

HB

141



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: All House Members

FROM: Rep. Kay Brown *Kay*

DATE: January 16, 1988

RE: "An Act relating to retail sale
of tobacco and tobacco products."

Tobacco use by Alaskan youth is a major, statewide problem. It is vital to the future health of our state that we reduce the flow of tobacco products to minors. Last session the Alaska Legislature took an important step toward addressing this serious health and addiction issue by passing SB 339. This session, however, we need to target one additional aspect of the problem -- the absence of a tobacco retail licensing requirement.

Unlike the majority of other states, Alaska does not require retailers of tobacco products to have a tobacco sales license. Current Alaska law only requires licensing of a few categories of tobacco dealers including wholesalers and manufacturers. As a result, we are without one of the most effective enforcement tools for eliminating the retail sale of tobacco to minors: the revocation of a retail license for a violation.

Youth in Alaska are using tobacco at very high rates:

- Based on a 1988 statewide survey conducted in 8 school districts covering students in grades 7-12, the Center for Alcohol and Addiction Studies concluded that "the prevalence of cigarette smoking and use of smokeless or chewing tobacco is alarmingly high in Alaska." The survey found that 61.9% of the students had used cigarettes and 38.4% had used smokeless tobacco.
- According to an extensive Indian Health Service survey of students ages 5-18 conducted in rural Alaska, 34% of the males and 27% of the females regularly use smokeless tobacco.

Retail sales of tobacco products to Alaskan minors occur:

- In a study conducted by the American Lung Association of Alaska in August 1987, a 14-year old girl successfully purchased cigarettes across the counter in 47 out of 49 attempts -- a success rate greater than 95%.

Tobacco addiction by minors leads to adult addiction, disease, and death:

- 90% of adults who smoke started smoking by the time they were 19 years old.
- The Department of Health & Social Services has estimated that the costs to Alaska from smoking include:
 - \$52.3 million a year for health care;
 - 1,363 person years of potential life lost annually; and
 - \$100.5 million a year in total costs (not including perinatal complications of smoking, childhood diseases related to parental smoking, and diseases caused by passive smoke.)

The attached legislation would impose licensing requirements on retail sales of cigarettes and other tobacco products. The license fee of \$10 would cover the costs of administering the program, resulting in a zero fiscal note. The bill also provides an administrative license suspension or revocation for violations of AS 11.76.100 (selling tobacco to persons under 19 years of age). A retailer also could be fined for a violation of AS 11.76.100.

I hope you will join me in supporting this legislation with your co-sponsorship. Please contact me or Roxanne Turner at -4998. Thank you for your consideration.

Attachment

Prepared by:
Rep. Kay Brown
February 15, 1989

HB 141, "An Act relating to retail sale of tobacco, tobacco products, and devices for smoking tobacco."

Tobacco use by Alaskan youth is a major, statewide problem. The bill would help reduce the flow of tobacco products to minors by establishing a tobacco retail licensing requirement. It provides an enforcement tool, the administrative suspension or revocation of a license, for selling or giving tobacco to a minor (a violation of AS 11.76.100) in addition to the existing civil fine. No retail tobacco products could be sold during the period of suspension or revocation.

The bill proposes to:

- impose licensing requirements on retail sales of cigarettes, cigars, tobacco, tobacco products, and pipes and other devices for smoking tobacco;
- require retailers to make application and pay a fee of \$10 to be issued a license by the Department ;
- make the retail license non-transferable;
- provide for an administrative license suspension or revocation for violations of AS 11.76.100 - selling or giving tobacco to a minor; and
- prohibit the sale of a product for which the license was issued during the period of the suspension or revocation of the license.

