

HB

159

HFIN

FILE

(11)

Date Referred to Committee: May 6, 1997

FURTHER REFERRALS:

Date of Committee Action: 5/7/97 pm

The FINANCE Committee considered:

SSHB 159

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159

TOBACCO PURCHASE, POSSESSION, SALE, ETC.

"An Act relating to sale, gift, exchange, possession, and purchase of tobacco and tobacco products; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 159 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

2 fiscal note(s) AKCT 45 4/17/97
OCED 4/17/97

zero fiscal note(s) DOA

4 zero fiscal note(s) DPS 4/17/97
REV 4/17/97
Law 4/17/97
DOA 4/17/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Therriault			X	
	Hanley			X	
	Mulder	X			
	Martin		X		
	Kohrins	X			
	J. Davis				X
	Grussendorf			X	
	G. Davis			X	
	Foster		X		

CHAIR'S SIGNATURE

FISCAL NOTE

Bill version: HB 1000 1997
(H) Publish Date: 4/17/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____
Title: Sale and possession of tobacco
Sponsor: Rep. Kott
Requestor: _____

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____
COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	7.9	7.9	7.9	7.9	7.9	7.9
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	7.9	7.9	7.9	7.9	7.9	7.9

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES (
----------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	7.9	7.9	7.9	7.9	7.9	7.9
1005 GF/Program Receipts						
1037 GF/Medic Health						
Other						
TOTAL	7.9	7.9	7.9	7.9	7.9	7.9

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Doug Wooliver, Administrative Attorney
Agency: Alaska Court System

Approved by: Stephanie J. Cole, Acting Administrative Director
Agency: Alaska Court System

Phone: 264-8228
Date: 04/08/97

Date: 04/08/97

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Alaska Court System
Fiscal Analysis
SSHB 159

Section 5 of SSHB 159 requires the court system to separately account for the fines collected for violations of various tobacco related offenses. Because the court system computer software cannot be adapted for such a function, the separate accounting will have to be done by hand. This note represents the clerical cost to manually search through each days receipts to find, tally, and record any fines collected from tobacco related violations.

The estimated cost is based on the conservative estimate that there were 1,000 citations written by local police agencies around the state in FY 96. It should be noted that this figure only represents citations written for minors in possession of tobacco and does not include other tobacco related offenses.

Further, this note does not account for the likely increase in citations which may result from the enforcement incentive created under section 5, which provides that the fines collected may be appropriated by the legislature back to municipal law enforcement agencies.

Alaska Court System
Fiscal Analysis
SSHB 159

Personal Services
Position

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, 10A, Anchorage, permanent part-time position, 3 months	\$6,315	\$1,627	<u>\$7,942</u>

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

(H) Publish Date: 4/17 97

Revision Date: _____
 Title: An Act relating to sale, possession, and purchase
of tobacco and tobacco products;.....
 Sponsor: Reps. Kott, Mulder, Kohring, Sanders, Ryan
 Requestor: House Labor & Commerce

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES	66.3	49.2	66.3	49.2	66.3	49.2
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SSH8 159 establishes penalties for individuals and businesses who sell or give tobacco or tobacco related products to minors. The statutory amendments made to the tobacco endorsement attached to a business license will not require new funding to implement. However, the increase of the tobacco endorsement fee from \$25 to \$100 will generate additional revenue. There are currently 384 business licenses with tobacco endorsements due for renewal in FY 98 that will be expected to pay the new fee at the 12/31/97 renewal. There are currently 656 business licenses with tobacco endorsements that will renew in FY 99 at the 12/31/98 renewal. Assuming licensing activity remains relatively constant, the revenue can be expected to repeat in subsequent years. The amount shown above represents "new" revenue resulting from the increase of \$25 to \$100.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 4/4/97
 Date: _____

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: _____

Bill Version: _____
 (H) Publish Date: 4/17/97

Revision Date: 03/15/97

Dept. Affected: Public Safety

Title: Minor Possession of Tobacco

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Rep Kort

Requestor: House Labor & Commerce

COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program						
1006 GF MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ _____

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.)

This bill may increase the number of persons with revoked licenses, however, it is not expected to have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman

Phone: 269-5650

Division: Alaska State Troopers

Date: 03/15/97

Approved by Commissioner: Ronald L. Otte

Date: 3/19/97

Agency: Department of Public Safety

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Revision Date: _____ Dept. Affected: Revenue
 Title: Tobacco Purchase, Possession, Sale, etc. BRU Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Representative Koff
 Requestor: M L&C COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Section 6 of the proposed legislation amends the licensing provisions for manufacturers, distributors and vending machine operators (required to file tax returns). The amendments allow the department to suspend or revoke tobacco licenses, for up to one year, for criminally negligent violations of AS 11.75.107. Licensees would be able to appeal this action. There are approximately 45 businesses who would be subject to the new provisions. DOR can administer the revocations and potential appeal actions with current resources.

