 or 19 U.S.C. 1555; or

16 (3) an instrumentality of the federal government or an Indian tribal  
17 organization authorized by law to possess tobacco products not taxed under this  
18 chapter.

19 (b) A person who is licensed under this chapter may not ship or cause to be  
20 shipped a tobacco product to a person in this state unless the person receiving the  
21 tobacco product

22 (1) is licensed under this chapter;

23 (2) holds a business license endorsement under AS 43.70.075;

24 (3) is an operator of a customs bonded warehouse under 19 U.S.C.  
25 1311 or 19 U.S.C. 1555;

26 (4) is an instrumentality of the federal government or an Indian tribal  
27 organization authorized by law to possess tobacco products not taxed under this  
28 chapter; or

29 (5) is an individual 21 years of age or older and the individual's age  
30 was verified at the time of purchase through a third-party verification service, the  
31 individual is receiving the tobacco product for personal consumption, and the tax

1 imposed on the tobacco product under this chapter has been paid.

2 (c) A common or contract carrier may not knowingly transport a tobacco  
3 product to a person in this state unless the person

4 (1) shipping the tobacco product is licensed under this chapter and,  
5 before shipment, provides the common or contract carrier with a copy of the person's  
6 current license issued by the department and

7 (A) an affidavit from the intended recipient certifying that the  
8 person receiving the tobacco product is a person described under (b)(1) - (4) of  
9 this section; or

10 (B) the common or contract carrier verifies the age of the  
11 recipient as 21 years of age or older before delivery; or

12 (2) receiving the tobacco product is a person described under (a)(2) or  
13 (3) of this section or is licensed under this chapter and, before receipt, provides the  
14 common or contract carrier with a copy of the person's current license issued by the  
15 department.

16 (d) If a tobacco product is transported by a common or contract carrier to a  
17 home or residence, it is rebuttably presumed that the common or contract carrier knew  
18 that the recipient of the tobacco product was not a person described under (b)(1) - (5)  
19 of this section, unless the person shipping the tobacco product has satisfied the  
20 requirements in (c)(1) of this section.

21 (e) A person, other than a common or contract carrier, may not knowingly  
22 transport a tobacco product to a person in this state, unless the recipient of the tobacco  
23 product is a person described under (b)(1) - (5) of this section.

24 (f) A person who ships or causes to be shipped a tobacco product to a person  
25 in this state shall plainly and visibly mark the container or wrapping with the words  
26 "tobacco product" if the tobacco product is shipped in a container or wrapping other  
27 than the manufacturer's original container or wrapping of the tobacco product.

28 (g) A person who violates the provisions of this section is guilty of a class A  
29 misdemeanor if the person unlawfully ships, causes to be shipped, or transports a  
30 tobacco product.

31 (h) In addition to the criminal penalty under (g) of this section, the department

1 may assess a civil penalty of not more than \$5,000 for each violation of this section.

2 (i) A person who violates the provisions of this section is jointly and severally  
3 liable for the taxes imposed by AS 43.50.090 and 43.50.190. To the fullest extent  
4 permitted by the Constitution of the United States, a person who violates the  
5 provisions of this section is required to collect the taxes and pay them to the  
6 department.

7 \* **Sec. 17.** AS 43.50 is amended by adding new sections to read:

8 **Article 8. Electronic Smoking Products Sales, Shipping, and Licensing.**

9 **Sec. 43.50.850. Licensing.** (a) Except as provided in (g) of this section, a  
10 person must be licensed by the department if the person engages in the business of  
11 selling electronic smoking products at retail.

12 (b) The department, upon application and payment of a fee of \$50, shall issue  
13 a license for one year to a person who applies for a license under (a) of this section.

14 (c) The department may refuse to issue a license under this section if

15 (1) there is reasonable cause to believe the information submitted in  
16 the application is false or misleading and is not made in good faith; or

17 (2) the applicant is not in good standing under AS 10.06 (Alaska  
18 Corporations Code).

19 (d) A license issued under this section must include the name and address of  
20 the licensee, the type of business to be conducted, and the year for which the license is  
21 issued.

22 (e) The department may renew a license issued under this section for a fee of  
23 \$50 if the applicant is in good standing under AS 10.06 (Alaska Corporations Code).

