

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Amended: 5/14/24

Offered: 5/8/24

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 lawful operation of retail marijuana stores; relating to the registration of**
5 **marijuana establishments; relating to the tobacco use education and cessation fund;**
6 **relating to retailers of and the sale of electronic smoking products and vapor products;**
7 **relating to marijuana taxes; and providing for an effective date."**

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

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

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

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

(2) is 21 [19] years of age or older and negligently exchanges or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 21 [19] years of age;

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

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

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

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

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

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

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

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

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

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

ADULT CORRECTIONAL FACILITY.]

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

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

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

(3) was

(A) prescribed by a health care professional;

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

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

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

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

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

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

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

product containing tobacco, an electronic smoking product, or a product containing nicotine.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The provisions of (a) of this section do not apply to the sale, exchange, or

1 gift to a person under 21 [19] years of age of an electronic smoking product or a
 2 product containing nicotine that is intended or expected to be consumed without being
 3 combusted if the electronic smoking product or product containing nicotine

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

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

8 (3) is

9 (A) prescribed by a health care professional;

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

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

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

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

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

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

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

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

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

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

(g) Selling or giving an electronic smoking product or a product containing nicotine to a **person under 21 years of age** [MINOR] is a violation and, upon conviction, is punishable by a fine of not less than \$300.

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

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

* **Sec. 11.** AS 17.38.070(a) is amended to read:

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a retail marijuana store, are lawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law:

(1) possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) receiving marijuana or marijuana products from a marijuana testing facility;

(4) purchasing marijuana from a marijuana cultivation facility;

(5) purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) delivering, distributing, or selling marijuana or marijuana products to **a consumer, a marijuana cultivation facility, or a marijuana product manufacturing facility** [CONSUMERS].

* **Sec. 12.** AS 17.38.200(a) is amended to read:

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days before the expiration of the marijuana establishment's registration. When filing an application for a new registration under this subsection,

the applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. When filing an application for renewal of registration, an applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check every six [FIVE] years. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

* **Sec. 13.** AS 17.38.200(d) is amended to read:

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue a biennial [AN ANNUAL] registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted under [PURSUANT TO] AS 17.38.190 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made under [PURSUANT TO] AS 17.38.210 and in effect at the time of application.

* **Sec. 14.** AS 17.38.210(e) is amended to read:

(e) A local government may establish a schedule of biennial [ANNUAL] operating, registration, and application fees for marijuana establishments, provided that the local government may charge the

(1) application fee only if an application is submitted to the local government in accordance with (f) of this section; and

(2) registration fee only if a registration is issued by the local government in accordance with (f) of this section.

* **Sec. 15.** AS 17.38.210(f) is amended to read:

(f) If the board does not issue a registration to an applicant within 90 days after receiving [OF RECEIPT OF] the application filed in accordance with AS 17.38.200 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within that [SUCH] time period, or if the board has adopted regulations under [PURSUANT TO] AS 17.38.190 and has accepted applications under [PURSUANT TO] AS 17.38.200 but has not issued any registrations by 15

months after February 24, 2015, the applicant may resubmit its application directly to the local regulatory authority, under [PURSUANT TO] (c) of this section, and the local regulatory authority may issue a biennial [AN ANNUAL] registration to the applicant. If an application is submitted to a local regulatory authority under this subsection, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

* **Sec. 16.** AS 17.38.210(h) is amended to read:

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days after receiving [OF RECEIPT OF] the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made under [PURSUANT TO] (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if a biennial [AN ANNUAL] registration has been issued to the applicant.

* **Sec. 17.** AS 17.38.210(j) is amended to read:

(j) A subsequent or renewed registration may be issued under (f) of this section on a biennial [AN ANNUAL] basis only upon resubmission to the local government of a new application submitted to the board under [PURSUANT TO] AS 17.38.200.

* **Sec. 18.** AS 17.38.320 is amended to read:

Sec. 17.38.320. Effect on registrations of prohibition of marijuana establishments. If a majority of voters vote to prohibit the operation of marijuana establishments under AS 17.38.300, the board may not issue, renew, or transfer, between persons or locations, a registration for a marijuana establishment located within the perimeter of the established village. A registration that may not be renewed because of a local option election held under AS 17.38.300 is void 90 days after the results of the election are certified. A registration that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the biennial [ANNUAL] registration fee.

* **Sec. 19.** AS 17.38.900(18) is amended to read:

(18) "retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers, marijuana cultivation facilities, and marijuana product manufacturing facilities;

* **Sec. 20.** AS 37.05.580(a) is amended to read:

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

* **Sec. 21.** AS 43.50.070 is amended to read:

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

(a) The department may suspend, revoke, or refuse to renew a license issued under this chapter (1) for a negligent violation of AS 11.76.100, 11.76.106, 11.76.107, 11.76.109, or a violation of this chapter or a regulation of the department adopted under this chapter; (2) if a licensee ceases to act in the capacity for which the license was issued; or (3) if a licensee negligently sells tobacco or products containing tobacco to a person who is required to, but does not, hold a license endorsement under AS 43.70.075 or whose license endorsement under AS 43.70.075 has been suspended. A person whose license is suspended or revoked may not sell cigarettes, [OR] tobacco products, **or electronic smoking products,** or permit cigarettes, [OR] tobacco products, **or electronic smoking products** to be sold, during the period of the suspension or revocation on the premises occupied or controlled by that person. A disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, renewal, or extension of a license issued under this chapter. The department shall comply with the provisions of AS 44.62 (Administrative Procedure Act), except

1 that a hearing officer of the department, rather than a hearing officer assigned under
2 AS 44.62.350, may conduct hearings.

