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ALASKA
STATE
LEGISLATURE

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1 IN THE SENATE

2 SENATE BILL NO. 308

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the imposition of a
7 stamp excise tax on cigarettes; and pro-
8 viding for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 43.50 is repealed and re-enacted to read:

11 CHAPTER 50. CIGARETTE STAMP ACT.

12 Sec. 43.50.010. STAMP EXCISE TAX. There is a tax levied
13 on the sale, use, gift, possession or consumption of cigarettes
14 in the State of Alaska at the following rates:

15 (1) four cents on each package of 10 cigarettes
16 or less;

17 (2) eight cents on each package containing more
18 than 10 and not more than 20 cigarettes; and

19 (3) four cents for each 10 cigarettes or major
20 fraction thereof on each package containing more than 20
21 cigarettes.

22 Sec. 43.50.020. ONLY ONE TAX. The tax levied by sec.
23 10 of this chapter shall be in lieu of all taxes on cigarettes,
24 general or local, and shall be paid once only on any ciga-
25 rette sold, used, received, possessed, or consumed in this
26 state.

27 Sec. 43.50.030. STAMP TO EVIDENCE TAX. The payment of
28 the tax imposed by this chapter shall be evidenced by stamps
29 which shall be furnished by the Department of Revenue and

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1 purchased from the Department of Revenue or by an impres-
2 sion of such tax by the use of a metering device when
3 authorized by the department. The stamp or impressions
4 shall be securely affixed to one end of each package in
5 which cigarettes are contained or from which they are con-
6 sumed.

7 Sec. 43.50.040. TAX ON CONSUMER. The tax levied by
8 this chapter is on the vendee, user, consumer or possessor
9 of cigarettes in this state. When the tax is paid by any
10 other person the payment shall be considered as an advance
11 payment and shall thereafter be added to the price of the
12 cigarettes and recovered from the ultimate consumer or user.
13 In making a sale of cigarettes in this state, a wholesaler
14 or jobber may separately state and show upon the invoice
15 covering the sale the amount of tax on the cigarettes sold.
16 Every retailer who makes sale of cigarettes within this
17 state to persons for use or consumption shall separately
18 show the amount of tax as evidenced by appropriate stamps
19 on each package of cigarettes sold and the tax shall be
20 collected by the retailer from the user or consumer.

21 Sec. 43.50.050. MANUFACTURERS, WHOLESALERS, WAREHOUSE-
22 MEN, JOBBERS AND DISTRIBUTORS LICENSES AND FEES. (a) Every
23 manufacturer, wholesaler, warehouseman, jobber or distributor
24 of cigarettes in this state shall secure annually from the
25 department a license, the annual fee for which is \$25. The
26 license shall at all times be displayed in a conspicuous
27 place. Persons operating more than one place of business
28 must secure a license for each place of business. Place of
29 business under this section shall be construed to include

1 the place where orders are received, or where cigarettes are
2 sold. If cigarettes are sold on or from any vehicle, the
3 vehicle shall constitute a place of business and the regular
4 license fee of \$25 shall be paid; provided that if the
5 vehicle is owned or operated by a place of business which
6 pays the regular \$25 fee, the annual fee for the license for
7 the vehicle shall be \$10.

8 (b) No license for the sale of cigarettes shall be
9 issued to any manufacturer, wholesaler, warehouseman, jobber
10 or distributor who does not maintain a place of business
11 within the State of Alaska at which all products sold within
12 this state are stocked, sold and delivered, and from which
13 vehicles classed as a place of business under (a) of this
14 section are loaded and operated, and where all records and
15 accounts are kept and necessary accounting procedures per-
16 formed; but these provisions shall not apply to manufacturers,
17 wholesalers, warehousemen, jobbers or distributors having a
18 place of business located in another state if the other state
19 does not require manufacturers, wholesalers, warehousemen,
20 jobbers or distributors who have their place of business in
21 Alaska to maintain a warehouse or place of business in such
22 other state in order to secure a license to do business in
23 that state.

24 (c) The department shall not authorize the use of a
25 stamp-metering device by any manufacturer, wholesaler, ware-
26 houseman, jobber or distributor who does not maintain a
27 warehouse or wholesale establishment or place of business
28 within the state from which cigarettes are received, stocked
29 and sold; but the department may permit the use of a metering

1 device by manufacturers, wholesalers, warehousemen, jobbers
2 or distributors of cigarettes residing wholly within another
3 state if the other state permits a manufacturer, wholesaler,
4 warehouseman, jobber or distributor of cigarettes licensed
5 under this section to use a metering device of the other
6 state without requiring that the manufacturer, wholesaler,
7 warehouseman, jobber or distributor establish a place of
8 business in the other state. The provisions of this section
9 do not apply to states which do not require the affixing of
10 tax stamps to packages of cigarettes before cigarettes may
11 be offered for sale in that state.