24 (f) The department may suspend, revoke, or refuse to renew a license issued  
25 under this section as provided in AS 43.50.070.

26 (g) A license required by this section is in addition to any other license  
27 required by law, except that a person who is licensed under AS 43.50.010 - 43.50.180  
28 or 43.50.300 - 43.50.390 is exempt from the licensing requirements of this section.

29 (h) A license issued under this section is not assignable or transferable, except  
30 that in the case of death, bankruptcy, receivership, or incompetency of the licensee, or  
31 if the business of the licensee is transferred to another by operation of law, the

1 department may extend the license for a limited time to the executor, administrator,  
2 trustee, receiver, or transferee.

3 **Sec. 43.50.860. Marketing and distribution of electronic smoking**  
4 **products.** A person licensed under this chapter may not

5 (1) distribute an electronic smoking product designed or packaged so  
6 as not to be clearly recognizable as an electronic smoking product; or

7 (2) market an electronic smoking product, including a flavored  
8 electronic smoking product, in a manner likely to promote use of the electronic  
9 smoking product by a person under 21 years of age.

10 **Sec. 43.50.870. Restrictions on shipping or transporting electronic**  
11 **smoking products.** (a) A person who is not licensed under this chapter may not ship  
12 or cause to be shipped an electronic smoking product to a person in this state unless  
13 the person receiving the electronic smoking product is

14 (1) licensed under this chapter;

15 (2) an operator of a customs bonded warehouse under 19 U.S.C. 1311  
16 or 19 U.S.C. 1555; or

17 (3) an instrumentality of the federal government or an Indian tribal  
18 organization.

19 (b) A person who is licensed under this chapter may not ship or cause to be  
20 shipped an electronic smoking product to a person in this state unless the person  
21 receiving the electronic smoking product

22 (1) is licensed under this chapter;

23 (2) holds a business license endorsement under AS 43.70.075;

24 (3) is an operator of a customs bonded warehouse under 19 U.S.C.  
25 1311 or 19 U.S.C. 1555;

26 (4) is an instrumentality of the federal government or an Indian tribal  
27 organization; or

28 (5) is an individual 21 years of age or older and the individual's age  
29 was verified at the time of purchase through a third-party verification service and the  
30 individual is receiving the electronic smoking product for personal consumption.

31 (c) A common or contract carrier may not knowingly transport an electronic

1 smoking product to a person in this state unless the person

2 (1) shipping the electronic smoking product is licensed under this  
3 chapter and, before shipment, provides the common or contract carrier with a copy of  
4 the person's current license issued by the department and

5 (A) an affidavit from the intended recipient certifying that the  
6 person receiving the electronic smoking product is a person described under  
7 (b)(1) - (4) of this section; or

8 (B) the common or contract carrier verifies the age of the  
9 recipient as 21 years of age or older before delivery; or

10 (2) receiving the electronic smoking product is a person described  
11 under (a)(2) or (3) of this section or is licensed under this chapter and, before receipt,  
12 provides the common or contract carrier with a copy of the person's current license  
13 issued by the department.

14 (d) If an electronic smoking product is transported by a common or contract  
15 carrier to a home or residence, it is rebuttably presumed that the common or contract  
16 carrier knew that the recipient of the electronic smoking product was not a person  
17 described under (b)(1) - (5) of this section, unless the person shipping the electronic  
18 smoking product has satisfied the requirements in (c)(1) of this section.

19 (e) A person, other than a common or contract carrier, may not knowingly  
20 transport an electronic smoking product to a person in this state, unless the recipient of  
21 the electronic smoking product is a person described under (b)(1) - (5) of this section.

22 (f) A person who ships or causes to be shipped an electronic smoking product  
23 to a person in this state shall plainly and visibly mark the container or wrapping with  
24 the words "electronic smoking product" if the electronic smoking product is shipped in  
25 a container or wrapping other than the manufacturer's original container or wrapping  
26 of the electronic smoking product.

27 (g) A person who violates the provisions of this section is guilty of a class A  
28 misdemeanor if the person unlawfully ships, causes to be shipped, or transports an  
29 electronic smoking product.