Prepared by: Rep. Kay Brown
February 15, 1989

Sectional Analysis

HB 141, "An Act relating to retail sale of tobacco, tobacco products, and devices for smoking tobacco"

- Section 1:** amends AS 43.50.010(a) by requiring retailers of tobacco, tobacco products, and devices for smoking tobacco to be licensed under this chapter.
- Section 2:** amends AS 43.50.010(b) by adding retailers to those required to apply for and pay a fee to the Department for a license. The Department shall adopt reasonable regulations for the application and issuance of licenses.
- Section 3:** amends AS 43.50.010(c) by adding language that the Department may not issue a license to a person who has been convicted within the past five years of selling or giving tobacco to minors (a violation of AS 11.76.100).
- Section 4:** amends AS 43.50.010 by adding a new subsection stating that the Department may not issue a license unless the fee under AS 43.50.030 has been paid.
- Section 5:** repeals and reenacts AS 43.50.030, adding retailer to the fee requirements for issuing or renewing a license under AS 43.50.010. The retailer fee is \$10.
- Section 6:** amends AS 43.50.070 by adding suspension or revocation of a license by the Department for a violation of AS 11.76.100 (selling or giving tobacco to minors). A person whose license is suspended or revoked may not sell a product for which the license was issued or permit a product for which the license was issued to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person.

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 3, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: 3/2/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 141 [LICENSING RETAIL TOBACCO SALES]
"An Act relating to retail sale of tobacco, tobacco products, and devices for smoking tobacco."

[X] be replaced with CSHB 141 (HESS) [] the same title
[X] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
- [] zero fiscal notes(s) published:

2/23/89

SIGNING DO PASS:

J. Ellis
George J. ...
Pete ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Mark Bayn no rec
Cheri Davis no rec
Mont ... no rec
W. Furnace no rec

J. Ellis
 chairman's signature

Prepared by:
Rep. Kay Brown
March 2, 1989

By: Brown, Menard, Hudson, Koponen
Gruenberg, Ellis and M. Davis

**Proposed CS HB 141 (HESS), "An Act relating to tobacco,
and products containing tobacco"**

The Committee Substitute proposes to:

- require a business license endorsement for retail sales of cigarettes, cigars, tobacco, or products containing tobacco;
- designate the Department of Commerce as the licensing authority for tobacco retailers;
- require a separate fee of \$25 to be issued a license endorsement or to renew the endorsement, which expires at the same time the business license expires;
- require the Court to notify the Department of Commerce of all convictions of violations of AS 11.76.100, selling tobacco to a minor, by persons holding a business license endorsement;
- provide the Department of Revenue authority to suspend or revoke license endorsements if distributors, wholesalers or manufacturers sell tobacco or tobacco products to non-licensed or suspended retailers;
- prohibit the sale of a product for which the license was issued during the period of the suspension or revocation of the license endorsement; and
- provide the Department of Commerce authority to suspend or revoke license endorsements for a violation of the provisions of Section 3 of the bill, or of a regulation adopted by the Department; and
- provide for suspension of the license endorsement for a period of one year for convictions of selling tobacco to a minor.

A M E N D M E N T

OFFERED IN THE HOUSE

BY BROWN

TO: HB 141

Page 2, line 27:

Delete "or"

Insert "[OR]"

Page 2, line 29:

Delete ". A [NO]"

Insert ", or (3) if a manufacturer, distributor, or wholesale distributor sells tobacco, tobacco products, or devices for smoking tobacco to a nonlicensed retailer or a retailer whose license has been suspended or revoked. A [. NO]"

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB141
PUBLISH DATE: 2/23/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to tobacco
and products containing tobacco
Sponsor: Brown
Requestor: H, E & S

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: February 27, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: February 27, 1989

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Licensing Retail Sale Tobacco
Sponsor: Brown
Requestor: (H) HESS

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	5.0	5.0	5.0	5.0	5.0	5.0
CAPITAL	0	0	0	0	0	0
REVENUE	13.0	13.0	13.0	13.0	13.0	13.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	5.0	5.0	5.0	5.0	5.0	5.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	5.0	5.0	5.0	5.0	5.0	5.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached.

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: February 13, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: February 13, 1989

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Analysis:

Section 1: The Department of Revenue presently licenses businesses engaged in manufacturing, importing or distributing cigarettes and other tobacco products in the state. The Department's primary function is to collect and distribute the various cigarette taxes from these licenses.