12 Sec. 43.50.060. RETAILERS LICENSES AND FEES. Every
13 retailer in this state shall secure annually from the depart-
14 ment a license and shall pay an annual fee of \$10 for the
15 license. The license shall at all times be displayed in a
16 conspicuous place. Every person operating under a license
17 as a retailer and who owns or operates more than one place
18 of business must secure a license for each place of business.
19 Place of business under this section shall be construed to
20 include places where orders are received or where cigarettes
21 are sold.

22 Sec. 43.50.070. DISTRIBUTING AGENT'S LICENSE AND FEE.
23 Every distributing agent shall file a written application on
24 a form prescribed by the department and secure annually from
25 the department a license and shall pay an annual fee of \$100
26 for the license. An application shall be filed and a license
27 obtained for each place of business owned or operated by a
28 distributing agent. The license shall be consecutively
29 numbered, non-assignable, non-transferable, and shall author-

1 ize the storing and distribution of unstamped cigarettes
2 within the state when the distribution is made upon interstate
3 orders only.

4 Sec. 43.50.080. VENDING MACHINE LICENSE AND FEE. (a)
5 The owner of a vending machine used for the purpose of vending
6 cigarettes shall secure annually from the department a
7 license and shall pay an annual license fee of \$10 for each
8 machine. The license shall be due and payable on the first
9 day of July of each year. The person servicing the machine
10 shall be deemed to be the owner and required to purchase a
11 license in his own name. The license is transferable from
12 one machine to another machine and permits the holder to
13 operate a vending machine in the state for a term to expire
14 on the 30th day of June next succeeding the date of the
15 license.

16 (b) Every person operating vending machines within the
17 state is required to file a report with the department upon
18 forms prescribed by the department each month not later than
19 the 15th day of the month succeeding the month for which the
20 the report is made; provided that any person not having more
21 than three machines which are located in the owner's own
22 place of business is not required to make the reports unless
23 directed by the department to do so.

24 Sec. 43.50.090. LICENSES NOT TRANSFERABLE. Wholesale,
25 retail, vending machine and distributing agent's licenses
26 are not assignable and not transferable from one person to
27 another person. The licenses may be transferred from one
28 location to another location after an application has been
29 filed with the department requesting the transfer and after

1 the approval of the department.

2 Sec. 43.50.100. MISCELLANEOUS REQUIREMENTS REGARDING
3 LICENSES. (a) Wholesale, retail, vending machine, and dis-
4 tributing agent's licenses shall be applied for on a form
5 prescribed by the department and must be properly acknowledged
6 by a notary public or by an agent of the department.

7 (b) Any person operating as a wholesaler, retailer,
8 distributing agent, or vending machine operator must at all
9 times have an effective unexpired license which has been
10 issued by the department.

11 (c) If any person or licensee continues to operate on a
12 license which has expired, or operates without ever having
13 obtained a license, he shall, after being delinquent for a
14 period of 15 days pay to the department, in addition to the
15 annual license fee, a penalty of 25 cents per day on each
16 delinquent license for each day operated in excess of 15
17 days. The penalty provided by this section shall not exceed
18 the annual license fee for the license.

19 (d) Cigarettes may not be sold through a vending machine
20 and over a counter under one license. In the event a person
21 desires to sell cigarettes over the counter and by means of
22 a vending machine it will be necessary that a separate li-
23 cense be obtained for the sale of cigarettes at his counter
24 and for the sale of cigarettes by means of the vending
25 machine.

26 Sec. 43.50.110. VENDING MACHINES TO BE SEALED FOR
27 VIOLATION. Any vending machine located in any place of
28 business, or other location which is accessible to the public
29 and which is capable of being operated and which does not

1 have placed upon the machine a current and valid license,
2 shall be sealed by the department and shall not be unsealed
3 or placed in operation until the owner shall have procured
4 from the department a license and placed the license on the
5 machine; provided, if the owner of the machine has four or
6 more machines and has a sufficient number of current and
7 valid licenses to properly license every machine, the depart-
8 ment may extend to the owner 24 hours in which to place a
9 current and valid license on the machine.

