

CS FOR SENATE BILL NO. 24(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/14/25

Referred: Finance

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

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 the taxation of**
5 **electronic smoking products and vapor products; and providing for an effective date."**

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

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

8 (a) A person commits the offense of selling or giving tobacco to a **person**

9 **under 21 years of age** [MINOR] if the person

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

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

1 years of age;

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

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

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

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

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

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

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

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

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

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

31 (b) In a prosecution under (a) of this section for possession of an electronic

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

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

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

9 (3) was

10 (A) prescribed by a health care professional;

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

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

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

16 (c) Possession of tobacco, an electronic smoking product, or a product
 17 containing nicotine by a **person under 21 years of age** [MINOR] is a violation
 18 **punishable by a fine of not more than \$300. Notwithstanding AS 12.55.035(b), in**
 19 **place of any fine imposed for the violation of this subsection, the court may refer**
 20 **a defendant, at the request of the defendant, to a tobacco education program.**

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

22 (d) The supreme court shall establish by rule or order a schedule of bail
 23 amounts that may be forfeited without court appearance for a violation of this section
 24 by a person 19 or 20 years of age.

25 (e) The supreme court, in establishing scheduled amounts of bail under this
 26 section, may not allow for disposition of an offense without court appearance for a
 27 person under 18 years of age who is cited for a violation of this section.

28 (f) 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 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 (71) "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 29.35.085(c) is amended to read:

8 (c) The community work provisions of **AS 47.12.030(b)(5)**
 9 [AS 47.12.030(b)(6)] apply to punishment for a minor's conviction of a violation of a
 10 curfew ordinance for which a penalty is provided under AS 29.25.070(a).

11 * **Sec. 12.** AS 37.05.580(a) is amended to read:

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

21 * **Sec. 13.** AS 43.50.070 is amended to read:

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

23 (a) The department may suspend, revoke, or refuse to renew a license issued under this
 24 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 sell cigarettes, [OR] tobacco
 31 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 that a hearing officer of the department, rather than a hearing officer assigned under AS 44.62.350, may conduct hearings.

(b) In this section, "licensee" means a person licensed under AS 43.50.010 - 43.50.180, [OR] 43.50.300 - 43.50.390, or 43.50.850 - 43.50.900.

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

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

(1) is licensed under this chapter;

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

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

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

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

* **Sec. 15.** AS 43.50.105(c) is amended to read:

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

(1) shipping the cigarettes 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 cigarettes is a person described under (b)(1) - (4) [(b)(1) - (5)] 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 cigarettes 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.

* **Sec. 16.** AS 43.50.150(c) is amended to read:

(c) The department may enter into an agreement with a municipality that imposes a tax on cigarettes, [OR OTHER] tobacco products, **or electronic smoking products** for the purpose of jointly auditing a person liable for a tax under AS 43.50.010 - 43.50.390 **or 43.50.850 - 43.50.900** and the municipal tax on cigarettes, [OR OTHER] tobacco products, **or electronic smoking products**.

* **Sec. 17.** AS 43.50.190(d) is amended to read:

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

* **Sec. 18.** AS 43.50 is amended by adding a new section to read:

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

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

(1) licensed under this chapter;

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

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

(4) an individual purchasing a cigar or pipe tobacco for personal consumption who is 21 years of age or older and whose age was verified at the time of purchase through a third-party verification service.

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

4 (1) is licensed under this chapter;

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

6 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 7 1311 or 19 U.S.C. 1555;

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

11 (5) is an individual 21 years of age or older and the individual's age
 12 was verified at the time of purchase through a third-party verification service, the
 13 individual is receiving the tobacco product for personal consumption, and the tax
 14 imposed on the tobacco product under this chapter has been paid.

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

17 (1) the common or contract carrier verifies the age of the recipient as
 18 21 years of age or older before delivery; or

19 (2) the person receiving the tobacco product is a person described
 20 under (a)(2), (3), or (4) of this section or is licensed under this chapter and, before
 21 receipt, provides the common or contract carrier with a copy of the person's current
 22 license issued by the department.

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

28 (e) A person, other than a common or contract carrier, may not knowingly
 29 transport a tobacco product to a person in this state, unless the recipient of the tobacco
 30 product is a person described under (a)(4) or (b)(1) - (5) of this section.

31 (f) A person who ships or causes to be shipped a tobacco product to a person

1 in this state shall plainly and visibly mark the container or wrapping with the words
 2 "tobacco product" if the tobacco product is shipped in a container or wrapping other
 3 than the manufacturer's original container or wrapping of the tobacco product.