Prepared by: Robert Bartholomew Phone: 465-4773
 Division: Income and Excise Audit Date: April 9, 1997
 Approved by Commissioner: Wilson L. Jordan *Perkins* Date: April 9, 1997
 Agency: Revenue

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FISCAL NOTE

Bill Version: CS SSHB 159
(H) Publish Date: 4/17/97

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

Revision Date:	Dept. Affected: <u>Department of Law</u>
Title: <u>An Act relating to the sale, gift, exchange,</u>	BRU: <u>Criminal Division/Civil Division</u>
<u>possession, and purchase of tobacco and tobacco products.</u>	Component: <u>Criminal Division</u>
Sponsor: <u>Representative Kott</u>	<u>General Legal Services</u>
Requester: <u>House Labor and Commerce Committee</u>	COMPONENT SERIAL NO. <u>2085/2087</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SSHB 159 proposes additional restrictions and penalties for the sale, gift, exchange, possession, and purchase of tobacco and tobacco products. The proposed additional restrictions on the placement of vending machines and other amendments concerning the sale of tobacco products to minors will have no impact on the Department of Law. The sponsor substitute removes the requirements for administrative revocation of drivers' licenses as a penalty for violation of the proposed statute, and the Department of Law no longer anticipates any fiscal impact from this bill.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone: <u>465-5370</u>
Division: <u>Administrative Services Division</u>	Date: <u>4/7/97</u>
Approved by Commissioner: <u>Bruce M. Borelho</u> <i>Bruce M. Borelho</i>	Date: <u>4/7/97</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

Bill version: CS 3383 03 03
 (H) Publish Date: 4/17/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to sale, gift, exchange, possession and purchase of tobacco and tobacco products."
 Sponsor: Representative Kott
 Requestor: (H) L & C

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This sponsor substitute to the original bill removes the penalty of administrative revocation of a driver's license for the violation of under-age purchase or possession of tobacco products by a minor. It makes the sale, exchange or giving of tobacco products to a minor, the presentation of false proof of age to obtain tobacco products by a minor, and the failure to demand proof of age by the vendor, violations. There is no fiscal impact on the Public Defender Agency.

Prepared by Barbara K Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 4/8/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 159

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to sale, possession, and BRU: Motor Vehicles
purchase of tobacco products... Component: Driver Services
 Sponsor: Representative Kott Field Services
 Requestor: (H) L&C COMPONENT SERIAL NO. 0500, 0502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	252.0	252.0	252.0	252.0	252.0	252.0
TRAVEL	1.5	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL	161.1	161.1	161.1	161.1	161.1	161.1
SUPPLIES	10.0	10.0	10.0	10.0	10.0	10.0
EQUIPMENT	60.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	484.6	424.9	424.9	424.9	424.9	424.9

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES (1005) Revenue Code	1170.0	1170.0	1170.0	1170.0	1170.0	1170.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	484.6	424.9	424.9	424.9	424.9	424.9
1006 GF/MHTIA						
Other						
TOTAL	484.6	424.9	424.9	424.9	424.9	424.9

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS. (Attach a separate page if necessary.)

 SEE ATTACHED

Prepared By: Juanita M. Hensley Phone: 465-2650
 Division: Motor Vehicles Date: 3/21/97
 Approved by Commissioner: Mark Boyer, Commissioner Date: 3/21/97
 Agency: Administration

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ANALYSIS CONTINUED

This bill will require the Division of Motor Vehicles to administratively revoke the driver's license of any person under the age of 19 who attempted to purchase, possess, or present false identification for the purpose of purchasing a tobacco product. The Department of Education reports there are 43,813 students between the grades 8 through 12. The Association of Alaska School Boards issued a survey report in 1995 regarding the youth risk behavior. In that report they indicate that there are 18.9 percent of all students in grades 9 through 12 are frequent users of tobacco products. For the purpose of preparing the fiscal impact the following formula was used:

Alaska Youth -

Grade 8	9,579	
Grade 9	10,278	
Grade 10	9,061	
Grade 11	7,776	
Grade 12	7,119	
18-19 year olds out of school(estimated)	4,400	
Total	48,213	
		x18.9%
Smoking Total		9,112
Repeat Offenders		54%
Based on administrative action for minor consuming stats)		4,921
Grand Total		14,033

It is anticipated that not all 9,112 students will be cited for possession of tobacco products. It is estimated that the passage of this bill will result in an additional 10,000 license revocations a year. This estimation is based on the number of students who are frequent users of tobacco products and those who will receive repeated offenses.