The proposed legislation creates a new class of license holder. For a \$10 fee, every person who sells at retail any products containing tobacco must obtain a license. This new category of license holder will not generally be required to pay or collect the cigarette tax under AS 43.50, as the tax is collected at the wholesale/importer level. This new license will be issued annually.

Section 3: This section prohibits the department from issuing a license to any person who has been convicted of a crime for selling tobacco products to a person under 19 years of age (AS 11.71.100).

Section 4: Adds a new section which prohibits the department from issuing a license to a person who has not paid the license fee.

Section 5: Adds a \$10 license fee for retailers.

Section 6: Amends statutes to prohibits the transfer of licenses.

Section 7: Adds on additional violation for which the Department may suspend or revoke a license. This violation includes the retail sale of cigarettes to a person under the age of 19. It also provides that a person whose license has been revoked may not sell or permit a tobacco product from being sold.

Recommendations

1. The Department of Revenue currently issues about 100 licenses to importers, manufacturers and distributors that are required to collect and pay over the cigarette tax. In 1988 the Department transferred to the Department of Commerce all licensing functions unrelated to the tax programs DOR administers. We recommend that the committee review whether DCED or DOR is the appropriate agency.

2. We recommend that "retailer" as the term is used in the bill be defined as each retail location or establishment so that a retailer with multiple establishments must license each outlet.

3. We recommend that a new subsection be added to Section 1 of the bill which would prohibit the sale of cigarettes and other tobacco products to unlicensed retailers.

4. It is not clear which agency has primary responsibility for the enforcement of those sections related to the sale of tobacco products to minors. We have not estimated the costs which may be necessary to enforce compliance with AS 11.76.100.

Fiscal Impact

We estimate approximately 1300 retail outlets presently sell cigarettes and other tobacco products in the state. Revenues from license sales will be about \$13.0.

The design and production of license application forms, licenses, postage and regulation will cost \$5.0.

AMERICAN LUNG ASSOCIATION of ALASKA

Dedicated to the prevention and control of lung disease

Fact Sheet

Smoking remains the single most important preventable cause of death in our society, killing 390,000 Americans each year.

The age at which children start smoking keeps falling. Of the 20% of high school seniors who admit to being steady smokers, most started by the 8th grade and 25% say they started smoking by the 6th grade.

A recent survey by the American Council on Education shows a dramatic increase in the number of college freshmen who smoke. From 1987 to 1988, the rate of smoking increased from 8.9% to 10.1%.

According to Dr. George Lundberg, Editor for the Journal of the American Medical Association:

Tobacco kills 1000 Americans each day
Alcohol kills 350 Americans each day
Sedatives & Depressants kill 5 - 20 Americans each day
Cocaine kills 2 - 10 Americans each day

Cigarette tobacco is considered one of the three "gateway drugs" for youth.

Among smokers born since 1935, more than 80% started smoking before they reached the age of 21. Ninety percent of ALL smokers start smoking during their teenage years.

Today there are fewer legal restrictions on children's access to tobacco products than in 1964.

The National Conference of State Legislators reports that excise taxes do deter use of alcohol and cigarettes, especially smoking among teenagers.

Cigarettes and other forms of tobacco are addicting.

Compiled by Rocky Plotnick-Weller
President-Elect
American Lung Association of Alaska
February, 1989

person or by a member of the person's household. (§ 2 ch 45 SLA 1982; am § 41 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment in paragraph (15), deleted "unless specifically designated as controlled under AS 11.71.120" following "include" in subparagraph (C) and made a series of technical changes in subparagraphs (A) and (B).

NOTES TO DECISIONS

Purpose of definition of marijuana. — The definition of marijuana in this section is for the purpose of determining whether or not a person could be charged with marijuana possession or delivery, but has nothing to do with determining aggregate weight. *Gibson v. State, Ct. App. Op. No. 621 (File No. A-917), 719 P.2d 687 (1986).*
 Applied in *Stuart v. State, Ct. App. Op. No. 464 (File No. A-276), 698 P.2d 1218 (1985); State v. Resek, Ct. App. Op. No. 533 (File Nos. A-591, A-634, A-680), 706 P.2d 706 (1985).*

Chapter 73. Imitation Controlled Substances Act.