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

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

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

14 * **Sec. 19.** AS 43.50 is amended by adding new sections to read:

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

16 **Sec. 43.50.850. Tax levied; collection.** (a) A tax is levied on closed electronic
 17 smoking products and vapor products in the state. The tax is 25 percent of the retail
 18 sales price of a closed electronic smoking product or a vapor product.

19 (b) A licensee located in the state shall collect and remit the tax to the
 20 department. A licensee located outside of the state shall collect and remit the tax to the
 21 department if the licensee has more than 200 transactions in the state in the current or
 22 preceding calendar year.

23 **Sec. 43.50.855. Exemptions.** (a) The tax does not apply to

24 (1) a closed electronic smoking product or vapor product

25 (A) sold in a facility operated by one of the uniformed services
 26 of the United States;

27 (B) approved for sale by the United States Food and Drug
 28 Administration as a drug, drug product, including a drug product used to treat
 29 tobacco dependence, or combination product under 21 U.S.C. 301 - 392
 30 (Federal Food, Drug, and Cosmetic Act);

31 (C) if the United States Constitution or other federal laws

1 prohibit the levying of the tax on the product by the state;

2 (D) designed, marketed, and sold for the purpose of vaporizing
3 or aerosolizing marijuana, marijuana products, hemp, or hemp products if the
4 marijuana, marijuana products, hemp, or hemp products do not contain
5 nicotine and are intended for sale only in a retail marijuana store;

6 (2) marijuana or marijuana products subject to tax under AS 43.61 if
7 the marijuana or marijuana products do not contain nicotine; or

8 (3) hemp or hemp products if the hemp or hemp products do not
9 contain nicotine.

10 (b) In this section,

11 (1) "hemp" and "hemp products" mean hemp or a hemp product
12 produced by an individual registered under AS 03.05.076;

13 (2) "marijuana," "marijuana products," and "retail marijuana store"
14 have the meanings given in AS 17.38.900;

15 (3) "uniformed services" has the meaning given in 5 U.S.C. 2101.

16 **Sec. 43.50.860. Licensing.** (a) Except as provided in (g) of this section, a
17 person must be licensed by the department if the person engages in business as a
18 retailer of an electronic smoking product.

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

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

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

24 (2) the applicant is not in good standing under AS 10.06 (Alaska
25 Corporations Code); or

26 (3) a tax levied under this chapter is due and unpaid by the applicant.

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

30 (e) The department may renew a license issued under this section for a fee of
31 \$50 if the applicant

1 (1) is in good standing under AS 10.06 (Alaska Corporations Code);
2 and

3 (2) does not have unpaid taxes under this chapter.

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

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

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

14 (i) A person licensed under this section may not

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

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

20 **Sec. 43.50.865. Returns.** On or before the last day of each calendar month, a
21 licensee shall file a return with the department. The return must state the number or
22 amount of closed electronic smoking products, vapor products, and other electronic
23 smoking products sold by the licensee during the preceding calendar month, the
24 selling price of the electronic smoking products, and the amount of tax imposed on the
25 closed electronic smoking products and vapor products.

26 **Sec. 43.50.870. Records.** A licensee shall keep a complete and accurate record
27 of all electronic smoking products of the licensee, including purchase prices, sales
28 prices, the names and addresses of the sellers, the dates of delivery, the quantities of
29 electronic smoking products, and the trade names and brands. Statements and records
30 required by this section must be in the form prescribed by the department, preserved
31 for three years, and available for inspection upon demand by the department.

1 **Sec. 43.50.875. Disposition of proceeds.** The annual proceeds of the tax
 2 levied under AS 43.50.850 shall be deposited into the tobacco use education and
 3 cessation fund established in AS 37.05.580 and may be appropriated from the fund for
 4 the purposes listed in AS 44.29.020(a)(12) or for efforts to prevent or detect the use of
 5 tobacco or electronic smoking products in a school.

6 **Sec. 43.50.880. Restrictions on shipping or transporting electronic**
 7 **smoking products.** (a) A person who is not licensed under this chapter may not ship
 8 or cause to be shipped an electronic smoking product to a person in this state unless
 9 the person receiving the electronic smoking product is

10 (1) licensed under this chapter;

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

13 (3) an instrumentality of the federal government or an Indian tribal
 14 organization authorized by law to possess electronic smoking products not taxed under
 15 this chapter.