In order to handle the additional 10,000 license revocations a year, and provide due process for the minor, two full time Driver Improvement Specialist/Hearing Officers; one full time Motor Vehicle Representative III, and three full time Motor Vehicle Representative II's would be required. The cost for personal services for two Driver Improvement Specialist/Hearing Officers \$106.2 ; the cost for one full time Motor Vehicle Representative III is \$37.8 ; the cost of three full time Motor Vehicle Representative II's is \$108.0. The Motor Vehicle Representative III and one Motor Vehicle Representative II will be located in the Juneau Driver Services office and will handle the processing associated with administering the revocation of a driver's license. The Driver Improvement Specialist/Hearing Officers will be located in the Anchorage Driver Improvement office of Driver Services Section, and two Motor Vehicle Representative II's will be located in Anchorage Field Services Section.

To revoke 10,000 additional driver's licenses a year takes over 30 processing steps per revoked license. It takes approximately 20 minutes to one hour to conduct an administrative hearing. Each processing step varies in the time it takes to complete. Complete accuracy is essential, as an error of entry onto a driving record could result in civil liability to the State. It takes approximately 20 minutes per applicant time to reinstate a revoked driver's license; this time is exclusive of the new application for the driver's license or permit, take all of the required tests, and if the person is under the age of 18 a parent or legal guardian must give consent for the driver's license or permit, and pay a reinstatement fee. Travel and per diem requested is to send the hearing officer to the National Judicial College for professional administrative law training in the fair hearing process.

Under existing law, each person whose license has been revoked must pay a reinstatement fee of \$100 if the license has not been previously suspended or revoked. A reinstatement fee of \$250 if the person's license has been previously suspended or revoked. It is estimated that 8,000 revocations will be first offenders and 2,000 for repeat offenders. Assuming 90 percent of the minors who are eligible for reinstatement will comply with the reinstatement requirements, approximately 1170.0 will be generated annually as program receipts/general fund revenue.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 159

	FY98	FY99
PERSONAL SERVICES	\$252.0	
2 Driver Improvement Specialist/Hearing Officers, Anchorage DS		
1 Motor Vehicle Representative III, Juneau DS		
3 Motor Vehicle Representative II's, 1 Juneau DS, 2 Anchorage FS		
TRAVEL	\$ 15	
Airfare for Hearing Officers to attend the National Judicial College		
CONTRACTUAL	\$161.1	
Telephone tolls, Computer line connections, Lan/Wan Connection		
Conference call charges (conduct administrative hearings)		
Postage		
Lease office space		
Tuition for National Judicial College		
Contract Programming for Computer enhancements and reprogramming		
SUPPLIES	\$ 10.0	
Routine office supplies, pens, pencils, copier paper, etc.		
EQUIPMENT (ONE TIME EXPENSE)	\$ 60.0	
Ergonomic Workstation		
Desk, Chair, filing cabinet		
Computer and office software		
TOTAL	FY98 \$484.6	FY99 \$424.9

GENERAL FUND PROGRAM RECEIPT REVENUE 1170.0 MILLION

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 159

Revision Date _____
 Title: An Act relating to sale, possession, and purchase of tobacco and tobacco products
 Sponsor: Rep. Kott
 Requestor: HI L&C

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the Department of Administration.

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/10/97

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Am 1 Adopted

0-LS0287Q

Amended pg 2 line 1
Adopted

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/6/97

Referred: Rules

Sponsor(s): REPRESENTATIVES KOTT, Mulder, Kohring, Sanders, Ryan, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sale, gift, exchange, possession, and purchase of tobacco and
2 tobacco products; and providing for an effective date."

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

4 * **Section 1.** AS 11.76.100(a) is amended to read:

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

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

9 (2) MAINTAINS A VENDING MACHINE THAT DISPENSES
10 CIGARETTES, CIGARS, TOBACCO, OR PRODUCTS CONTAINING TOBACCO].

11 * **Sec. 2.** AS 11.76.105 is repealed and reenacted to read:

12 **Sec. 11.76.105. Possession, purchase, or use of false identification to obtain**
13 **tobacco by a person under 19.** (a) A person under 19 years of age may not
14 knowingly

- 1 (1) possess ~~or attempt to purchase~~ a tobacco product in this state; or
 2 (2) present false or fraudulent proof of age for the purpose of
 3 purchasing a tobacco product.