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

5 * **Sec. 22.** AS 43.50.105(b) is amended to read:

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

8 (1) is licensed under this chapter;

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

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

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

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

18 * **Sec. 23.** AS 43.50.105(c) is amended to read:

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

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

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

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

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

1 * **Sec. 24.** AS 43.50.190(d) is amended to read:

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

7 * **Sec. 25.** AS 43.50 is amended by adding a new section to read:

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

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

12 (1) licensed under this chapter;

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

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

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

21 (1) is licensed under this chapter;

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

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

25 (4) is an instrumentality of the federal government or an Indian tribal
26 organization authorized by law to possess tobacco products not taxed under this
27 chapter; 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, the
30 individual is receiving the tobacco product for personal consumption, and the tax
31 imposed on the tobacco product under this chapter has been paid.

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

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

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

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

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

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

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

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

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

* **Sec. 26.** AS 43.50 is amended by adding new sections to read:

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

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

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

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

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

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

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

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

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

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

(h) A license issued under this section is not assignable or transferable, except that in the case of death, bankruptcy, receivership, or incompetency of the licensee, or if the business of the licensee is transferred to another by operation of law, the department may extend the license for a limited time to the executor, administrator,

1 trustee, receiver, or transferee.

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

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

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

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

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

21 (1) is licensed under this chapter;

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

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

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

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

30 (c) A common or contract carrier may not knowingly transport an electronic
31 smoking product to a person in this state unless the person

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

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

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

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

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

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

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

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

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

Sec. 43.50.880. Restrictions on electronic smoking products. A person may

1 sell or distribute to consumers in this state, acquire, hold, own, possess, or transport
 2 for sale or distribution in this state, or import or cause to be imported into this state for
 3 sale or distribution in this state only electronic smoking products

4 (1) for which the component vapor product

5 (A) has a nicotine content of less than 60 milligrams of nicotine
 6 for each milliliter of vapor product;

7 (B) is protected from breakage and leakage;

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

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

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

15 **Article 9. General Provisions.**

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

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

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

21 * **Sec. 27.** AS 43.61.010(a) is amended to read:

22 (a) An excise tax is imposed on the sale or transfer of marijuana from a
 23 marijuana cultivation facility to a retail marijuana store or marijuana product
 24 manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at
 25 the rate of \$12.50 an [\$50 PER] ounce, or proportionate part thereof, on marijuana
 26 that is sold or transferred from a marijuana cultivation facility to a retail marijuana
 27 store or marijuana product manufacturing facility.

28 * **Sec. 28.** AS 43.61.010(f) is amended to read:

29 (f) The marijuana education and treatment fund is established in the general
 30 fund. In addition to the accounting under (c) of this section, the Department of
 31 Administration shall separately account for 25 percent of the tax collected under this

section and deposit it into the marijuana education and treatment fund. The Department of Administration shall deposit interest earned on the fund into the general fund. Money in the fund does not lapse. The legislature may use the annual estimated balance in the fund to make appropriations to the Department of Health for the comprehensive marijuana use education and treatment program established under AS 44.29.020(a)(14) **and may use at least 50 percent of the annual estimated balance in the fund to make appropriations to the youth services grant program within the community-based marijuana misuse prevention component of that program.**

* **Sec. 29.** AS 43.61.010 is amended by adding a new subsection to read:

(g) A sales tax is imposed on the sale of marijuana and marijuana products from a retail marijuana store to a consumer. Every consumer shall pay a seven percent sales tax at a retail marijuana store for all marijuana and marijuana products intended for human consumption.

* **Sec. 30.** AS 43.61.020 is amended to read:

Sec. 43.61.020. Quarterly statements [MONTHLY STATEMENT] **and payments.** (a) Each **retail** marijuana **store** [CULTIVATION FACILITY] shall send a statement by mail or electronically to the department on or before the last day of each **quarter** [CALENDAR MONTH]. The statement must contain an account of the amount of marijuana sold **to consumers** [OR TRANSFERRED TO RETAIL MARIJUANA STORES AND MARIJUANA PRODUCT MANUFACTURING FACILITIES IN THE STATE] during the preceding **quarter** [MONTH], setting out

[(1)] the total number of ounces, including fractional ounces, sold **and the total value of the marijuana sold** [OR TRANSFERRED;

(2) THE NAMES AND ALASKA ADDRESS OF EACH BUYER AND TRANSFEREE; AND

(3) THE WEIGHT OF MARIJUANA SOLD OR TRANSFERRED TO THE RESPECTIVE BUYERS OR TRANSFEREES].