30 (h) In addition to the criminal penalty under (g) of this section, the department  
31 may assess a civil penalty of not more than \$5,000 for each violation of this section.

1           **Sec. 43.50.880. Restrictions on electronic smoking products.** A person may  
 2 sell or distribute to consumers in this state, acquire, hold, own, possess, or transport  
 3 for sale or distribution in this state, or import or cause to be imported into this state for  
 4 sale or distribution in this state only electronic smoking products

5                   (1) for which the component vapor product

6                               (A) has a nicotine content of less than 50 milligrams of nicotine  
 7 for each milliliter of vapor product;

8                               (B) is protected from breakage and leakage;

9                               (C) does not contain added vitamins or other additives  
 10 marketed to create the impression of health benefits; in this subparagraph,  
 11 "vitamins or other additives" includes caffeine, taurine, vitamin E acetate,  
 12 stimulants, and colorants;

13                   (2) that are packaged to be child- and tamper-proof; and

14                   (3) that are labeled to inform consumers about all vapor product  
 15 ingredients and nicotine content.

#### 16                               **Article 9. General Provisions.**

17           **Sec. 43.50.990. Definitions.** In this chapter,

18                   (1) "electronic smoking product" has the meaning given in  
 19 AS 11.81.900(b);

20                   (2) "vapor product" means a substance intended to be aerosolized or  
 21 vaporized during the use of an electronic smoking product.

22 \* **Sec. 18.** AS 43.70.075(f) is amended to read:

23                   (f) A person who holds a license endorsement issued under this section shall  
 24 post on the licensed premises a warning sign as described in this subsection. A  
 25 warning sign required by this subsection must be at least 8.5 inches by 11 inches and  
 26 must read: "The sale of electronic smoking products or products containing nicotine  
 27 without a prescription or tobacco products to persons under age 21 [19] is illegal." A  
 28 person holding an endorsement issued under this section shall display the warning sign  
 29 in a manner conspicuous to a person purchasing or consuming tobacco products,  
 30 electronic smoking products, or products containing nicotine on the licensed premises.  
 31 The department shall make available the warning signs required under this section to a

1 person who holds an endorsement issued under this section or a person who requests  
2 the sign with the intention of displaying it.

3 \* **Sec. 19.** AS 43.70.075(m) is amended to read:

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

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

22 (2) if the department does not allege a conviction of AS 11.76.100,  
23 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the  
24 person while acting within the scope of the agency or employment of the person,  
25 violate a provision of (a) or (g) of this section;

26 (3) within the 24 months before the date of the department's notice  
27 under this subsection, was the person, or an agent or employee of the person while  
28 acting within the scope of the agency or employment of the person, convicted of  
29 violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 or adjudicated for  
30 violating a provision of (a) or (g) of this section;

31 (4) did the person holding the business license endorsement establish

1 that the person holding the business license endorsement had adopted and enforced an  
 2 education, a compliance, and a disciplinary program for agents and employees of the  
 3 person as provided in (t) of this section;

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

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

9 (A) previously violated (a) or (g) of this section;

10 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or  
 11 11.76.109 at a location or outlet in a location for which the person holds a  
 12 business license endorsement, or had an agent or employee previously violate  
 13 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not  
 14 apply to a prior conviction that served to enhance a suspension period under  
 15 (d)(2) - (4) of this section; or

16 (C) engaged at a location owned by the person in other conduct  
 17 that was or is likely to result in the sale of tobacco, electronic smoking  
 18 products, or products containing nicotine to a person under 21 [19] years of  
 19 age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

20 \* **Sec. 20.** AS 43.70.075(t) is amended to read:

21 (t) Based on evidence provided at the hearing under (m)(4) - (6) of this  
 22 section, the department may reduce the license suspension period under (d) of this  
 23 section if the person holding the business license endorsement establishes that, before  
 24 the date of the violation, the person had

25 (1) adopted and enforced a written policy against selling cigarettes,  
 26 cigars, tobacco, products containing tobacco, electronic smoking products, or products  
 27 containing nicotine to a person under 21 [19] years of age in violation of  
 28 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

29 (2) informed the person's agents and employees of the applicable laws  
 30 and their requirements and conducted training on complying with the laws and  
 31 requirements;

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

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

7 (5) required the agents and employees of the person to verify the age  
8 of purchasers of cigarettes, cigars, tobacco, other products containing tobacco,  
9 electronic smoking products, or products containing nicotine by means of a valid  
10 government issued photographic identification;

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

14 (7) monitored the compliance of the agents and employees of the  
15 person with the written policy and the requirements of AS 11.76.100, 11.76.106,  
16 11.76.107, and 11.76.109.