4 (b) A person who violates this section is guilty of a violation and upon
 5 conviction shall be punished by a fine of not less than \$250 for a first offense within
 6 a two-year period, not less than \$500 for a second offense within a two-year period,
 7 and not less than \$1,000 for a third or subsequent offense within a two-year period.

8 (c) In this section, "possess" does not include possession for the purpose of
 9 retail sale by a person under 19 years of age who holds a license endorsement under
 10 AS 43.70.075 or who is the employee of a person who holds a license endorsement
 11 under AS 43.70.075.

12 * Sec. 3. AS 11.76.107 is repealed and reenacted to read:

13 **Sec. 11.76.107. Restrictions on sale of tobacco and tobacco products. (a)**

14 A person may not sell a tobacco product unless

15 (1) the

16 (A) person also holds a license endorsement issued under
 17 AS 43.70.075;

18 (B) sale occurs on the retail premises; and

19 (C) person purchasing or receiving the tobacco product provides
 20 proof of age if proof is demanded as provided under (c) of this section;

21 (2) the sale is a wholesale transaction by a person licensed as a
 22 manufacturer under AS 43.50.010;

23 (3) the sale is by mail order, and the person selling the tobacco product
 24 has a copy of the purchaser's photo identification indicating that the purchaser is at
 25 least 19 years of age; or

26 (4) the sale is by vending machine as provided under (b) of this section.

27 (b) Except as provided in this subsection, a person may not sell a tobacco
 28 product by vending machine. The sale of a tobacco product through a vending
 29 machine is permitted if the vending machine is located in

30 (1) an employee break room or other controlled area of a private work
 31 place that is not generally considered a public place; or

1 (2) a place where alcoholic beverages are sold, but only if the vending
2 machine is

3 (A) located as far as practicable from the primary entrance; and

4 (B) inaccessible to the public when the licensed premises is
5 closed.

6 (c) A person engaged in the sale of a tobacco product shall demand proof of
7 age from a prospective purchaser or recipient if the person has reason to believe that
8 the prospective purchaser or recipient is under 27 years of age. A prosecution for
9 violation of this subsection may not be brought unless a prosecution is also brought
10 for violation of AS 11.76.100.

11 (d) A person engaged in the retail business of selling a tobacco product shall
12 notify each individual employed by that person as a retail sales clerk that state law (1)
13 prohibits the sale of a tobacco product to any person under 19 years of age and the
14 purchase or receipt of a tobacco product by any person under 19 years of age; and (2)
15 requires that proof of age be demanded from a prospective purchaser or recipient if the
16 person engaged in sale of the tobacco product has reason to believe that the
17 prospective purchaser or recipient is under 27 years of age. This notice shall be
18 provided before the individual commences work as a retail sales clerk. The individual
19 shall signify receipt of the notice required by this subsection by signing a form stating
20 as follows:

21 "I understand that state law prohibits the sale of a tobacco
22 product to persons under 19 years of age and requires that proof
23 of age be demanded from a prospective purchaser or recipient
24 if I have reason to believe that the prospective purchaser or
25 recipient is under 27 years of age. I promise, as a condition of
26 my employment, to observe this law."

27 Each form signed by an individual shall indicate the date of signature. The employer
28 shall retain the form signed by an individual employed as a retail sales clerk until 120
29 days after the individual has left the employer's employ.

30 (e) The court shall forward to the Department of Commerce and Economic
31 Development a record of each person convicted under this section.

1 (f) A person who holds a business license endorsement under AS 43.70.075,
 2 or an agent or employee of the person, may not sell cigarettes to another person if the
 3 cigarettes are sold singly or in numbers that are fewer than contained in the
 4 manufacturer's original cigarette pack or contained in a cigarette carton or box.

5 (g) A person who violates this section is guilty of a violation and upon
 6 conviction shall be punished by a fine of not less than \$250 for a first offense within
 7 a two-year period, of not less than \$500 for a second offense within a two-year period,
 8 and for a third or subsequent violation within a two-year period by a fine of not less
 9 than \$1,000 and suspension of the license endorsement required under AS 43.70.075
 10 for a period of not more than one year.

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

12 **Sec. 11.76.109. Definitions for AS 11.76.100 - 11.76.109.** In AS 11.76.100 -
 13 11.76.109, unless the context requires otherwise,

14 (1) "person" has the meaning given in AS 11.81.900;

15 (2) "proof of age" means a driver's license or other documentary or
 16 written evidence that is made of or encased in plastic and contains a photograph of the
 17 holder and a statement of age or date of birth that establishes that the person is 19
 18 years of age or older;

19 (3) "tobacco product" means a product that contains tobacco and is
 20 intended for human consumption;

21 (4) "vending machine" means a mechanical, electric, or electronic self-
 22 service device that, upon insertion of money, tokens, or another form of payment,
 23 automatically dispenses a tobacco product.

