

CS FOR HOUSE BILL NO. 84 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/1/91

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES BROWN, Ellis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of selling or giving tobacco to a minor; prohibiting sale  
2 of tobacco products by vending machine; requiring certain retailers to post a tobacco  
3 warning sign; and relating to the suspension or revocation of a license to sell, purchase,  
4 possess, or acquire cigarettes."

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

6 \* Section 1. FINDINGS. The legislature finds that

7 (1) smoking is responsible for the largest preventable cause of premature death and  
8 disability in the United States and responsible for 390,000 deaths annually, nearly one person each  
9 minute;

10 (2) the use of cigarettes causes more premature death than AIDS, the use of heroin,  
11 cocaine, alcohol, fire, automobile accidents, homicides, and suicides combined;

12 (3) it has been estimated that approximately 1,000,000,000 packs of cigarettes are sold  
13 illegally to children in this country each year;

14 (4) each year in the state, there are approximately 1,360 person-years of potential life lost

1 as a result of smoking-attributable deaths with direct and indirect costs in excess of \$100,000,000 due  
2 to smoking-related death and disability, contributing to a national cost of about \$52,000,000,000 a year;  
3 and

4 (5) young residents of the state are particularly at risk because 90 percent of smokers  
5 begin cigarette addiction before they reach the age of 19, the legal smoking age in the state, and the  
6 younger the age at which one begins to smoke, the more likely that a person will become a long-term  
7 smoker and develop smoking-related diseases.

8 \* Sec. 2. AS 11.76.100(a) is amended to read:

9 (a) A person commits the offense of selling or giving tobacco to a minor if the person is  
10 19 years of age or older and

11 [(1) KNOWINGLY] sells, exchanges, or gives a cigarette, a cigar, tobacco, or a  
12 product containing tobacco to a person under 19 years of age [; OR

13 (2) MAINTAINS A VENDING MACHINE THAT DISPENSES CIGARETTES,  
14 CIGARS, TOBACCO, OR PRODUCTS CONTAINING TOBACCO AND THAT IS  
15 ACCESSIBLE TO PERSONS UNDER 19 YEARS OF AGE].

16 \* Sec. 3. AS 11.76.100(d) is amended to read:

17 (d) Selling or giving tobacco to a minor is a violation and upon conviction is punishable  
18 by a fine of not less than \$300.

19 \* Sec. 4. AS 11.76 is amended by adding a new section to read:

20 Sec. 11.76.107. SALE OF TOBACCO PRODUCTS BY VENDING MACHINE  
21 PROHIBITED. (a) A person may not sell cigarettes, cigars, tobacco, or tobacco products by  
22 vending machine or permit the sale of cigarettes, cigars, tobacco, or tobacco products by vending  
23 machine on property owned by the person.

24 (b) The court shall forward a record of each person convicted under this section who  
25 holds a business license endorsement under AS 43.70.075, or who is an employee or agent of a  
26 person who holds a license endorsement under AS 43.70.075 to the Department of Commerce  
27 and Economic Development.

28 (c) A person who violates this section is guilty of a violation and shall be punished by  
29 a fine of not less than \$300.

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

31 (a) A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer,

1 distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer without a  
2 license.

3 \* Sec. 6. AS 43.50.010(b) is amended to read:

4 (b) The department, upon application and payment of the fee, shall issue a license to each  
5 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer.  
6 The department shall adopt reasonable regulations that it considers necessary in respect to the  
7 application for and the issuance of licenses.

8 \* Sec. 7. AS 43.50.020 is amended to read:

9 Sec. 43.50.020. SEPARATE LICENSES. If a person operates more than one place of  
10 business, the person shall [MUST] obtain a separate license for each place of business [,  
11 EXCEPT THAT A PERSON OPERATING ONE OR MORE CIGARETTE VENDING  
12 MACHINES IS CONSIDERED TO HAVE ONLY ONE PLACE OF BUSINESS FOR THE  
13 PURPOSE OF A LICENSE UNDER AS 43.50.010 - 43.50.180]. A person licensed only as a  
14 manufacturer, distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer  
15 may not operate in another capacity unless the appropriate license for it is first secured. Each  
16 license shall be exhibited at the place of business for which it is issued and in the manner  
17 prescribed by the department.

18 \* Sec. 8. AS 43.50.070 is amended to read:

19 Sec. 43.50.070. REVOCATION OF LICENSES. The department may suspend or revoke  
20 a license issued under AS 43.50.010 - 43.50.180 (1) for a criminally negligent violation of  
21 AS 11.76.100, or 11.76.107, or a violation of AS 43.50.010 - 43.50.180 or a regulation of the  
22 department adopted under AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the  
23 capacity for which the license was issued; or (3) if a manufacturer, distributor, or wholesale  
24 distributor negligently sells tobacco or products containing tobacco to a nonlicensed retailer or  
25 a retailer whose license endorsement under AS 43.70.075 has been suspended. A person whose  
26 license is suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the  
27 period of the suspension or revocation on the premises occupied or controlled by that person. A  
28 disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender,  
29 renewal, or extension of a license issued under AS 43.50.010 - 43.50.180. The department shall  
30 comply with the provisions of the Administrative Procedure Act (AS 44.62).

31 \* Sec. 9. AS 43.70.075(d) is amended to read:

1 (d) If a person who holds an endorsement issued under this section, or an agent or an  
2 employee of a person who holds an endorsement issued under this section acting within the scope  
3 of the agency or employment, has been convicted of violating AS 11.76.100 or 11.76.107, or  
4 violates a provision of this section or a regulation implementing this section adopted under  
5 AS 43.70.090, the department shall suspend the endorsement for a period of

6 (1) 45 days; or

7 (2) 90 days, if within the past 24 months the person has been previously convicted  
8 of violating AS 11.76.100 or 11.76.107, or a provision of this section or a regulation  
9 implementing this section adopted under AS 43.70.090.

10 \* Sec. 10. AS 43.70.075 is amended by adding a new subsection to read:

11 (f) A person who holds an endorsement issued under this section shall post on the  
12 licensed premises a warning sign as described in this subsection. A warning sign required by this  
13 subsection must be at least 11 inches by 14 inches and must read, in lettering at least one-half  
14 inch high, "WARNING: Tobacco products are highly addictive, a cause of lung disease and  
15 cancer, and may cause complications during pregnancy. The sale of tobacco products to persons  
16 under age 19 is illegal." The sign must also include a depiction of a pack of cigarettes at least  
17 two inches high defaced by a red diagonal diameter within a surrounding red circle. A person  
18 holding an endorsement issued under this section shall display the sign in a manner conspicuous  
19 to a person purchasing or consuming tobacco products on the licensed premises. The department  
20 shall, without charge, furnish warning signs required under this subsection to a person who holds  
21 an endorsement issued under this section or a person who requests the sign with the intention of  
22 displaying it.

23 \* Sec. 11. AS 11.76.100(b), 11.76.100(c), and AS 43.50.030(c) are repealed.

24 \* Sec. 12. The supreme court shall include on a schedule of bail amounts the fines established under  
25 AS 11.76.100(d) and 11.76.107(c) for a violation of those sections.