10 Sec. 43.50.120. STAMPS REQUIRED. (a) Every whole-
11 saler, jobber or warehouseman doing business within this
12 state and required to secure a license under sec. 50 of this
13 chapter shall, upon withdrawal from storage, and before
14 making any sale or distribution for consumption thereof,
15 cause the same to have affixed thereto the stamp or stamps
16 as required by this chapter. It shall be the duty of the
17 wholesaler, jobber or warehouseman to supply and charge to
18 the retailer the necessary stamps to cover any and all drop
19 shipments of cigarettes billed to the retailer or consumer
20 by the wholesaler, jobber or warehouseman, and the whole-
21 saler, jobber or warehouseman shall be liable to the depart-
22 ment to perform this service.

23 (b) Every retailer who has received cigarettes from a
24 manufacturer, wholesaler, jobber, warehouseman or distribu-
25 tor not required to secure a license as provided in sec. 60
26 of this chapter or to affix stamps as required under (a) of
27 this section shall have 72 hours, excluding Sundays and
28 holidays, from the time the cigarettes come into his
29 possession, and before making any sale or distribution or

1 consumption thereof, affix stamps upon all cigarette packages
2 in the proper denomination and amount as required by sec. 10
3 of this chapter.

4 (c) Any unlicensed consumer who buys direct from any
5 distributor, jobber, manufacturer, warehouseman or whole-
6 saler, or other person, within or without this state, any
7 cigarettes in excess of 40 at any one time to which are not
8 affixed the stamps required by this chapter shall, before
9 purchasing the cigarettes secure from the department a
10 license and pay an annual fee of \$25, and in addition shall
11 post with the department a surety bond in the sum of \$1000
12 conditioned that he will comply with the rules and regula-
13 tions of the department, pay all taxes and penalties and
14 affix to all cigarettes the proper tax stamps. He shall
15 immediately, upon the receipt of any unstamped cigarettes,
16 report the same to the department on forms as prescribed by
17 the department and immediately purchase from the department
18 proper stamps and attach the same to all cigarettes re-
19 ceived. It shall be unlawful for any person to sell or
20 consume cigarettes on which the tax has not been paid and
21 which are not contained in packages to which are securely
22 affixed the stamps evidencing payment of the tax imposed by
23 this chapter.

24 Sec. 43.50.130. PENALTY FOR SELLING WITHOUT STAMPS
25 AFFIXED OR AVOIDING TAX. (a) If, upon examination of
26 invoices or from other investigations, the department finds
27 that cigarettes have been sold without stamps affixed as
28 required, the department shall require the person to pay a
29 sum equal to twice the amount of the tax due. If a person

1 is unable to furnish evidence to the department of sufficient
2 stamp purchases to cover unstamped cigarettes purchased by
3 him, it shall be prima facie evidence that the cigarettes
4 were sold without proper stamps being affixed thereto.

5 (b) All unstamped cigarettes upon which taxes are
6 imposed by this chapter which shall be found in the possession,
7 custody or control of any person for the purpose of being
8 consumed, sold or transported from one place to another in
9 this state, for the purpose of evading or violating the pro-
10 visions of this chapter or with intent to avoid payment of
11 the tax imposed hereunder, and any automobile, truck, con-
12 veyance or other vehicle whatsoever used in the transportation
13 of the cigarettes, and all paraphernalia, equipment or other
14 tangible personal property incident to the use of such pur-
15 poses found in the place, building or vehicle where the
16 cigarettes are found, may be seized by an authorized agent
17 of the department or any duly authorized peace officer in
18 the state. The property so seized shall be forfeited to the
19 state and a proper proceeding filed in a court of competent
20 jurisdiction requesting that the court declare the property
21 forfeited allowing the property to be sold according to law.

22 (c) All cigarettes, vehicles and property seized under
23 this section shall be listed and appraised by the officer
24 making the seizure and turned over to the department. He
25 shall immediately make and file a written report with the
26 department showing the name of the person making the seizure,
27 the place where the property was seized, from whom the
28 property was seized and an inventory and appraisalment there-
29 of, at the usual and ordinary retail price of all articles

1 seized. If, in any subsequent court proceeding, the property
2 is declared forfeited and ordered sold, proceeds of the sale
3 shall be deposited with the clerk of the court, who shall
4 deduct the costs of the sale, and the balance shall be paid
5 to the department as cigarette tax collected.

6 (d) The seizure and sale of cigarettes shall not
7 relieve the person from whom the cigarettes were seized from
8 any prosecution or the payment of any penalties provided for
9 under this chapter; nor shall it relieve the purchaser from
10 any payment of the regular cigarette tax and the placing of
11 proper stamps thereon before making any sale of the cigar-
12 ettes or the personal consumption of the cigarettes.