24 * **Sec. 5.** AS 22.35 is amended by adding a new section to read:

25 **Sec. 22.35.020. Use of fine proceeds.** The administrative director of the court
 26 system shall separately account for fines collected for violations of AS 11.76.100,
 27 11.76.105, and 11.76.107 and deposit them in the general fund. The annual estimated
 28 balance in the account maintained under this section for fines collected under
 29 AS 11.76.100, 11.76.105, or 11.76.107 may be appropriated by the legislature to
 30 support municipal law enforcement.

31 * **Sec. 6.** AS 43.50.070 is amended to read:

1 **Sec. 43.50.070. Revocation or suspension of licenses.** The department may
 2 suspend or revoke a license issued under AS 43.50.010 - 43.50.180, (1) for a
 3 criminally negligent violation of AS 11.76.100 [, 11.76.107] or a violation of
 4 AS 43.50.010 - 43.50.180 or a regulation of the department adopted under
 5 AS 43.50.010 - 43.50.180; (2) if a licensee ceases to act in the capacity for which the
 6 license was issued; or (3) if a manufacturer, distributor, or wholesale distributor
 7 negligently sells tobacco or products containing tobacco to a nonlicensed retailer or a
 8 retailer whose license endorsement under AS 43.70.075 has been suspended. The
 9 department may suspend or revoke a license issued under AS 43.50.010 -
 10 43.50.180 for a period of not more than one year for a criminally negligent
 11 violation of AS 11.76.107. A person whose license is suspended or revoked may not
 12 sell cigarettes or permit cigarettes to be sold during the period of the suspension or
 13 revocation on the premises occupied or controlled by that person and may not apply
 14 for a license under AS 43.50.010 - 43.50.180 under a different name. A
 15 disciplinary proceeding or action is not barred or abated by the expiration, transfer,
 16 surrender, renewal, or extension of a license issued under AS 43.50.010 - 43.50.180.
 17 The department shall comply with the provisions of AS 44.62 ([THE] Administrative
 18 Procedure Act [(AS 44.62)]).

19 * Sec. 7. AS 43.70.075(b) is amended to read:

20 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
 21 business license endorsement to a person who applies for a business license under this
 22 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
 23 [\$25]. The endorsement expires at the same time as the license to which it attaches.

24 * Sec. 8. AS 43.70.075(d) is amended to read:

25 (d) If a person who holds an endorsement issued under this section, or an
 26 agent or an employee of a person who holds an endorsement issued under this section
 27 acting within the scope of the agency or employment, has been convicted of violating
 28 AS 11.76.100 or 11.76.107, or violates a provision of this section or a regulation
 29 implementing this section [ADOPTED UNDER AS 43.70.090], the department may
 30 suspend the endorsement for a period of not more than

31 (1) 45 days; [OR]

1 (2) 90 days, if within the past 24 months the person has been
 2 previously convicted of violating AS 11.76.100 or 11.76.107, or a provision of this
 3 section or a regulation implementing this section; or

4 (3) one year if within the past 24 months the person has been
 5 previously convicted two or more times of violating AS 11.76.100 or 11.76.107 or
 6 a provision of this section or a regulation implementing this section [ADOPTED
 7 UNDER AS 43.70.090].

8 * Sec. 9. AS 43.70.075(e) is amended to read:

9 (e) If a person who receives an endorsement under this section has multiple
 10 retail outlets, a suspension imposed under (d) of this section applies only to the retail
 11 outlet in which the violation occurs. If a person receives a suspension under (d) of
 12 this section, the person may not apply for a license endorsement under this section
 13 under a different name.

14 * Sec. 10. AS 47.12.030(b) is amended to read:

15 (b) When a minor is accused of violating a statute specified in this subsection,
 16 other than a statute the violation of which is a felony, this chapter and the Alaska
 17 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
 18 prosecuted, and sentenced in the district court in the same manner as an adult; if a
 19 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
 20 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
 21 provisions of this subsection apply when a minor is accused of violating

22 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
 23 a municipality;

24 (2) AS 11.76.105 [, RELATING TO THE POSSESSION OF
 25 TOBACCO BY A PERSON UNDER 19 YEARS OF AGE];

26 (3) a fish and game statute or regulation under AS 16;

27 (4) a parks and recreational facilities statute or regulation under
 28 AS 41.21; and

29 (5) AS 04.16.050, relating to possession, control, or consumption of
 30 alcohol.