Sec. 11.73.010. Manufacture or delivery of an imitation controlled substance.

NOTES TO DECISIONS

Applied in *Morrow v. State, Ct. App. Op. No. 499 (File No. A-510), 704 P.2d 226 (1985).*

Sec. 11.73.099. Definitions.

NOTES TO DECISIONS

This section, as interpreted, was not unconstitutionally vague. — See *Morrow v. State, Ct. App. Op. No. 499 (File No. A-510), 704 P.2d 226 (1985).*

Chapter 76. Miscellaneous Offenses.

Section	Section
100. Selling or giving tobacco to a minor	130. Interference with rights of disabled person
105. Purchase of tobacco by a minor	

Sec. 11.76.100. Selling or giving tobacco to a minor. (a) A person commits the offense of selling or giving tobacco to a minor if the person is 19 years of age or older and

- (1) knowingly sells, exchanges, or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age; or
- (2) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or products containing tobacco and that is accessible to persons under 19 years of age.

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

(1) the vending machine is in a location that is generally supervised by a person who maintains the vending machine, or an employee of the person, during the hours the machine is accessible;

(2) the vending machine is in a location where a person under 21 years of age, other than an employee of the owner of the premises, is not allowed entry by law unless accompanied by a parent, guardian, or spouse of the person who is 21 years of age or older; or

(3) the vending machine is in a location where a person under 19 years of age is not allowed entry by policy of the owner of the premises unless accompanied by a person 19 years of age or older.

(c) In this section, a person maintains a vending machine if the person owns the machine or owns or controls a facility in which the machine is located.

(d) Selling or giving tobacco to a minor is a violation. (§ 9 ch 166 SLA 1978; am § 2 ch 125 SLA 1988)

Effect of amendments. — The 1988 amendment rewrote this section to the extent that a detailed comparison is impracticable.

Sec. 11.76.105. Purchase of tobacco by a minor. (a) A person under 19 years of age may not purchase a cigarette, a cigar, tobacco, or a product containing tobacco in this state.

(b) Purchase of tobacco by a minor is a violation. (§ 3 ch 125 SLA 1988)

Cross references. — For statement of legislative purpose, see sec. 1, ch. 125, SLA 1988 in the Temporary and Special Acts.

Sec. 11.76.130. Interference with rights of disabled person. (a) A person commits the crime of interference with the rights of a disabled person if the person intentionally prevents or restricts

(1) a physically or mentally disabled person from having full and free pedestrian use of a street, highway, sidewalk, walkway, or other thoroughfare, to the same extent that any other person has a right to pedestrian use; or

(2) a physically disabled person from being accompanied or assisted by a certified service animal, without an extra charge for the service animal, in a common carrier, place of public accommodation, or other place to which the general public is invited, except as provided in (b) of this section.

(b) A physically disabled person who is accompanied or assisted by a certified service animal in a common carrier, place of public accommodation, or other place to which the general public is invited, is liable for property damage done by the animal.

Article 1. Cigarette Tax Act.

Section	Section
10. License	80. Returns
20. Separate licenses	90. Tax imposed
30. License fees	100. Civil penalties
35. Wholesaler-distributor license	130. Records
40. Expiration of licenses	140. Disposition of proceeds
50. Transfer of licenses	150. Administration
60. Refunds	170. Definitions
70. Revocation of licenses	180. Short title

Sec. 43.50.010. License. (a) No person may sell, purchase, possess, or require cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested to determine the applicant's eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

(d) A license required by this chapter is in addition to any other license required by law.

(e) A license issued under this chapter shall include

- (1) the name and address of the licensee;
- (2) the type of business to be conducted; and
- (3) the year for which the license is issued. (§ 3 ch 187 SLA 1955; am § 38 ch 113 SLA 1980) —

Effect of amendments. — The 1980 amendment added subsection (e).

