

Introduced: 3/18/75  
Referred: Commerce and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

CS HOUSE BILL NO. 308

2  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to tobacco taxation; and providing  
7 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 mills  
11 [ONE AND ONE-HALF MILLS] on each cigarette imported or acquired in  
12 this state.

13 \* Sec. 2. AS 43.18.100(b) is amended to read:

14 (b) The commissioner shall administer the program of reimburse-  
15 ment authorized under this section and shall provide by regulation for  
16 the filing of applications for reimbursement, the form of proof of  
17 costs for which application for reimbursement is made, and other  
18 regulations necessary to administer the program. The commissioner  
19 shall exclude from the total school construction cost of the local  
20 district all state and federal funds included in these costs except  
21 funds provided under this section and AS 43.50.140. [IN APPROVING  
22 APPLICATIONS FOR REIMBURSEMENT, THE COMMISSIONER SHALL OFFSET AGAINST  
23 THE AMOUNT OF REIMBURSEMENT AUTHORIZED THE AMOUNT OF ANY FUNDS DISTRI-  
24 BUTED TO THE BOROUGH OR CITY IN THE SECOND PRECEDING FISCAL YEAR FROM  
25 THE SCHOOL FUND PROVIDED FOR IN AS 43.50.140.]

26 \* Sec. 3. AS 43.50 is amended by adding new sections to read:

27 Article 3. Alaska Tobacco Products Tax.

28 Sec. 43.50.200. TOBACCO PRODUCTS TAX. (a) There is levied upon  
29 each person who manufactures, imports or acquires tobacco products in

1 this state an excise tax of 35 per cent of the wholesale price of the  
2 tobacco products manufactured, imported or acquired in the state.

3 (b) It is the intent and purpose of this section to provide for  
4 the levy and collection of this excise tax from the person who first  
5 acquires the tobacco products in this state.

6 Sec. 43.50.210. RETURNS AND THE PAYMENT OF TAX. (a) On or  
7 before the last day of each calendar month each person liable for the  
8 tax imposed by secs. 200 - 270 of this chapter shall file a return  
9 with the department under penalty of perjury. The return shall state  
10 the amount of tobacco products manufactured, imported or acquired by  
11 the person during the preceding calendar month, the wholesale price of  
12 the tobacco products, and other information which the department may  
13 require.

14 (b) The tax imposed by this article on all tobacco products  
15 manufactured, imported and acquired during a particular month is due  
16 on the last day of the following calendar month.

17 Sec. 43.50.220. LIEN. The tax levied under this article and the  
18 penalty and interest on the tax are first and paramount liens upon all  
19 the real and personal property of the person liable for the tax.

20 Sec. 43.50.230. REMEDY. The remedy of distraint of property set  
21 out in AS 43.20.270 applies to the tax levied in secs. 200 - 270 of  
22 this chapter.

23 Sec. 43.50.240. CIVIL PENALTY. Five per cent shall be added to  
24 the tax for each 30-day period or fraction of the period during which  
25 the taxpayer fails to file a return or report or fails to pay the full  
26 amount of the tax or a portion or a deficiency of the tax as finally  
27 determined by the department and required by secs. 200 - 270 of this  
28 chapter, unless it is shown that the failure is due to a reasonable  
29 cause and not to wilful neglect. The penalty may not exceed 25 per

1 cent in the aggregate. The penalty shall be collected at the same  
2 time, in the same manner and as a part of the original tax but if the  
3 original tax is paid before the neglect is discovered, the penalty  
4 shall be collected in the same manner as the original tax. The depart-  
5 ment shall prescribe by regulation examples of circumstances which  
6 constitute reasonable cause for purposes of this section.

7 Sec. 43.50.250. INTEREST. When a tax levied in secs. 200 - 270  
8 of this chapter becomes delinquent, it bears interest at the rate of  
9 eight per cent a year.

10 Sec. 43.50.260. TAXPAYER REMEDIES. (a) A person aggrieved by  
11 the action of the department in fixing the amount of a tax or in im-  
12 posing a penalty may apply to the department within 60 days from the  
13 date of mailing of the notice required to be given to him by the  
14 department, giving notice of the grievance, and requesting an informal  
15 conference. At the conference the person aggrieved may present argu-  
16 ments and evidence relevant to the amount of tax or penalty due the  
17 state. If the department determines that a correction is warranted,  
18 the department shall make the correction.

19 (b) A person aggrieved by the action of the department in fixing  
20 the amount of a tax or in imposing a penalty may apply to the department  
21 and request a formal hearing

22 (1) in place of the informal conference provided for in (a)  
23 of this section, within 60 days from the date of the notice required  
24 to be given to him by the department; or

25 (2) within 30 days after decision resulting from an informal  
26 conference.

27 (c) At the formal hearing the department may subpoena witnesses  
28 and may administer oaths and make inquiries necessary to determine the  
29 amount of the tax or penalty due the state. The person aggrieved may

1 present arguments and evidence relevant to the amount of the tax or  
2 penalty due the state. If the department determines that a correction  
3 is warranted, the department shall make the correction.

4 (d) Within 30 days after the formal hearing and decision by the  
5 department, a person aggrieved by the decision of the department may  
6 appeal to the superior court in the judicial district in which he  
7 resides. The taxpayer shall be afforded access to the file of the  
8 department in the matter for preparation of his appeal. If, after the  
9 appeal is heard, it appears that the tax was correct, the court shall  
10 confirm the tax. If the tax was incorrect, the court shall determine  
11 the amount of the tax and if the person aggrieved is entitled to  
12 recover the tax or part of it, the court shall order the repayment,  
13 and the department shall immediately pay the amount due and attach a  
14 certified copy of the judgment to the payment.

15 Sec. 43.50.270. DEFINITIONS. In secs. 200 - 270 of this chapter

16 (1) "department" means the Department of Revenue;

17 (2) "tobacco products" means cigars, cheroots, stogies;  
18 periques; granulated, plug cut, crimp cut, ready rubbed and other  
19 smoking tobacco; snuff; snuff flour, cavendish; plug and twist tobacco;  
20 fine cut and other chewing tobacco; shorts; refuse scraps, clippings,  
21 cuttings and sweepings of tobacco, and other kinds and forms of tobacco,  
22 prepared in such manner as to be suitable for chewing or smoking in a  
23 pipe or otherwise, or both for chewing and smoking; but does not  
24 include cigarettes as defined in sec. 170 of this chapter.

25 \* Sec. 4. This Act takes effect July 1, 1975.  
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