17 \* **Sec. 21.** AS 43.70.075(w) is amended to read:

18 (w) For purposes of (m)(5) of this section, a conviction for a violation of  
19 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 by the agent or employee of the  
20 person who holds the business license endorsement is rebuttably presumed to  
21 constitute proof of the fact that the agent or employee negligently sold a cigarette, a  
22 cigar, or tobacco, a product containing tobacco, an electronic smoking product, or a  
23 product containing nicotine to a person under 21 [19] years of age. The person who  
24 holds the business license endorsement may overcome the presumption by  
25 establishing by clear and convincing evidence that the agent or employee did not  
26 negligently sell a cigarette, a cigar, or tobacco, a product containing tobacco, an  
27 electronic smoking product, or a product containing nicotine to a person under 21 [19]  
28 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 as  
29 alleged in the citation issued to the agent or employee. The presentation of evidence  
30 authorized by this subsection does not constitute a collateral attack on the conviction  
31 described in this subsection.

1 \* **Sec. 22.** AS 45.50.471(b) is amended by adding a new paragraph to read:

2 (58) marketing an electronic smoking product in a manner likely to  
3 promote use of electronic smoking products by a person under 21 years of age; in this  
4 paragraph, "electronic smoking product" has the meaning given in AS 43.50.990.

5 \* **Sec. 23.** AS 47.12.030(b) is amended to read:

6 (b) When a minor is accused of violating a statute specified in this subsection,  
7 other than a statute the violation of which is a felony, this chapter and the Alaska  
8 Delinquency Rules do not apply and the minor accused of the offense shall be  
9 charged, prosecuted, and sentenced in the district court in the same manner as an  
10 adult; if a minor is charged, prosecuted, and sentenced for an offense under this  
11 subsection, the minor's parent, guardian, or legal custodian shall be present at all  
12 proceedings; the provisions of this subsection apply when a minor is accused of  
13 violating

14 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
15 a municipality;

16 (2) AS 11.76.105, relating to the possession of tobacco by a person  
17 under 21 [19] years of age;

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

19 (4) a parks and recreational facilities statute or regulation under  
20 AS 41.21;

21 (5) [REPEALED]

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

1 (7) AS 04.16.050, relating to consumption, possession, or control of  
2 alcohol by a person under 21 years of age.

3 \* **Sec. 24.** AS 11.76.100(e) is repealed.

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

6 APPLICABILITY. The following sections apply to offenses committed on or after the  
7 effective date of those sections:

- 8 (1) AS 11.76.100(a), as amended by sec. 1 of this Act;
- 9 (2) AS 11.76.100(b), as amended by sec. 2 of this Act;
- 10 (3) AS 11.76.105, as amended by sec. 3 of this Act;
- 11 (4) AS 11.76.105(d), enacted by sec. 4 of this Act;
- 12 (5) AS 11.76.106(b), as amended by sec. 5 of this Act;
- 13 (6) AS 11.76.109(a), as amended by sec. 6 of this Act;
- 14 (7) AS 11.76.109(b), as amended by sec. 7 of this Act;
- 15 (8) AS 11.76.109(d), as amended by sec. 8 of this Act;
- 16 (9) AS 11.76.109(g), as amended by sec. 9 of this Act;
- 17 (10) AS 11.81.900(b)(69), enacted by sec. 10 of this Act;
- 18 (11) AS 43.50.325, enacted by sec. 16 of this Act;
- 19 (12) AS 43.50.870, enacted by sec. 17 of this Act; and
- 20 (13) AS 47.12.030(b), as amended by sec. 23 of this Act.

21 \* **Sec. 26.** This Act takes effect January 1, 2025.