31 * Sec. 11. AS 11.76.100(b) and 11.76.100(c) are repealed

- 1 * **Sec. 12.** TRANSITIONAL NOTICE PROVISION. Within 30 days after the effective
2 date of this Act, the employee notice required under AS 11.76.107(d), enacted in sec. 3 of this
3 Act, shall be given to employees engaged in the retail business of selling a tobacco product
4 on the day before the effective date of this Act.
- 5 * **Sec. 13.** This Act takes effect July 1, 1997.

Adopted

0-LS0287Q.1

Ford

5/6/97

AMENDMENT |

OFFERED IN THE HOUSE

BY REPRESENTATIVE KOTT

TO: CSSSHB 159(JUD)

1 Page 1, following line 10:

2 Insert a new bill section to read:

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

4 (d) Selling or giving tobacco to a minor is a violation and upon conviction
5 is punishable by a fine of ~~\$500~~²⁵⁰ for a first offense within a two-year period, ~~\$200~~⁵⁰⁰
6 for a second offense within a two-year period, and \$1,000 for a third or
7 subsequent offense within a two-year period [NOT LESS THAN \$300]."

8 Renumber the following bill sections accordingly.

9 Page 2, line 5:

10 Delete "not less than ~~\$200~~"

11 ~~Insert "\$200"~~

12 Page 2, line 6:

13 Delete "not less than ~~\$200~~"

14 ~~Insert "\$200"~~

15 Page 2, line 7:

16 Delete "not less than"

17 Page 4, line 6:

18 Delete "not less than ~~\$200~~"

19 ~~Insert "\$200"~~

0-LS0287Q.1

1 Page 4, line 7:
2 Delete "not less than ~~1000~~"
3 ~~10000~~"

4 Page 4, lines 8 - 9:
5 Delete "not less than"

6 Page 7, line 2:
7 Delete "sec. 3"
8 Insert "sec. 4"

Alaska State Legislature House of Representatives

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Rules Committee, Chair
Legislative Council
International Trade & Tourism
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Interim:
10928 Eagle River Rd. Suite 141
Eagle River, AK 99577

Session:
Alaska State Capitol
Juneau, AK 99801

CS SS HB 159 (L&C) SECTIONAL SUMMARY

At the outset, please note that the following sectional summary of CS SS HB 159(L&C) is not intended to be either an exhaustive or authoritative description of the bill's contents. The best statement of the contents of CS SS HB 159(L&C) is the bill itself.

Section 1: Repeals and reenacts AS 11.76.100. As reenacted, AS 11.76.100 makes it an offense to sell or give tobacco to persons under 21 years of age. Penalties are established at \$250 for a first offense, \$500 for a second offense, and \$1000 for a third or subsequent offense within a two-year period.

Section 2: Makes it an offense for a person under the age of 21 to possess tobacco, attempt to possess tobacco, or present fraudulent proof of age to purchase tobacco. Penalties are established at \$250 for a first offense, \$500 for a second offense, and \$1000 for a third or subsequent offense within a two-year period.

Section 3: Repeals and reenacts AS 11.76.107.

AS 11.76.107(a) prohibits the sale of tobacco products except: First, where the seller holds a license endorsement under AS 43.70.075, the sale occurs on retail premises, and the purchaser provides proof of age, if demand is made under this section. Second, where it is a wholesale transaction and the seller is licensed as a manufacturer under AS 43.50.010. Third, where the sale is by mail order.

AS 11.76.107(b) provides a general prohibition on the sale of tobacco by vending machines and establishes several exceptions to the general rule. The exceptions are as follows: First, where the vending machine is located in a factory, business, office, or other place not open to the public. Second, where the machine is located in a place that is open to the public but to which persons under 21 are not accorded access. Third, where the machine is located in a place that sells alcohol, provided the machine is under continuous supervision and is not accessible to the public when the business is closed.

AS 11.76.107(c) requires sellers of tobacco to demand proof of age from purchasers who the sellers have reason to believe are under 27 years of age.

AS 11.76.107(d) requires tobacco retailers to apprise their employees that state law requires purchasers to be at least 21 years of age and that proof of age must be demanded, prior to any sale of tobacco, where there is reason to

Representative Pete Kott

Juneau Office (907) 465-3777 Toll Free 1-800-861-KOTT(5688) Fax (907) 465-2819
Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative_pete_kott@legis.state.ak.us

believe that the purchaser is under 27 years of age. In addition, this section requires employees to sign a statement, the specific contents of which are articulated in this section, stating that they understand the provisions of law governing age restrictions and proof of age requirements, and promising to comply with said provisions of law.

