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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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CS FOR HOUSE BILL NO. 260 (Finance)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act establishing a tax on certain tobacco prod-

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ucts; and providing for an effective date."

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

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

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ARTICLE 3. EXCISE TAX ON CERTAIN TOBACCO PRODUCTS.

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Sec. 43.50.300. EXCISE TAX LEVIED. An excise tax is levied on

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tobacco products in the state at the rate of 25 percent of the

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wholesale price of the tobacco products. The tax is levied when a

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person

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(1) brings, or causes to be brought, a tobacco product into

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the state from outside the state for sale;

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(2) makes, manufactures, or fabricates a tobacco product in

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the state for sale in the state; or

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(3) ships or transports a tobacco product to a retailer in

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the state for sale by the retailer.

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Sec. 43.50.310. EXEMPTIONS. (a) A facility operated by one of

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the uniformed services of the United States is exempt from the tax.

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In this subsection, "uniformed services" has the meaning given in 5

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U.S.C. 2101.

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(b) The tax does not apply to a tobacco product if the United

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States Constitution or other federal laws prohibit the levying of the

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tax on the product by the state.

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Sec. 43.50.320. LICENSING. (a) Except as provided in (g) of

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this section, a person must be licensed by the department if the

1 person engages in business as a distributor for a tobacco product that
2 is subject to the tax.

3 (b) The department, upon application and payment of a fee of
4 \$50, shall issue a license for one year to a person who applies for a
5 license under (a) of this section.

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

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

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

15 (f) The department may suspend or revoke a license issued under
16 this section if the licensee violates a provision of AS 43.50.300 -
17 43.50.390 or a regulation adopted under AS 43.50.370.

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

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

28 Sec. 43.50.330. RETURNS. (a) On or before the last day of each
29 calendar month, a licensee shall file a return with the department.

1 The return must state the number or amount of tobacco products sold by
2 the licensee during the preceding calendar month, the selling price of
3 the tobacco products, and the amount of tax imposed on the tobacco
4 products.

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

9 Sec. 43.50.340. RECORDS. A licensee shall keep a complete and
10 accurate record of all tobacco products of the licensee subject to the
11 tax, including purchase prices, sales prices, the names and addresses
12 of the sellers and the purchasers, the dates of delivery, the quan-
13 tities of tobacco products, and the trade names and brands. State-
14 ments and records required by this section must be in the form pre-
15 scribed by the department, preserved for three years, and available
16 for inspection upon demand by the department.

17 Sec. 43.50.350. DISPOSITION OF PROCEEDS. The tax collected by
18 the department shall be deposited in the general fund. The commis-
19 sioner of administration shall separately account for the taxes that
20 are deposited in the general fund under this section. The annual
21 estimated balance in the account may be used by the legislature to
22 make appropriations for health care, health research, health pro-
23 motion, and health education programs.

24 Sec. 43.50.360. ANNUAL REPORT. The department shall submit to
25 the legislature by the first day of each regular legislative session a
26 report indicating the amount of the tax collected during the fiscal
27 year that ended on the June 30 preceding the session.

28 Sec. 43.50.370. REGULATIONS. The department shall adopt under
29 the Administrative Procedure Act (AS 44.62) reasonable regulations

1 that it considers necessary to carry out the provisions of AS 43.50.-
2 300 - 43.50.390.

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

4 (1) "distributor" means a person who

5 (A) brings, or causes to be brought, a tobacco product
6 into the state from outside the state for sale;

7 (B) makes, manufactures, or fabricates a tobacco
8 product in the state for sale in the state; or

9 (C) ships or transports a tobacco product to a retail-
10 er in the state for sale by the retailer;

11 (2) "licensee" means a distributor who is

12 (A) licensed under AS 43.50.320; or

13 (B) exempted by AS 43.50.320(g) from licensing under
14 AS 43.50.320;

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

16 (4) "tobacco product" means

17 (A) a cigar;

18 (B) a cheroot;

19 (C) a stogie;

20 (D) a perique;

21 (E) snuff and snuff flour;

22 (F) smoking tobacco, including granulated, plug-cut,
23 crimp-cut, ready-rubbed, and any form of tobacco suitable for
24 smoking in a pipe or cigarette;

25 (G) chewing tobacco, including cavendish, twist, plug,
26 scrap, and tobacco suitable for chewing; or

27 (H) an article or product made of tobacco or a tobacco
28 substitute, but not including a cigarette as defined in AS 43.-
29 50.170;

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

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

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

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

11 (2) "cigarette" means a roll for smoking of any size or
12 shape, made wholly or partly of tobacco, whether the tobacco is fla-
13 vored, adulterated, or mixed with another ingredient, if the wrapper
14 or cover of the roll is made of paper or a material other than tobac-
15 co;

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

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

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

23 (6) "licensee" means a person licensed under AS 43.50.010 -
24 43.50.180;

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

27 (8) "person" includes an individual, company, partnership,
28 joint venture, joint agreement, association, mutual or otherwise,
29 corporation, estate, trust, business trust, receiver or trustee,

1 syndicate, or political subdivision of this state, or combination
2 acting as a unit;

3 (9) "place of business" means a place where cigarettes are
4 sold, or where cigarettes are brought or kept for the purpose of sale
5 or consumption, including a vessel, vehicle, airplane, or train;

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

8 (11) "sale" includes a sale, barter, exchange, and every
9 other manner of transferring the ownership of personal property.

10 * Sec. 3. This Act takes effect September 1, 1987.