

Original sponsors: Ellis, Gruenberg,
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1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 260 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a tax on certain tobacco prod-
7 ucts; and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding new sections to read:

10 ARTICLE 3. EXCISE TAX ON CERTAIN TOBACCO PRODUCTS.

11 Sec. 43.50.300. EXCISE TAX LEVIED. A tax of 25 percent of the
12 wholesale price of a tobacco product is levied on the first sale of
13 the tobacco product in intrastate commerce in the state.

14 Sec. 43.50.310. EXEMPTION. A sale is exempt from the tax if the
15 sale is by a facility operated by one of the uniformed services of the
16 United States. In this section, "uniformed services" has the meaning
17 given in 5 U.S.C. 2101.

18 Sec. 43.50.320. LICENSING. (a) Except as provided in (g) of
19 this section, a person may not sell a tobacco product in the state if
20 the sale is subject to the tax unless the person is licensed by the
21 department.

22 (b) The department, upon application and payment of a fee of
23 \$50, shall issue a license for one year to a person who applies for a
24 license under (a) of this section.

25 (c) The department may refuse to issue a license under this
26 section if there is reasonable cause to believe the information sub-
27 mitted in the application is false or misleading and is not made in
28 good faith.

29 (d) A license issued under this section must include the name

1 and address of the licensee, the type of business to be conducted, and
2 the year for which the license is issued.

3 (e) The department may renew a license issued under this section
4 for a fee of \$50.

5 (f) The department may suspend or revoke a license issued under
6 this section if the person violates a provision of AS 43.50.300 -
7 43.50.390 or a regulation adopted under AS 43.50.370.

8 (g) A license required by this section is in addition to any
9 other license required by law, except that a person who is licensed
10 under AS 43.50.010 - 43.50.180 is exempt from the licensing require-
11 ments of this section.

12 (h) A license issued under this section is not assignable or
13 transferable, except that in the case of death, bankruptcy, receiver-
14 ship, or incompetency of the licensee, or if the business of the
15 licensee is transferred to another by operation of law, the department
16 may extend the license for a limited time to the executor, administra-
17 tor, trustee, receiver, or the transferee.

18 Sec. 43.50.330. RETURNS. (a) On or before the last day of each
19 calendar month, a licensee shall file a return with the department.
20 The return must state the number or amount of tobacco products sold by
21 the licensee during the preceding calendar month, the selling price of
22 the tobacco products, and the amount of tax imposed on the sale of the
23 tobacco products.

24 (b) The licensee shall remit with the return the tax due under
25 AS 43.50.300 for the month covered by the return, after deducting one
26 percent of the tax due, which the licensee shall retain to cover the
27 expense of accounting and filing the return.

28 Sec. 43.50.340. RECORDS. A licensee shall keep a complete and
29 accurate record of all tobacco products subject to the tax and sold by

1 the licensee, including purchase prices, sales prices, the names and
2 addresses of the sellers and the purchasers, the dates of delivery,
3 the quantities of tobacco products, and the trade names and brands.
4 Statements and records required by this section must be in the form
5 prescribed by the department, preserved for three years, and available
6 for inspection upon demand by the department.

7 Sec. 43.50.350. DISPOSITION OF PROCEEDS. The tax collected by
8 the department shall be deposited in the general fund. The commis-
9 sioner of administration shall separately account for the taxes that
10 are deposited in the general fund under this section. The annual
11 estimated balance in the account may be used by the legislature to
12 make appropriations for health care, health research, health pro-
13 motion, and health education programs.

14 Sec. 43.50.360. ANNUAL REPORT. The department shall submit to
15 the legislature by the first day of each regular legislative session a
16 report indicating the amount of the tax collected during the fiscal
17 year that ends on the June 30 preceding the session.

18 Sec. 43.50.370. REGULATIONS. The department shall adopt under
19 the Administrative Procedure Act (AS 44.62) reasonable regulations
20 that it considers necessary to carry out the provisions of AS 43.50.-
21 300 - 43.50.390.

22 Sec. 43.50.390. DEFINITIONS. In AS 43.50.300 - 43.50.390

23 (1) "licensee" means a person

24 (A) licensed under AS 43.50.320; or

25 (B) who makes a sale subject to the tax but who is
26 exempted by AS 43.50.320(g) from licensing under AS 43.50.320;

27 (2) "sale" includes a sale, barter, exchange, or other
28 manner of transferring the ownership of personal property;

29 (3) "the tax" means the tax levied by AS 43.50.300;

- 1 (4) "tobacco product" means
2 (A) a cigar;
3 (B) a cheroot;
4 (C) a stogie;
5 (D) a perique;
6 (E) snuff and snuff flour;
7 (F) smoking tobacco, including granulated, plug-cut,
8 crimp-cut, ready-rubbed, and any form of tobacco suitable for
9 smoking in a pipe or cigarette;
10 (G) chewing tobacco, including cavendish, twist, plug,
11 scrap, and tobacco suitable for chewing; or
12 (H) an article or product made of tobacco or a tobacco
13 substitute, but not including a cigarette as defined in AS 43.-
14 50.170;

15 (5) "wholesale price" means the established price for which
16 a manufacturer sells a tobacco product to a distributor, after deduc-
17 tion of a discount or other reduction received by the distributor for
18 quantity or cash.

19 * Sec. 2. AS 43.50.170 is amended to read:

20 Sec. 43.50.170. DEFINITIONS. In AS 43.50.010 - 43.50.190 [THIS
21 CHAPTER], unless the context otherwise requires,

22 (1) "buyer" means a person who imports or acquires ciga-
23 rettes for the person's [HIS] own consumption from any source other
24 than a manufacturer, distributor, direct-buying retailer, or retailer;

25 (2) "cigarette" means a roll for smoking of any size or
26 shape, made wholly or partly of tobacco, whether the tobacco is
27 flavored, adulterated, or mixed with another ingredient, if the wrap-
28 per or cover of the roll is made of paper or a material other than
29 tobacco;

- 1 (3) "department" means the Department of Revenue;
- 2 (4) "direct-buying retailer" means a person who is engaged
3 in the sale of cigarettes at retail in this state, and who brings or
4 causes to be brought cigarettes into the state;
- 5 (5) "distributor" means a person who brings cigarettes, or
6 has cigarettes brought into the state, and who sells or distributes at
7 least 75 per cent of the cigarettes to others for resale in the state;
- 8 (6) "licensee" means a person licensed under AS 43.50.010 -
9 43.50.180;
- 10 (7) "manufacturer" means a person who makes, fashions, or
11 produces cigarettes for sale to distributors or other persons;
- 12 (8) "person" includes an individual, company, partnership,
13 joint venture, joint agreement, association, mutual or otherwise,
14 corporation, estate, trust, business trust, receiver or trustee,
15 syndicate, or political subdivision of this state, or combination
16 acting as a unit;
- 17 (9) "place of business" means a place where cigarettes are
18 sold, or where cigarettes are brought or kept for the purpose of sale
19 or consumption, including a vessel, vehicle, airplane, or train;
- 20 (10) "retailer" means a person in the state who is engaged
21 in the business of selling cigarettes at retail;
- 22 (11) "sale" includes a sale, barter, exchange, and every
23 other manner of transferring the ownership of personal property.
- 24 * Sec. 3. This Act takes effect September 1, 1987.