13 (e) The forfeiture provisions of this section shall
14 only apply to persons having possession of or transporting
15 cigarettes with intent to barter, sell or give away the same;
16 provided that the possession of cigarettes in any quantity of
17 five or more cartons of 10 packages each shall be prima facie
18 evidence of intent to barter, sell or give away the cigar-
19 ettes in violation of the provisions of this chapter.

20 (f) Any person having possession of unstamped cigarettes
21 in this state shall be liable for the tax on the cigarettes
22 in case the cigarettes are lost, stolen, or unaccounted for
23 in transit, storage or otherwise, and in such event a pre-
24 sumption shall exist for the purpose of taxation that the
25 cigarettes were used and consumed in the state.

26 Sec. 43.50.140. EXCHANGE OF STAMPS. The department
27 shall exchange new stamps for any stamps which are damaged,
28 or for stamps which have been affixed to packages of
29 cigarettes returned to factories, or shipped to other states,

1 or sold to government agencies or state institutions, or for
2 stamps purchased in excess of floor stock. Application to
3 the department for such exchanges must be accompanied by
4 affidavit, damaged stamps, bill of lading covering shipment
5 to factory or other states, or other proof required by the
6 department. Any person to whom stamps shall be issued under
7 this section may, upon approval by the department, sell the
8 stamps to any wholesaler as defined in this chapter.

9 Sec. 43.50.150. CONSUMER CONSIDERED TO BE RETAILER
10 UNDER CERTAIN CIRCUMSTANCES. A consumer who secures cigar-
11 ettes from without the state and brings them into the state
12 by a common carrier or otherwise shall be held to be a
13 retailer and his place of business shall be deemed the point
14 in the state at which the cigarettes are received. The
15 person holding himself out as a consumer and purchasing
16 cigarettes in a larger quantity than 40 shall be subject to
17 the same provisions, rules and regulations with respect to
18 cigarettes as are imposed upon retailers.

19 Sec. 43.50.160. DEPARTMENT TO PURCHASE AND SELL STAMPS.
20 (a) The stamps placed upon packages of cigarettes shall be
21 purchased by the department in proper denominations, shall
22 contain the words "Alaska Revenue Department", and shall
23 be of a design, character, color combination, color change,
24 size and material as the department may determine affords
25 the best security to the state. The department may require
26 of the manufacturer from whom it purchases the stamps a
27 bond in an amount to be determined by the department con-
28 taining conditions the department deems necessary in order
29 to protect the state against loss. The department shall be

1 responsible for the custody and sale of the stamps, and for
2 the disposition of the proceeds. The department shall
3 manufacture or contract for the manufacture of revenue
4 stamps required by this chapter; provided that if the
5 stamps are contracted for, the manufacture thereof shall be
6 within the jurisdiction of the criminal and civil courts
7 of this state unless the stamps cannot be obtained in this
8 state at a fair price or of acceptable quality. If stamps
9 are manufactured outside of the state, the department shall
10 keep a reliable agent at the place of manufacture during
11 the period of manufacture and the agent shall be authorized
12 and instructed to take all precautions necessary to safe-
13 guard the state against forgery and misdelivery of any
14 stamps. The department shall, in contracting for manufacture,
15 consider the safeguarding of stamps to be of paramount
16 importance and shall provide security in a manner commensur-
17 ate with the monetary value of the stamps.

18 (b) The department shall exchange new stamps or give
19 credit for any stamps affixed to any cigarettes which have
20 become unfit for use, consumption or are unsalable.

21 (c) Any person to whom stamps are issued may, upon
22 notice and approval by the department, sell the stamps to
23 any licensed manufacturer, wholesaler, warehouseman, jobber
24 or retailer.

25 (d) The department shall sell the stamps to all
26 licensed manufacturers, wholesalers, warehousemen and jobbers,
27 retailers, or consumers who have purchased cigarettes from
28 wholesalers or jobbers within or without the state and doing
29 business in the state. All orders for stamps must be

1 accompanied by cash, cashiers check or money order, made
2 payable to the department; provided that the department may
3 accept personal checks in payment for stamps upon a determina-
4 tion by the department that the purchaser is financially
5 responsible.

6 Sec. 43.50.170. COMMON CARRIER TRANSPORTING CIGARETTES.

7 (a) The right of a common carrier in this state to carry
8 unstamped cigarettes shall not be affected by this chapter.
9 However, if any common carrier sells cigarettes to its
10 passengers while being carried in this state, the sale shall
11 be subject to the stamp tax.