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

19 (1) is licensed under this chapter;

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

21 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 22 1311 or 19 U.S.C. 1555;

23 (4) is an instrumentality of the federal government or an Indian tribal
 24 organization authorized by law to possess electronic smoking products not taxed under
 25 this chapter; or

26 (5) is an individual 21 years of age or older and the individual's age
 27 was verified at the time of purchase through a third-party verification service, the
 28 individual is receiving the electronic smoking product for personal consumption, and
 29 the tax imposed on the electronic smoking product under this chapter has been paid.

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

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

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

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

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

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

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

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

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

31 (i) A person who violates the provisions of this section is jointly and severally

1 liable for the taxes imposed by AS 43.50.850. To the fullest extent permitted by the
 2 Constitution of the United States, a person who violates the provisions of this section
 3 is required to collect the taxes and pay them to the department.

4 **Sec. 43.50.885. Restrictions on electronic smoking products.** A person may
 5 sell or distribute to consumers in this state, acquire, hold, own, possess, or transport
 6 for sale or distribution in this state, or import or cause to be imported into this state for
 7 sale or distribution in this state only electronic smoking products

8 (1) for which the component vapor product

9 (A) has a nicotine content of not more than 70 milligrams of
 10 nicotine for each milliliter of vapor product;

11 (B) is protected from breakage and leakage;

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

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

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

19 **Sec. 43.50.900. Definitions.** In AS 43.50.850 - 43.50.900, "sales price"

20 (1) means the total amount of consideration, including cash, credit,
 21 property, and services, for which an electronic smoking product is purchased or sold,
 22 valued in money, whether received in money or otherwise, without any deduction for

23 (A) the seller's cost of the electronic smoking product sold;

24 (B) the cost of materials used, labor or service cost, interest,
 25 losses, cost of transportation, taxes, or other expenses of the seller;

26 (C) charges by the seller for services necessary to complete the
 27 sale;

28 (D) delivery charges;

29 (2) does not include

30 (A) discounts, including cash or coupons that are not
 31 reimbursed by a third party, that are allowed by a seller and taken by a

1 purchaser on a sale;

2 (B) interest, financing, and carrying charges from credit
3 extended on the sale of an electronic smoking product if the amount is
4 separately stated on the invoice, bill of sale, or similar document given to the
5 purchaser; and

6 (C) taxes legally imposed directly on the consumer that are
7 separately stated on the invoice, bill of sale, or similar document given to the
8 purchaser.

9 **Article 9. General Provisions.**

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

11 (1) "closed electronic smoking product" means a single-use electronic
12 smoking product that includes a pre-filled disposable cartridge of vapor product;

13 (2) "electronic smoking product"

14 (A) includes

15 (i) a product that can be used to deliver aerosolized or
16 vaporized nicotine to the person inhaling;

17 (ii) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen,
18 or other similar device of any shape;

19 (iii) a component, part, accessory, or device related to
20 an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar
21 device of any shape;

22 (iv) a vapor product used in a device or product
23 described in (i) or (ii) of this subparagraph;

24 (v) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen,
25 or other similar device of any shape sold together with a solution, vapor
26 product, or other similar product as a disposable nonrefillable unit;

27 (B) does not include a

28 (i) battery, battery charger, heating element, electronic
29 coil, or mouthpiece intended for use in an electronic smoking product,
30 when sold separately from the electronic smoking product;

31 (ii) cartridge, pod, tank, or similar container intended to

1 transport a vapor product, if sold empty;

2 (3) "nicotine" has the meaning given in AS 11.81.900(b);

3 (4) "retailer" means a person in the state who is engaged in the
4 business of selling electronic smoking products at retail;

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

7 * **Sec. 20.** AS 43.70.075(f) is amended to read:

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

19 * **Sec. 21.** AS 43.70.075(m) is amended to read:

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

1 manner provided by regulations of the department. A hearing under this subsection is
2 limited to the following questions:

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

7 (2) if the department does not allege a conviction of AS 11.76.100,
8 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the
9 person while acting within the scope of the agency or employment of the person,
10 violate a provision of (a) or (g) of this section;

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

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

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

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

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

26 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or
27 11.76.109 at a location or outlet in a location for which the person holds a
28 business license endorsement, or had an agent or employee previously violate
29 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not
30 apply to a prior conviction that served to enhance a suspension period under
31 (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. 22.** 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,

1 11.76.107, and 11.76.109.