(b) The **retail** marijuana **store** [CULTIVATION FACILITY] shall pay **quarterly** [MONTHLY] to the department [,] all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the marijuana sold [OR

1 TRANSFERRED] during the preceding quarter [MONTH]. The quarterly
 2 [MONTHLY] return shall be filed and the tax paid on or before the last day of each
 3 quarter [MONTH] to cover the preceding quarter [MONTH].

4 * **Sec. 31.** AS 43.61.030 is amended to read:

5 **Sec. 43.61.030. Administration and enforcement of tax.** (a) Delinquent
 6 payments under this chapter shall subject the retail marijuana store [CULTIVATION
 7 FACILITY] to civil penalties under AS 43.05.220.

8 (b) If a retail marijuana store [CULTIVATION FACILITY] fails to pay the
 9 tax to the state, the retail marijuana store's [CULTIVATION FACILITY'S]
 10 registration may be revoked in accordance with procedures established under
 11 AS 17.38.190(a)(1).

12 * **Sec. 32.** AS 43.70.075(f) is amended to read:

13 (f) A person who holds a license endorsement issued under this section shall
 14 post on the licensed premises a warning sign as described in this subsection. A
 15 warning sign required by this subsection must be at least 8.5 inches by 11 inches and
 16 must read: "The sale of electronic smoking products or products containing nicotine
 17 without a prescription or tobacco products to persons under age 21 [19] is illegal." A
 18 person holding an endorsement issued under this section shall display the warning sign
 19 in a manner conspicuous to a person purchasing or consuming tobacco products,
 20 electronic smoking products, or products containing nicotine on the licensed premises.
 21 The department shall make available the warning signs required under this section to a
 22 person who holds an endorsement issued under this section or a person who requests
 23 the sign with the intention of displaying it.

24 * **Sec. 33.** AS 43.70.075(m) is amended to read:

25 (m) The department may initiate suspension of a business license endorsement
 26 or the right to obtain a business license endorsement under this section by sending the
 27 person subject to the suspension a notice by certified mail, return receipt requested, or
 28 by delivering the notice to the person. The notice must contain information that
 29 informs the person of the grounds for suspension, the length of any suspension sought,
 30 and the person's right to administrative review. A suspension begins 30 days after
 31 receipt of notice described in this subsection unless the person delivers a timely

1 written request for a hearing to the department in the manner provided by regulations
 2 of the department. If a hearing is requested under this subsection, an administrative
 3 law judge of the office of administrative hearings (AS 44.64.010) shall determine the
 4 issues by using the preponderance of the evidence test and shall, to the extent they do
 5 not conflict with regulations adopted under AS 44.64.060, conduct the hearing in the
 6 manner provided by regulations of the department. A hearing under this subsection is
 7 limited to the following questions:

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

12 (2) if the department does not allege a conviction of AS 11.76.100,
 13 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the
 14 person while acting within the scope of the agency or employment of the person,
 15 violate a provision of (a) or (g) of this section;

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

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

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

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

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

31 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or

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

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

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 36.** AS 45.50.471(b) is amended by adding a new paragraph to read:

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

* **Sec. 37.** AS 47.12.030(b) is amended to read:

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this

subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

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

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

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

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

(5) [REPEALED]

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

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

* **Sec. 38.** AS 43.61.010(b) is repealed.

* **Sec. 39.** AS 11.76.100(e) and AS 43.61.010(a) are repealed.

* **Sec. 40.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The following sections apply to offenses committed on or after the effective date of those sections:

(1) AS 11.76.100(a), as amended by sec. 1 of this Act;

(2) AS 11.76.100(b), as amended by sec. 2 of this Act;

- (3) AS 11.76.105, as amended by sec. 3 of this Act;
- (4) AS 11.76.105(d), enacted by sec. 4 of this Act;
- (5) AS 11.76.106(b), as amended by sec. 5 of this Act;
- (6) AS 11.76.109(a), as amended by sec. 6 of this Act;
- (7) AS 11.76.109(b), as amended by sec. 7 of this Act;
- (8) AS 11.76.109(d), as amended by sec. 8 of this Act;
- (9) AS 11.76.109(g), as amended by sec. 9 of this Act;
- (10) AS 11.81.900(b)(69), enacted by sec. 10 of this Act;
- (11) AS 43.50.325, enacted by sec. 25 of this Act;
- (12) AS 43.50.870, enacted by sec. 26 of this Act; and
- (13) AS 47.12.030(b), as amended by sec. 37 of this Act.

(b) AS 43.61.010(a), as amended by sec. 27 of this Act, applies to taxes accrued on or after the effective date of sec. 27 of this Act.

*** Sec. 41.** Sections 11 - 19, 27, 28, and 38 of this Act take effect July 1, 2024.

*** Sec. 42.** Except as provided in sec. 41 of this Act, this Act takes effect January 1, 2025.