12 (b) Common carriers transporting cigarettes to a point
13 within the state, or a bonded warehouseman or bailee having
14 possession of cigarettes, are required to transmit to the
15 department a statement of the consignment of cigarettes
16 showing the date, point of origin, point of delivery, to
17 whom delivered, and any other information the department may
18 require. All common carriers, bailees or warehousemen shall
19 permit an examination by the department or its agents of
20 their records relating to the shipment or receipt of cigar-
21 ettes. Any person who fails or refuses to transmit to the
22 department the information required under this section or
23 whoever refuses to permit the examination of the records by
24 the department is guilty of a misdemeanor, and upon con-
25 viction is punishable by imprisonment for not more than one
26 year, or by a fine of not more than \$1000, or by both.

27 Sec. 43.50.180. SELLER OF CIGARETTES IN INTERSTATE
28 COMMERCE TO FILE BOND. (a) Any person who sells cigarettes
29 in interstate commerce shall, after filing proper bond with

1 department, be excused from affixing stamps to the cigarettes
2 he sells and ships to a person in some other state. The
3 cigarettes with respect to which the bond is filed shall be
4 kept in an entirely separate portion of the building and
5 separate and apart from the stamped stock to be disposed of
6 in intrastate business.

7 (b) The bond shall be payable to the state. It shall
8 be executed by the person proposing to distribute the cigar-
9 ettes in interstate commerce and a sufficient surety company
10 authorized to do business in this state. It must be approved
11 by the department and shall be conditioned for the full,
12 complete and faithful performance of all the conditions and
13 requirements affecting the person furnishing the bond. The
14 bond shall be on a form prescribed by the department and
15 shall be in an amount not more than double an amount necessary
16 to stamp the largest quantity of unstamped cigarettes set
17 aside at any time for the conduct of the business, but shall
18 not be less than \$1000. Any quantity of cigarettes in excess
19 of the quantity authorized to be set aside by the bond shall
20 be subject to the same requirements as cigarettes purchased
21 or possessed for intrastate sales.

22 (c) An additional bond, or a new bond, shall be
23 required by the department at any time an existing bond
24 becomes insufficient or the surety thereon becomes unsatis-
25 factory. The additional bond or new bond must be furnished
26 to the department within 10 days after demand. If the dis-
27 tributor fails or refuses to supply the new or additional
28 bond the department shall have the authority to cancel forth-
29 with any existing bond made and executed by or for the

1 distributor or other person. If the bond is canceled the
2 distributor or other person shall have 72 hours, excluding
3 Sundays and holidays, to cause any and all cigarettes re-
4 ceived prior to the cancellation to have the requisite amount
5 of stamps affixed to represent the tax.

6 Sec. 43.50.190. SALE OF STAMPS TO WHOLESALER OR JOBBERS
7 AT DISCOUNT AS COMPENSATION FOR COSTS INCURRED. For the
8 purpose of allowing compensation for the costs necessarily
9 incurred in affixing the proper tax stamp to each package of
10 cigarettes before making a sale, every person purchasing
11 cigarette tax stamps from the department as required may
12 purchase the stamps from the department at a reduction of
13 four per cent of the face value of each lot of stamps pur-
14 chased; provided that the discount or reduction shall not be
15 applicable on purchases of less than \$100 at any one time; and
16 further provided that no discount shall be allowed to out-of-
17 state purchasers who reside in the states that do not give
18 discounts on cigarette stamps purchased from that state by
19 cigarette dealers in Alaska. If a purchaser refuses to
20 comply with the provisions of this chapter, the department
21 shall require the full face value for stamps purchased until
22 the person has complied with this chapter. The department
23 may authorize the use of a metering device for the impress
24 of the tax stamp.

25 Sec. 43.50.200. RECORDS AND REPORTS. (a) Every person
26 subject to the payment of a tax under this chapter shall keep
27 accurate records covering the business carried on for at
28 least three years, and for a longer period if so required by
29 the department. Invoices showing all purchases and sales of

1 cigarettes, and all invoices and stock shall at all times be
2 subject to the examination and inspection by the department.
3 Every wholesaler, jobber, warehouseman or retailer operating
4 in the state whose main warehouse or headquarters is in
5 another state shall keep records of all cigarette transactions
6 made by him at his place of business in the state.

