

Introduced: 2/11/69
Referred: Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 129

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of tobacco products; and
7 providing for an effective date."

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

9 * Section 1. AS 43.50.190(a) is amended to read:

10 (a) There is levied an excise tax of three and one-half [ONE AND
11 ONE-HALF] mills on each cigarette imported or acquired in this state.

12 * Sec. 2. AS 43.50 is amended by adding a new section to read:

13 Sec. 43.50.191. FLOOR TAX ON CIGARETTE INVENTORY. (a) There is
14 levied a tax of three and one-half mills on all cigarettes which on
15 May 1, 1969 are in the possession, control, or inventories of
16 licensees and retailers who are not licensees. A credit shall be
17 given for taxes previously paid under AS 43.50.109(a) on cigarettes
18 subject to the tax imposed by this section.

19 (b) Each licensee or retailer within 20 days after May 1, 1969
20 shall file a report with the department, in such form as the department
21 may prescribe, showing the amount of cigarettes in his possession, con-
22 trol or inventories on May 1, 1969 and the amount of tax due thereon.

23 (c) The tax imposed by this section shall be due and payable
24 within 20 days after May 1, 1969. The penalties established in secs.
25 10 - 180 of this chapter shall apply to the tax levied in this
26 section.

27 * Sec. 3. AS 43.50.090(b) is repealed and re-enacted to read:

28 (b) From and after May 1, 1969, there is levied and there shall
29 be collected a tax upon the importation or acquisition of all tobacco

1 products other than cigarettes in the state, at the rate of 20 per
2 cent of the wholesale price of such tobacco products. Each licensee
3 shall, at the time of filing the return required by sec. 80 of this
4 chapter, pay to the department the excise for the calendar month
5 covered by the return, deducting one per cent of the total tax due,
6 which he shall retain to cover his expense of accounting and filing
7 returns. Tobacco products upon which the state excise is imposed
8 are not again subject to the excise when acquired by another person.

9 * Sec. 4. AS 43.50.090 is amended by adding a new subsection to read:

10 (c) It is the intent and purpose of this section to provide
11 for the collection of this excise from the person who first acquires
12 the cigarettes or tobacco products in this state.

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

14 (a) No person may sell, purchase, possess, or acquire cigarettes
15 or other tobacco products as a manufacturer, distributor, direct-
16 buying retailer, vending machine operator, or buyer without a license.

17 * Sec. 6. AS 43.50.070 is amended to read:

18 Sec. 43.50.070. REVOCATION OF LICENSES. The department may
19 suspend or revoke a license issued under secs. 10 - 180 of this
20 chapter (1) for violation of secs. 10 - 180 of this chapter or a
21 rule or regulation of the department adopted under secs. 10 - 180
22 of this chapter, or (2) if a licensee ceases to act in the capacity
23 for which the license was issued. No person whose license is
24 suspended or revoked shall sell cigarettes or other tobacco products
25 or permit cigarettes or other tobacco products to be sold during the
26 period of the suspension or revocation on the premises occupied or
27 controlled by him. No disciplinary proceeding or action is barred
28 or abated by the expiration, transfer, surrender, renewal, or ex-
29 tension of a license issued under secs. 10 - 180 of this chapter.

1 The department shall comply with the provisions of the Administrative
2 Procedure Act (AS 44.62).

3 * Sec. 7. AS 43.50.080 is amended to read:

4 Sec. 43.50.080. RETURNS. (a) On or before the last day of
5 each calendar month a licensee shall file with the department a return,
6 under penalty of perjury, on each place of business. The return shall
7 state the number and amount of cigarettes and other tobacco products
8 manufactured, imported, or acquired by the licensee during the pre-
9 ceding calendar month, and other information which the department
10 requires. If a licensee ceases to import or acquire cigarettes or
11 other tobacco products, he shall immediately file with the department
12 a return for the period ending with the cessation.

13 (b) A person holding a wholesaler-distributor license under sec.
14 35 of this chapter shall file a return with the department on or
15 before the last day of each calendar month. The return shall state
16 the number of cigarettes or other tobacco products sold, including
17 those cigarettes or other tobacco products exempt from tax, and remit
18 the tax due by the wholesaler-distributor for the preceding calendar
19 month and other information which the department may require.

