

CS FOR HOUSE BILL NO. 84 (FINANCE)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/1/91  
Referred: Rules

Sponsor(s): REPRESENTATIVES BROWN, Ellis, B.Davis

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

13 (3) it has been estimated that approximately 1,000,000,000 packs of cigarettes are sold

1 illegally to children in this country each year;

2 (4) each year in the state, there are approximately 1,360 person-years of potential life lost  
3 as a result of smoking-attributable deaths with direct and indirect costs in excess of \$100,000,000 due  
4 to smoking-related death and disability, contributing to a national cost of about \$52,000,000,000 a year;  
5 and

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

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

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

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

15 (2) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or  
16 products containing tobacco [AND THAT IS ACCESSIBLE TO PERSONS UNDER 19 YEARS  
17 OF AGE].

18 \* Sec. 3. AS 11.76.100(a) is amended to read:

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

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

23 (2) MAINTAINS A VENDING MACHINE THAT DISPENSES CIGARETTES,  
24 CIGARS, TOBACCO, OR PRODUCTS CONTAINING TOBACCO]

25 \* Sec. 4. AS 11.76.100(b) is repealed and reenacted to read:

26 (b) Notwithstanding the provisions of (a) of this section, a person who maintains a  
27 vending machine is not in violation of (a)(2) of this section if the vending machine is

28 (1) located on premises licensed as a beverage dispensary under AS 04.11.090;

29 (2) located at least 25 feet from the nearest exit from the licensed premises; the  
30 requirement in this paragraph does not apply to a fire or emergency exit; and

31 (3) in a location that is directly and continually supervised by a person employed

1 on the licensed premises during the hours the vending machine is accessible to the public.

2 \* Sec. 5. AS 11.76.100(d) is amended to read:

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

5 \* Sec. 6. AS 11.76 is amended by adding a new section to read:

6 Sec. 11.76.107. FAILURE TO SUPERVISE CIGARETTE VENDING MACHINE. (a)  
7 A person commits the offense of failure to supervise a cigarette vending machine if the person  
8 owns premises licensed as a beverage dispensary under AS 04.11.090 and with criminal  
9 negligence fails to have an employee supervise a vending machine on those premises that  
10 dispenses cigarettes, cigars, tobacco, or products containing tobacco as required by  
11 AS 11.76.100(b)(3).

12 (b) Failure to supervise a vending machine is a violation and upon conviction is  
13 punishable by a fine of not less than \$300.

14 \* Sec. 7. AS 11.76.107 is repealed and reenacted to read:

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

19 (b) The court shall forward to the Department of Commerce and Economic Development  
20 a record of each person convicted under this section.

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

23 \* Sec. 8. AS 43.50.010(a) is amended to read:

24 (a) A person may not sell, purchase, possess, or acquire cigarettes as a manufacturer,  
25 distributor, direct-buying retailer, [VENDING MACHINE OPERATOR,] or buyer without a  
26 license.

27 \* Sec. 9. AS 43.50.010(b) is amended to read:

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

1 \* Sec. 10. AS 43.50.020 is amended to read:

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

11 \* Sec. 11. AS 43.50.070 is amended to read:

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

24 \* Sec. 12. AS 43.70.075(d) is amended to read:

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

30                     (1) 45 days; or

31                     (2) 90 days, if within the past 24 months the person has been previously convicted

1 of violating AS 11.76.100 or 11.76.107, or a provision of this section or a regulation  
2 implementing this section adopted under AS 43.70.090.

3 \* Sec. 13. AS 43.70.075 is amended by adding a new subsection to read:

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

16 \* Sec. 14. AS 11.76.100(b), 11.76.100(c), and AS 43.50.030(c) are repealed.

17 \* Sec. 15. The supreme court shall include on a schedule of bail amounts the fine established under  
18 AS 11.76.100(d) and 11.76.107(b) for a violation of those sections.

19 \* Sec. 16. The supreme court shall include on a schedule of bail amounts the fine established under  
20 AS 11.76.107(c) for a violation of that section.

21 \* Sec. 17. Sections 3, 7, 8, 9, 10, 14, and 16 of this Act take effect January 1, 1995.