Sec. 43.50.020. Separate licenses. If a person operates more than one place of business, the person must obtain a separate license for each place of business, except that a person operating one or more cigarette vending machines is considered to have only one place of business for the purpose of a license under AS 43.50.010 — 43.50.180. A person licensed only as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer may not operate in another capacity unless the appropriate license for it is first secured. Each license shall be exhibited at the place of business for which it is issued and in the manner prescribed by the department. (§ 4 ch 187 SLA 1955)

Sec. 43.50.030. License fees. (a) For each license issued to a manufacturer, and for each renewal, the fee is \$5.

(b) For each license issued to a distributor or wholesaler-distributor, and for each renewal, the fee is \$50.

(c) For each license issued to a vending machine operator, and for each renewal, the fee is \$25.

(d) For each license issued to a direct-buying retailer, and for each renewal, the fee is \$25.

(e) For each license issued to a buyer, and for each renewal, the fee is \$25.

(f) No license may be issued except upon the payment of the fee notwithstanding a statute or exemption to the contrary. (§ 5 ch 187 SLA 1955; am § 1 ch 47 SLA 1964)

Sec. 43.50.035. Wholesaler-distributor license. A person may qualify for a wholesaler-distributor license by furnishing a good and sufficient surety bond in an amount equal to twice the average monthly return and in no case less than \$5,000, payable to the department and approved by the Department of Law. If a wholesaler-distributor fails to pay the cigarette tax when due, the bond may be forfeited and the license revoked. The department may issue permits in place of bonds to resident holders of wholesaler-distributor licenses doing business wholly in the state who pay the tax before shipment. (§ 2 ch 47 SLA 1964)

Sec. 43.50.040. Expiration of licenses. A license issued under AS 43.50.010 expires on June 30, following the date of issue. If a license is revoked, or the business for which the license is issued changes ownership or the licensee changes the place of business from the premises covered by the license, the licensee shall immediately return the license to the department. If the licensee moves the business to another location in the state, the license shall, upon the payment of a fee of 50 cents, be reissued for the new location for the balance of the unexpired term. The licensee, on application to the department accompanied by the renewal fee, may, before the expiration of the license, renew the license for one year from the expiration date of the license. (§ 6 ch 187 SLA 1955)

Sec. 43.50.050. Transfer of licenses. A license is not assignable or transferable. However in the case of death, bankruptcy, receivership, or incompetency of the licensee, or if the business of the licensee is transferred to another by operation of law, the department may extend the license for a limited time to the executor, administrator, trustee, receiver, or the transferee. (§ 7 ch 187 SLA 1955)

Sec. 43.50.060. Refunds. The department may not refund the license fee upon the surrender or revocation of a license. The department may refund a license fee that is paid or collected in error. If a

license is lost, destroyed, or defaced, the department may issue a duplicate license upon payment of a fee of 50 cents. (§ 8 ch 187 SLA 1955)

Sec. 43.50.070. Revocation of licenses. The department may suspend or revoke a license issued under AS 43.50.010 — 43.50.180 (1) for violation of AS 43.50.010 — 43.50.180 or a regulation of the department adopted under AS 43.50.010 — 43.50.180, or (2) if a licensee ceases to act in the capacity for which the license was issued. No person whose license is suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. No disciplinary proceeding or action is barred or abated by the expiration, transfer, surrender, renewal, or extension of a license issued under AS 43.50.010 — 43.50.180. The department shall comply with the provisions of the Administrative Procedure Act (AS 44.62). (§ 9 ch 187 SLA 1955)

Sec. 43.50.080. Returns. (a) On or before the last day of each calendar month a licensee shall file with the department a return, under penalty of perjury, for each place of business. The return shall state the number of cigarettes manufactured, imported, or acquired by the licensee during the preceding calendar month, and other information which the department requires. If a licensee ceases to import or acquire cigarettes, the licensee shall immediately file with the department a return for the period ending with the cessation.