20 * Sec. 8. AS 43.50.130(a) is amended to read:

21 (a) Every licensee shall keep a complete and accurate record
22 of all cigarettes or other tobacco products manufactured, purchased,
23 or acquired. The records, except in the case of a manufacturer,
24 shall include a written statement containing the name and address of
25 the seller and the purchaser, the date of delivery, the quantity of
26 cigarettes or other tobacco products, the trade name and brand, and
27 the price paid for each brand of cigarettes or other tobacco products
28 purchased. The licensee shall keep such other records as the depart-
29 ment prescribes. All statements and records required by this section

1 shall be in the form prescribed by the department, shall be preserved
2 for three years, and shall be offered for inspection upon demand by
3 the department.

4 * Sec. 9. AS 43.50.130(d) is amended to read:

5 (d) An invoice for the sale of cigarettes or other tobacco
6 products given or accepted by a licensee under secs. 10 - 180 of this
7 chapter shall state whether the tax imposed by secs. 10 - 180 of this
8 chapter has been paid.

9 * Sec. 10. AS 43.50.170(1) is amended to read:

10 (1) "buyer" means a person who imports or acquires cigarettes
11 or other tobacco products for his own consumption from any source other
12 than a manufacturer, distributor, direct-buying retailer, or retailer;

13 * Sec. 11. AS 43.50.170(4) is amended to read:

14 (4) "direct-buying retailer" means a person who is engaged
15 in the sale of cigarettes or other tobacco products at retail in this
16 state, and who brings or causes to be brought cigarettes or other
17 tobacco products into the state;

18 * Sec. 12. AS 43.50.170(5) is amended to read:

19 (5) "distributor" means a person who brings cigarettes or
20 other tobacco products, or has cigarettes or other tobacco products
21 brought into the state, and who sells or distributes at least 75 per
22 cent of the cigarettes or other tobacco products to others for resale
23 in the state;

24 * Sec. 13. AS 43.50.170(7) is amended to read:

25 (7) "manufacturer" means a person who makes, fashions, or
26 produces cigarettes or other tobacco products for sale to distributors
27 or other persons;

28 * Sec. 14. AS 43.50.170(9) is amended to read:

29 (9) "place of business" means a place where cigarettes or

1 other tobacco products are sold, or where cigarettes or other tobacco
2 products are brought or kept for the purpose of sale or consumption,
3 including a vessel, vehicle, airplane, or train;

4 * Sec. 15. AS 43.50.170(10) is amended to read:

5 (10) "retailer" means a person in the state who is engaged
6 in the business of selling cigarettes or other tobacco products at
7 retail;

8 * Sec. 16. AS 43.50.170 is amended by adding a new subsection to read:

9 (12) "other tobacco products" means cigars, pipe tobacco,
10 chewing tobacco, snuff, and all other products made from tobacco.

11 * Sec. 17. AS 43.50.020 is amended to read:

12 Sec. 43.50.020. SEPARATE LICENSES. If a person operates more
13 than one place of business, the person must obtain a separate license
14 for each place of business, except that a person operating one or
15 more cigarette or other tobacco product vending machines is considered
16 to have only one place of business for the purpose of a license under
17 secs. 10 - 180 of this chapter. A person licensed only as a manu-
18 facturer, distributor, direct-buying retailer, vending machine operator,
19 or buyer may not operate in another capacity unless the appropriate
20 license for it is first secured. Each license shall be exhibited at
21 the place of business for which it is issued and in the manner pre-
22 scribed by the department.

23 * Sec. 18. AS 43.50.035 is amended to read:

24 Sec. 43.50.035. WHOLESALER-DISTRIBUTOR LICENSE. A person may
25 qualify for a wholesaler-distributor license by furnishing a good and
26 sufficient surety bond in an amount equal to twice the average monthly
27 return and in no case less than \$5,000, payable to the Department of
28 Revenue and approved by the Department of Law. If a wholesaler-
29 distributor fails to pay the cigarette or tobacco tax when due, his

1 bond may be forfeited and his license revoked. The department may
2 issue permits in place of bonds to resident holders of wholesaler-
3 distributor licenses doing business wholly in the state who pay the
4 tax before shipment.

5 * Sec. 19. This Act takes effect May 1, 1969.
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