7 (b) Every wholesaler and retailer receiving unstamped
8 cigarettes shall file a report with the department on or
9 before the 10th day of each month covering the previous
10 calendar month on forms prescribed by the department. The
11 report shall disclose the beginning and closing inventory of
12 unstamped cigarettes, the beginning and closing inventory of
13 cigarette stamps, the number and denomination of cigarette
14 stamps affixed to packages of cigarettes, and all purchases
15 of cigarettes by showing the invoice number, name and address
16 of the consignee or seller, the date, the number of cigar-
17 ettes purchased, and any other information required by the
18 department. Retailers or consumers purchasing cigarettes in
19 drop shipments shall be required to make monthly reports to
20 the department as required of wholesale dealers.

21 (c) Every distributing agent, on a form prescribed by
22 the department, shall report each day, except Sundays and
23 holidays to the department. The report shall disclose all
24 deliveries of cigarettes made on the preceding day or days.
25 The reports shall show the name of the person ordering the
26 delivery, date of delivery, name and address of the person
27 to whom delivered, the invoice number, bill of lading or
28 way bill number, the number and kind of cigarettes delivered,
29 the means of delivery, the transportation agent, and the

1 destination of drop shipment, if any. If the invoice fur-
2 nished the distributing agent by the manufacturer or other
3 person ordering the delivery, or the bill of lading prepared
4 by the distributing agent contains all the information re-
5 quired to be reported, it will be sufficient to send a copy
6 of the invoice or bill of lading to the department.

7 Sec. 43.50.210. WHOLESALE AND RETAIL STOCKS AND
8 RECORDS TO BE KEPT SEPARATE. (a) Any person having a whole-
9 sale and retail license, and whose wholesale and retail
10 business is conducted within the same building, or a building
11 adjoining thereto, shall keep the wholesale and retail stocks
12 of cigarettes separate.

13 (b) Every wholesaler or jobber who maintains a retail
14 business at his place of business shall keep a record of the
15 wholesale operations the same as for the retail operations.
16 He shall keep the records, including invoices, separate and
17 apart for the inspection of the wholesale and retail business
18 by the department. The records shall show the amount of
19 stamps purchased, all purchases from whatever source, all
20 sales, whether to himself as a retailer, from himself as a
21 wholesaler, or to another than himself as a retailer. All
22 invoices, records, files and other information shall be
23 available for inspection by the department for a period of
24 three years from the date of the purchase or delivery.

25 Sec. 43.50.220. LICENSE REVOKED IF RECORDS NOT KEPT.
26 If invoices, records, files and information are not kept as
27 required, the license or licenses of the person required to
28 keep them shall be revoked. If a licensee refuses to comply
29 with the provisions of this chapter, the department shall

1 cancel all licenses that have been issued for that place of
2 business.

3 Sec. 43.50.230. SALESMEN FOR MANUFACTURERS. (a) A
4 salesman in the employ of a manufacturer who handles only the
5 products of his employer and who engages in the business of
6 selling or distributing cigarettes in this state for the
7 purpose of resale is required to keep the same records, for
8 a period of three years for the inspection by the department,
9 that are required of wholesale dealers. Salesmen shall also
10 be required to furnish monthly reports to the department of
11 the business of the previous month; provided that salesmen
12 having a district supervisor or division manager may make
13 their monthly reports to the department through the division
14 manager or district supervisor.

15 (b) A salesman who takes orders for cigarettes to be
16 shipped in interstate commerce to any person other than
17 licensed dealers is required to have a distributing agent's
18 license and must comply with all of the rules and regulations
19 pertaining to distributing agents.

20 Sec. 43.50.240. INSPECTIONS AND EXAMINATIONS BY DEPART-
21 MENT. For the purpose of enabling the department to deter-
22 mine the tax liability of a distributor, wholesale dealer,
23 retail dealer, distributing agent or any other person dealing
24 in cigarettes, or to determine whether a tax liability has
25 been incurred, the department has the right to inspect any
26 premises where cigarettes are manufactured, produced, made,
27 stored, transported, sold or offered for sale or exchange.
28 The department also has the right to examine all of the
29 records required to be kept or any other records that may be

1 kept incident to the conduct of the cigarette business of the
2 distributor, wholesale dealer, retail dealer, distributing
3 agent, or any other person dealing in cigarettes. It is
4 unlawful for any person to refuse to produce any records that
5 are required to be maintained or to hinder or prevent in any
6 manner the inspection of the records and the examination of
7 the premises.

8 Sec. 43.50.250. RESTRICTIONS ON ISSUING LICENSES. (a)
9 No wholesaler's license shall be issued under this chapter to
10 a person who is not a resident of this state or to any
11 foreign corporation which is not licensed to do business
12 under the laws of this state.

