

HB

141

Prepared by:  
Rep. Kay Brown  
March 17, 1989

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

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

**The Committee Substitute would:**

- 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;
- 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.

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to tobacco and products containing tobacco,  
Sponsor: House HESS Committee  
Requestor: House HESS Committee

Agency Affected: Commerce and Economic Dev.  
BRU: Occupational Licensing  
Components: Administration

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	32.5	0	32.5	0	32.5
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	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)**

The bill creates an endorsement requirement to be placed on business licenses for manufacturers and distributors who sell tobacco or products containing tobacco. No additional costs are anticipated to apply the endorsement to a business license. Revenues are based on approximately 1300 licensees paying a \$25.00 endorsement fee.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: March 7, 1989

Approved by Commissioner: Larry Mercurieff Date: 3/8/89  
Agency: Commerce and Economic Development

**Distribution (by preparer):**

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

# Government must kick the nicotine habit

BOSTON — Those who recognize the symptoms of withdrawal watched Bill Bennett closely. Did he fiddle a bit desperately with his pen? Did he seem just a touch cranky? Had he added a pound or two around the middle?

After more than 20 years as a two-pack-a-day smoker, Bennett had gone through a six-day crash program to kick the habit. He'd done the long walks through the woods. He'd done the aerobics. He'd done the meditation. He'd had the ashtray on his desk replaced by a bowl of fruit and some lollipops.

Now in his second drug-free week, he was under the stress of a Senate confirmation hearing. But not to worry. The new drug czar has to be one of the most highly motivated smokers to ever go to a clinic. When he was chosen for the job in January, he swore he'd quit. It's better than even money that he'll stay clean.

Indeed, Bennett's pledge made a contemporary case study of changed attitudes toward cigarettes. It has be-

come obvious, at last, that cigarettes are addictive. No drug czar could head up an anti-drug operation while chained to nicotine.

If that is true for Bennett, it's true for the rest of the government. One of the other sticky questions to be asked about our drug policy is this one: Can the United States credibly pressure countries that export drugs to us while we push cigarettes?

As a nicotine-free Bennett was being approved for his new post, the State Department released a report on international drug trafficking. It cited worldwide increases in marijuana, opium and coca. It listed countries that are and aren't helping us in the effort. The report didn't list our own tobacco cartels or the worldwide increase in the use of nicotine.

The comparisons are not pure. Tobacco is legal and cocaine is illegal. People are not being mugged by desperate smokers in pursuit of money for their next hit. Nor are there gun battles in the urban streets between corporate executives from



**ellen  
goodman**

RJR and Philip Morris.

But in the scheme of things, tobacco is far more deadly. An estimated 395,000 Americans die annually because of smoking. That's easily 10 times the number who die from illegal drugs, even if you include those addicts who die from AIDS. In foreign policy, we threaten governments that don't inhibit the flow of drugs. We also threaten governments that don't permit the flow of cigarettes. What's wrong with this picture?

American companies made 600 billion cigarettes last year, the highest number on record. Of these, 100 billion went overseas, half

to the Far East. It's no longer news that the one trade breakthrough there has been cigarettes.

The tobacco companies are not, to put it mildly, a goodwill ambassador for other American products. "We've created a poisonous environment for trade," says Rep. Chester Atkins (D-Mass.).

Atkins, along with Democratic California congressmen Henry Waxman and Mel Levine and Kansas Republican Bob Whittaker, has introduced a bill that would at least restrain our role as nicotine pushers. American companies would be forbidden from advertising overseas in ways that are prohibited here.

The tobacco leaf is as imbedded in American history and culture as the coca leaf is in Latin America. It is a tangled part of our political life. But if Bill Bennett can break his addiction to the evil weed, so can this government.

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Ellen Goodman is a Boston Globe columnist.

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# HOUSE COMMITTEE REPORT

(7)

Date referred: March 3, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3/17/89

The JUDICIARY Committee considered:

HB 141

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

- RECOMMENDATIONS:
- be replaced with CS. HB141 (Judiciary) [] the same title
  - have attached amendment(s) [] a new title
  - do pass
  - do not pass
  - no recommendation
  - individual recommendations
  - additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_  
(Dept)

APPROVES PREVIOUS: \_\_\_\_\_  
(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) Revenue 3/3/89 Civil Service 3/1/89
- zero fn/analysis \_\_\_\_\_

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 Chairman's signature

A M E N D M E N T

OFFERED IN THE HOUSE

BY GRUENBERG

TO: CSHB 141(HESS)

Page 1, line 21, before "sells":

Insert "negligently"



**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** Bill Version: CS HB 141 (HESS)  
Publish Date: 3/3/89

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Revision Date: Agency Affected: Alaska Court System  
Title: An act relating to tobacco and BRU: Trial Courts  
products containing tobacco  
Sponsor: Brown, Menard, Hudson... Components:  
Requestor: Judiciary

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**CAPITAL** . . . . .

**REVENUE** . . . . .

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228  
Division: Alaska Court System Date: 03/16/89

Approved by: *Arthur H. Snowden, II* Arthur H. Snowden, II, Administrative Director Date: 03/16/89  
Agency: Alaska Court System

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

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 141 (HESS)  
PUBLISH DATE: HOUSE 3/3/89

## 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
<b>OPERATING</b>						
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 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

Agency Affected: Revenue  
BRU: Income & Excise Audit

Sponsor: Brown  
Requestor: (H) HESS

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
<b>OPERATING</b>						
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
<b>TOTAL OPERATING</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>13.0</b>	<b>13.0</b>	<b>13.0</b>	<b>13.0</b>	<b>13.0</b>	<b>13.0</b>

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
<b>TOTAL</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>

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 11.7~~6~~.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.