2 * **Sec. 23.** AS 43.70.075(w) is amended to read:

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

17 * **Sec. 24.** AS 45.50.471(b) is amended by adding a new paragraph to read:

18 (58) marketing an electronic smoking product in a manner likely to
 19 promote use of electronic smoking products by a person under 21 years of age; in this
 20 paragraph, "electronic smoking product"

21 (A) includes

22 (i) a product that can be used to deliver aerosolized or
 23 vaporized nicotine to the person inhaling;

24 (ii) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen,
 25 or other similar device of any shape;

26 (iii) a component, part, accessory, or device related to
 27 an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar
 28 device of any shape;

29 (iv) a vapor product used in a device or product
 30 described in (i) or (ii) of this subparagraph;

31 (v) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen,

1 or other similar device of any shape sold together with a solution, vapor
2 product, or other similar product as a disposable nonrefillable unit;

3 (B) does not include a

4 (i) battery, battery charger, heating element, electronic
5 coil, or mouthpiece intended for use in an electronic smoking product,
6 when sold separately from the electronic smoking product;

7 (ii) cartridge, pod, tank, or similar container intended to
8 transport a vapor product, if sold empty.

9 * **Sec. 25.** AS 45.50.471(b)(58), enacted by sec. 24 of this Act, is amended to read:

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

13 [(A) INCLUDES

14 (i) A PRODUCT THAT CAN BE USED TO
15 DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE
16 PERSON INHALING;

17 (ii) AN e-CIGARETTE, e-CIGAR, e-PIPE, e-
18 HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY
19 SHAPE;

20 (iii) A COMPONENT, PART, ACCESSORY, OR
21 DEVICE RELATED TO AN e-CIGARETTE, e-CIGAR, e-PIPE, e-
22 HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY
23 SHAPE;

24 (iv) A VAPOR PRODUCT USED IN A DEVICE OR
25 PRODUCT DESCRIBED IN (i) OR (ii) OF THIS SUBPARAGRAPH;

26 (v) AN e-CIGARETTE, e-CIGAR, e-PIPE, e-
27 HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY
28 SHAPE SOLD TOGETHER WITH A SOLUTION, VAPOR
29 PRODUCT, OR OTHER SIMILAR PRODUCT AS A DISPOSABLE
30 NONREFILLABLE UNIT;

31 (B) DOES NOT INCLUDE A

(i) BATTERY, BATTERY CHARGER, HEATING ELEMENT, ELECTRONIC COIL, OR MOUTHPIECE INTENDED FOR USE IN AN ELECTRONIC SMOKING PRODUCT, WHEN SOLD SEPARATELY FROM THE ELECTRONIC SMOKING PRODUCT;

(ii) CARTRIDGE, POD, TANK, OR SIMILAR CONTAINER INTENDED TO TRANSPORT A VAPOR PRODUCT, IF SOLD EMPTY].

* **Sec. 26.** 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);

1 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
 2 or work that, on the recommendation of the municipal or borough assembly, city
 3 council, or traditional village council of the defendant's place of residence, would
 4 benefit persons within the municipality or village who are elderly or disabled;

5 (6) [(7)] AS 04.16.050, relating to consumption, possession, or control
 6 of alcohol by a person under 21 years of age.

7 * **Sec. 27.** AS 11.76.100(e) is repealed.

8 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
 9 read:

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

- 12 (1) AS 11.76.100(a), as amended by sec. 1 of this Act;
- 13 (2) AS 11.76.100(b), as amended by sec. 2 of this Act;
- 14 (3) AS 11.76.105, as amended by sec. 3 of this Act;
- 15 (4) AS 11.76.105(d) - (f), enacted by sec. 4 of this Act;
- 16 (5) AS 11.76.106(b), as amended by sec. 5 of this Act;
- 17 (6) AS 11.76.109(a), as amended by sec. 6 of this Act;
- 18 (7) AS 11.76.109(b), as amended by sec. 7 of this Act;
- 19 (8) AS 11.76.109(d), as amended by sec. 8 of this Act;
- 20 (9) AS 11.76.109(g), as amended by sec. 9 of this Act;
- 21 (10) AS 11.81.900(b)(71), enacted by sec. 10 of this Act;
- 22 (11) AS 43.50.325, enacted by sec. 18 of this Act;
- 23 (12) AS 43.50.880, enacted by sec. 19 of this Act; and
- 24 (13) AS 47.12.030(b), as amended by sec. 26 of this Act.

25 * **Sec. 29.** Sections 13, 16, 19, and 25 of this Act take effect January 1, 2027.

26 * **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect January 1, 2026.