13 (b) No manufacturer, wholesaler, distributor or jobber
14 of cigarettes licensed under the laws of this state shall
15 discriminate by refusing to sell to any other wholesaler,
16 distributor or jobber in this state, and no wholesaler,
17 distributor or jobber shall refuse to sell to any retailer
18 of cigarettes in this state. Any violation of the provisions
19 of this state are grounds for license revocation.

20 Sec. 43.50.260. BOND REQUIREMENTS FOR DISTRIBUTING
21 AGENTS. Every person making application for a distributing
22 agent's license under this chapter shall file with the
23 department a surety, collateral or cash bond in the amount of
24 \$1000 payable to the state, and conditioned upon compliance
25 with the provisions of this chapter.

26 Sec. 43.50.270. EXEMPTIONS FROM TAX. All sales to the
27 United States are exempted from the stamp excise tax levied
28 by this chapter.

29 Sec. 43.50.280. CONTINUITY. Nothing in this chapter

1 shall be construed to affect any license issued or tax
2 liability accrued under prior law.

3 Sec. 43.50.290. CIGARETTE TAX METER REQUIREMENTS. (a)
4 Application for the use of a cigarette tax meter shall be
5 made to the department and when approved, the department shall
6 permit the party furnishing the tax meter machine to deliver
7 the machine to the applicant.

8 (b) The meter for a machine, together with the key and
9 other equipment necessary to set the meter, shall be delivered
10 to the department at Juneau, Alaska. All meters shall be
11 under the direct control of the department and any transfer
12 or assignment must first be authorized in writing by the
13 department.

14 (c) All inks used in the stamping of cigarettes must be
15 of a special type devised for use in connection with the
16 machine employed, and which have the approval of the depart-
17 ment.

18 (d) All repairs to either the machine or the meter are
19 strictly prohibited except by a duly authorized representative
20 of the manufacturer or the department. Requests for service
21 should be directed to the nearest branch office of the manu-
22 facturer or to the department.

23 (e) Meter machine ink imprints on all packages must be
24 clear and legible. All dies and other equipment must be
25 regularly serviced and cleaned according to the instructions
26 issued by the manufacturer of the machine.

27 (f) All distributors of cigarettes using meter stamping
28 machines shall submit their requests for settings and must
29 forward their meters to the office of the department at

1 Juneau, Alaska, accompanied by the proper remittance. The
2 meter will then be set and returned at the distributor's
3 expense.

4 (g) All requests for meter settings shall be in units
5 of 100 and must not exceed 99,900.

6 (h) The meter will be officially set, locked and
7 sealed by the department before being brought into use. The
8 lock must not be opened nor the seal broken by any person
9 other than the department.

10 (i) The company supplying the meter must retain full
11 title to the meter.

12 (j) The meter must be available for inspection at all
13 reasonable times by the department.

14 Sec. 43.50.300. PENALTIES. (a) Any person who

15 (1) sells, offers for sale or presents as a prize
16 or gift, cigarettes without a stamp being affixed to each
17 individual package; or

18 (2) who sells cigarettes in quantities less than
19 an individual package; or

20 (3) who knowingly consumes, uses or smokes any
21 cigarettes upon which a tax is required to be paid without
22 a stamp being affixed upon the individual package; or

23 (4) who knowingly cancels or mutilates any stamp
24 affixed to any individual package of cigarettes for the
25 purpose of concealing any violation of this chapter or with
26 any other fraudulent intent; or

27 (5) who uses any artful device or deceptive
28 practice to conceal any violation of this chapter; or

29 (6) who refuses to surrender to the department

1 upon demand any cigarettes possessed in violation of any
2 provision of this chapter; or

3 (7) who makes a first sale of cigarettes without
4 a stamp being affixed to each individual package is guilty
5 of a misdemeanor, and upon conviction is punishable by a
6 fine not to exceed \$500 unless a different penalty is other-
7 wise provided in this chapter.

8 (b) Any distributor, wholesale dealer, retail dealer
9 or distributing agent who

10 (1) commits any of the acts listed in (a) of this
11 section; or

12 (2) who sells any cigarettes upon which tax is
13 required to be paid by this chapter without having a valid
14 license; or

15 (3) who makes a first sale of cigarettes without
16 having a license posted in a conspicuous place; or

17 (4) who fails to deliver an invoice required by
18 law to a purchaser of cigarettes shall be guilty of a mis-
19 demeanor, and upon conviction is punishable by a fine not to
20 exceed \$500, unless a different penalty is otherwise pro-
21 vided in this chapter.