(b) A person holding a wholesaler-distributor license under AS 43.50.035 shall file a return with the department on or before the last day of each calendar month. The return shall state the number of cigarettes sold, including those cigarettes exempt from tax, and remit the tax due by the wholesaler-distributor for the preceding calendar months and other information which the department may require. (§ 10 ch 187 SLA 1955; am § 3 ch 47 SLA 1964)

Sec. 43.50.090. Tax imposed. (a) There is levied an excise tax of two and one-half mills on each cigarette imported or acquired in the state. Each licensee shall, at the time of filing the return required by AS 43.50.080, pay to the department the excise for the calendar month covered by the return, deducting one per cent of the total tax due, which the licensee shall retain to cover the expense of accounting and filing returns. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

(b) It is the intent and purpose of this section to provide for the collection of this excise from the person who first acquires the cigarettes in this state.

(c) The tax imposed under (a) of this section does not apply to cigarettes imported or acquired in the state by an exchange, commissary, or ship's stores operated by one of the uniformed services of the United States as defined in 5 U.S.C. 2101. (§ 11 ch 187 SLA 1955; am § 5 ch 94 SLA 1977)

STATE OF ALASKA
THE LEGISLATURE

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Mary Van Nimwegen

H. HESS

2-15-89

Original sponsors: Brown, Menard,
Hudson, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 141 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to tobacco and products containing
7 tobacco."

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

9 * Section 1. AS 11.76.100 is amended by adding a new subsection to
10 read:

11 (e) The court shall forward a record of each person convicted
12 under this section who holds a business license endorsement under
13 AS 43.70.075, to the Department of Commerce and Economic Development.

14 * Sec. 2. AS 43.50.070 is amended to read:

15 Sec. 43.50.070. REVOCATION OF LICENSES. The department may
16 suspend or revoke a license issued under AS 43.50.010 - 43.50.180 (1)
17 for violation of AS 11.76.100, AS 43.50.010 - 43.50.180, or a regula-
18 tion of the department adopted under AS 43.50.010 - 43.50.180; [, OR]
19 (2) if a licensee ceases to act in the capacity for which the license
20 was issued; or (3) if a manufacturer, distributor, or wholesale dis-
21 tributor sells tobacco or products containing tobacco to a nonlicensed
22 retailer or a retailer whose license endorsement under AS 43.70.075
23 has been suspended or revoked. A [. NO] person whose license is
24 suspended or revoked may not [SHALL] sell cigarettes or permit ciga-
25 rettes to be sold during the period of the suspension or revocation on
26 the premises occupied or controlled by that person. A [NO] disciplin-
27 ary proceeding or action is not barred or abated by the expiration,
28 transfer, surrender, renewal, or extension of a license issued under
29 AS 43.50.010 - 43.50.180. The department shall comply with the

1 provisions of the Administrative Procedure Act (AS 44.62).

2 * Sec. 3. AS 43.70 is amended by adding a new section to read:

3 Sec. 43.70.075. LICENSE ENDORSEMENT. (a) Unless a person has a
4 business license endorsement issued under this section, a person may
5 not sell cigarettes, cigars, tobacco, or products containing tobacco
6 as a retailer. An endorsement required under this section is in
7 addition to any other license or endorsement required by law.

8 (b) The department, upon payment of a fee of \$25, shall issue a
9 business license endorsement to a person who applies for a business
10 license under this chapter, and may renew the endorsement issued under
11 this subsection for a fee of \$25. The endorsement expires at the same
12 time as the license to which it attaches.

13 (c) The department may refuse to issue an endorsement under this
14 section if there is reasonable cause to believe that the information
15 submitted in the application is false or misleading and is not made in
16 good faith.

17 (d) The department may suspend or revoke an endorsement issued
18 under this section if the person holding the endorsement violates a
19 provision of this section or a regulation adopted under AS 43.70.090.
20 If a person who holds an endorsement issued under this section has
21 been convicted of violating AS 11.76.100, the department shall suspend
22 the endorsement for a period of one year.

23 * Sec. 4. APPLICABILITY. The business license endorsement requirement
24 imposed under AS 43.70.075(a), added by sec. 3 of this Act, applies only
25 upon issuance or renewal of a business license required under AS 43.70.020.
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