AS 11.76.107(e) requires the Court to notify the Department of Commerce when a person is convicted of violating a section of AS 11.76.107.

AS 11.76.107(f) prohibits the sale of loose cigarettes.

AS 11.76.107(g) establishes penalties for a violation of this section at \$250 for a first offense, \$500 for a second offense, and \$1000 for a third or subsequent offense within a two-year period. In addition to the specified fine of \$1000 for a third conviction within a two-year period, the offender's license endorsement may be suspended for up to one year.

Section 4: Definition section.

Section 5: Requires the Court to separately account for fines collected under AS 11.76.100, .105, and .107. Permits such fines to be appropriated by the Legislature to support municipal law enforcement.

Section 6: Amends AS 43.50.070 to permit the Department to revoke or suspend a license issued under AS 4.50.010-180 (Cigarette Tax Act) for up to one year for a criminally negligent violation of AS 11.76.107. Provides that a person whose license is suspended or revoked may not apply for another license under a different name.

Section 7: Amends AS 43.70.075 to raise the tobacco business license endorsement fee from \$25 to \$100.

Section 8: Amends AS 43.70.075(d) to permit the Department to suspend the tobacco business license endorsement for a period of up to one year of any person who, within the previous 24 months, was convicted of violating AS 11.76.100, AS 11.76.107, any provision of this section, or any regulation implementing this section.

Section 9: States that persons who have received a suspension under AS 43.70.075(d) may not apply for a license endorsement under a different name.

Section 10: Conforming amendment.

Section 11: Conforming amendment.

Section 12: Transitional provision.

Section 13: Effective date.

Youth Tobacco Usage

- **83% of adult smokers report that they started smoking before the age of 20.**
- **21% of Alaskan high school students reported they regularly smoked in the last month.**
- **25% of Alaskan middle school students reported smoking at least one cigarette in the last month.**

Youth Tobacco Vendors Survey

- **64%** of Alaska tobacco merchants complied with tobacco restriction laws in 1996.
- The federal government mandates an **80% compliance rate** by the year 2000 under the Synar Amendment.
- Tobacco vendors refused to sell to 14-15 year olds **71%** of the time, while 16-17 year olds were refused **58%** of the time.

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SPONSOR STATEMENT SSHB 159

The State of Alaska has a serious problem with underage consumption of tobacco products. Statistics compiled by the Department of Health and Social Services indicate that 21% of Alaska's high school students regularly smoke and that 25% of our middle school students smoked at least one cigarette in the last month. As reported by the February 27, 1997 edition of The Wall Street Journal, the Centers for Disease Control and Prevention has concluded that approximately one million children each year take up smoking and that, unless they quit, over one-third of them will die from tobacco-related illnesses.

These statistics are cause for great concern. It is estimated that 18,000 of Alaska's children will succumb prematurely to tobacco-related illnesses. This is a tragedy, not only for the individuals, but for our state as a whole. I think that we can do better.

Under existing law, no one under 19 years of age is permitted to possess tobacco. Obviously, large numbers of our children are being accorded illegal access to this product. SSHB 159 would have the salutary effect of limiting that access. This bill requires that merchants, prior to the sale of tobacco, demand proof of age from any prospective patron who appears to be under twenty-seven years of age. SSHB 159 requires all clerks involved in the retail sale of tobacco to sign an acknowledgment that they have been advised of this proof of age requirement. In addition, SSHB 159 increases the penalties for underage sale or possession of tobacco.

Your support is urged.

Representative Pete Kott

Juneau Office (907) 465-3777 Toll Free 1-800-861-KOTT(5688) Fax (907) 465-2819
Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative_pete_kott@legis.state.ak.us





Department of Health and Social Services
Karen Perdue, Commissioner
3601 C Street, Suite 540, P.O. Box 240248, Anchorage, Alaska 99524-0248 (907) 261-8000

Division of Public Health
Peter M. Nakamura, MD, MPH, Director

Section of Epidemiology
John Middaugh, MD, Editor
Bulletin No. 5 January 21, 1997

Tobacco Use Among Alaska Youth

Importance of Decreasing Youth Tobacco Use

Adolescence is a time when individuals do not often consider long term health effects of their behaviors. Once a person starts using tobacco, stopping the habit is not easy because of the addictive properties of nicotine. The vast majority (83.7%) of Alaska smokers began smoking between the ages of 10 and 20 years.¹ Therefore, one of the major strategies for reducing tobacco related deaths and illnesses is to discourage youths from starting to use tobacco.²

Tobacco Use among Alaska High School Students¹

Alaska high school students are more likely to be frequent smokers and to use smokeless tobacco than are U.S. students (Table 1). Alaska Native students have even higher rates of tobacco use.