22 (c) Any distributing agent who

23 (1) commits any of the acts specifically enumerated
24 in (a) and (b) of this section; or

25 (2) who stores unstamped cigarettes in the state
26 or delivers or distributes any unstamped cigarettes within
27 this state without a valid license being posted in a con-
28 spicuous place is guilty of a misdemeanor, and upon conviction
29 is punishable by a fine of not more than \$200.

1 (d) Any person who shall make, manufacture, falsely or
2 fraudulently forge or counterfeit any stamps prescribed for
3 use in the administration of this chapter, or who shall
4 knowingly or by any deceptive act use, pass or tender as
5 true any unauthorized, false, altered, forged, counterfeited
6 or previously used stamps is guilty of a felony, and upon
7 conviction is punishable by imprisonment for not more than
8 10 years, or by a fine not to exceed \$5000, or by both.

9 (e) Cigarette vending machines operating in violation
10 of any of the provisions of this chapter may be sealed by
11 the department in a manner that will prevent further opera-
12 tion, and the machine shall remain sealed until released by
13 the department which shall be done when the owner of the
14 machine has complied with the provisions of this chapter.

15 Sec. 43.50.310. DEFINITIONS. As used in secs. 10 -
16 310 of this chapter

17 (1) "cigarette" means all rolled tobacco or any
18 substitute, wrapped in paper or any substitute therefore,
19 and weighing not to exceed three pounds per thousand cigar-
20 ettes;

21 (2) "person" means any individual, company,
22 partnership, joint venture, joint agreement, association,
23 corporation, estate, trust, business trust receiver, trustee
24 appointed by any state or federal court, syndicate, or any
25 political subdivision of the state;

26 (3) "wholesaler" and/or "jobber" means a person

27 (A) who engages in business primarily to sell
28 cigarettes and render service to retailers; or

29 (B) who purchases cigarettes directly from

1 the manufacturer; or
2 (C) who handles goods in wholesale quantities
3 and sells goods through salesmen, advertising and/or
4 sales promotion devices; or

5 (D) who carries a representative stock of
6 cigarettes at his place of business at all times or who
7 comes into possession of cigarettes which he intends to
8 sell to retailers or persons in this state or another
9 state who might resell or retail the cigarettes to
10 consumers; or

11 (E) who makes at least 75 per cent of his
12 gross sales at wholesale; or

13 (F) who operates four or more cigarette
14 vending machines or purchasers of cigarettes who make
15 purchases directly from the manufacturer for distribu-
16 tion at wholesale or retail sales.

17 (4) "retailer" means a person who comes into the
18 possession of cigarettes who sells them at retail or a
19 person not coming within the classification of wholesaler
20 and/or jobber having possession of more than 1000 cigarettes;

21 (5) "consumer" is defined to be a person who
22 receives or who in any way comes into possession of cigarettes
23 for the purpose of consuming them, giving them away, or dis-
24 posing of them in a way other than by sale, barter or ex-
25 change.

26 (6) "department" means the department of revenue;

27 (7) "sale" or "sales" means sales, barter,
28 exchanges and every other manner, method and form of trans-
29 ferring the ownership of personal property from one person to

1 another, and means the use or consumption in this state in the
2 first instance of cigarettes received from outside the state
3 or of any other cigarettes upon which the tax has not been
4 paid.

5 (8) "stamp" means the stamp or stamps by use of
6 which the tax levied by this chapter is paid;

7 (9) "drop shipment" means any delivery of cigar-
8 ettes received by any person within this state when payment
9 for the cigarettes is made to the shipper or seller by or
10 through a person other than the consignee;

11 (10) "distributing agent" means a person in this
12 state who acts as an agent of any person outside the state by
13 receiving cigarettes in interstate commerce and storing the
14 cigarettes subject to distribution or delivery upon order
15 from the person outside the state to distributors, wholesale
16 dealers, retail dealers, or to consumers and also means a
17 person who solicits or takes orders for cigarettes to be
18 shipped in interstate commerce to a person in this state by a
19 person residing outside of the state if the tax is not paid on
20 the cigarettes;

21 (11) "vending machine" means any coin operated
22 machine, contrivance, or device, by means of which cigarettes
23 are sold or dispensed in their original container;

24 (12) "use" means the exercise of any right or
25 power over cigarettes incident to ownership or possession,
26 except that it shall not include the sale of cigarettes in
27 the regular course of business.

28 * Sec. 2. This Act takes effect on July 1, 1966.
29