Table 1. Tobacco use among high school students, Alaska and U.S., 1995

	Alaska	Alaska Natives	U.S.
<i>Percent of Students</i>			
Ever Tried Cigarettes	72.1	90.7	71.3
Current Smokers ^a	36.5	61.9	34.8
Frequent smokers ^b	21.1	43.7	16.1
Smokeless Tobacco ^c	13.6	23.5	11.4

^aUsed at least once in past 30 days

^bUsed 20 or more of past 30 days

^cChewing tobacco or snuff on at least one of past 30 days

Smoking rates are similar for boys and girls. However, boys are more likely to use smokeless tobacco (23.5% of boys, and 6.7% of girls).

Tobacco Use Among Alaska Middle School Students¹

Over half of middle school students (grades 7 and 8) report having tried smoking at least once (58.3%); 24.8% report smoking on at least one day in the previous 30 days; 5.6% report smoking on 20 or more of the previous 30 days, and 30.3% report having tried smokeless tobacco.

Health Implications

The Centers for Disease Control and Prevention estimates that 32% of youths who become regular smokers in early adulthood will die prematurely of a smoking-related death.³ The estimate is based on data from studies of large populations of smokers and never-smokers.

Assuming that current smoking rates persist, 56,246 Alaska youths currently aged 0-17 will eventually become smokers.⁴ Among these smokers, 17,999 (32%) will die prematurely from a smoking-related illness.

Interventions to Prevent Tobacco Use among Youth

The 1994 Surgeon General's Report *Preventing Tobacco Use among Young People* states "Most of the American public strongly favor policies that might prevent tobacco use among young people. The policies include tobacco education in the schools, restriction on tobacco advertising and promotions, a complete ban on smoking by anyone on school grounds, prohibition of the sale of tobacco products to minors and earmarked tax increases on tobacco products."⁵

Effects of a Tobacco Tax

Economists use the concept of "price elasticity of demand" to describe the sensitivity of consumption to changes in price. The price elasticity of demand is defined as the percentage change in consumption that results from a 1 percent increase in price.⁶ A recent analysis based on sampling over 150,000 youths across the United States found a youth smoking price elasticity of -

0.675, meaning that for every 1% increase in the price of cigarettes, youth smoking would decrease by 0.675%, an estimate consistent with other studies.⁶ Therefore, a \$1.00 increase per pack of cigarettes would prevent 5704 of the projected 17,999 smoking-related deaths (Table 2). A larger increase would save more lives; conversely, a smaller increase would save fewer lives (Figure 1).

Table 2. Summary of projected health gains due to tobacco price increases in Alaska^a

	No. change	Increase \$1.00 per pack	Increase \$2.00 per pack
% ↑ in price	0	46.95%	93.90%
% ↓ in youth smoking	0	11.69%	63.38%
Projected # of smokers ^b	56,246	38,422	20,397
Projected deaths ^c	17,999	12,293	6,391
Deaths prevented ^d	0	5,704	11,408

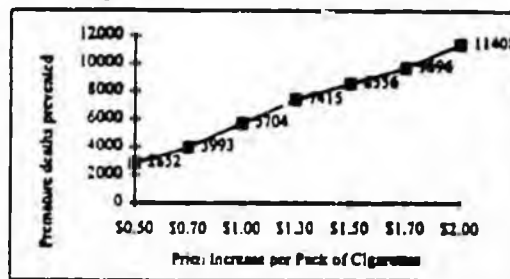
^aAssumes an average cost of \$2.13 per pack of 20 cigarettes in Alaska

^bNumber of youth currently aged 0-17 who would eventually become smokers

^cPremature smoking-related deaths, calculated as 32% of projected smokers

^dPremature smoking-related deaths prevented, calculated as 17999 - projected deaths

Figure 1. Number of premature smoking-related deaths prevented by price increase per pack of cigarettes^a



Summary

The decisions that children and adolescents make about experimenting with tobacco often result in a life-long addiction. Among Alaska high school students, 21.1% are already frequent smokers. The use of tobacco begins even before high school. Alaska Native youths are disproportionately affected by tobacco. Tobacco use may be even more prevalent among youth not in school. Studies in the U.S. and Canada have clearly shown the effectiveness of increased price in reducing youth consumption.⁶ Increasing the price by at least \$1.00 per pack would prevent many premature tobacco-related deaths among Alaska youth currently aged 0-17 years, as well as the illness and suffering that would precede the deaths.

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