

HB

102

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/21/99

FURTHER:

5/12/99

DATE TURNED
IN TO OFFICE:

12 May 1999

Finance Committee considered

HOUSE BILL NO. 102

CIGARETTE SALES: AGREEMENT/ESCROW

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title
 new title

House Bill:

same title
 technical title
 new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>C. C. C. C.</i>	X	<i>John E. Kelly</i>	✓		
<i>John E. Kelly</i>		<i>John E. Kelly</i>	✓		
<i>John E. Kelly</i>		<i>John E. Kelly</i>	✓		
<i>John E. Kelly</i>					
<i>John E. Kelly</i>					
Co-Chair: <i>John E. Kelly</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Law	4/21/99	✓	
Revenue	4/21/99	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Version: HB 102
 (H) Publish Date: 2/19/99

**STATE OF ALASKA
 1999 LEGISLATIVE SESSION**

8/12/99

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "... to a settlement agreement between BRU Civil Division
certain tobacco product manufacturers and the state ..." Component Fair Business Practices
 Sponsor Rules Committee
 Requester Governor Component Serial No. 2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation implements a provision of the Master Settlement Agreement (MSA) between 46 states, including Alaska, and certain United States tobacco product manufacturers. That agreement, which was a final settlement of the states' litigation with the major tobacco manufacturers, was signed on November 23, 1998. Under the terms of the settlement, Alaska will receive \$670 million over the next 25 years to help offset the financial burdens imposed on the state by cigarette smoking. In addition to the monetary provisions, the settlement requires fundamental and far-ranging changes in the tobacco industry's business practices, advertising, and marketing.

This legislation, referred to in the MSA as the "model (or qualifying) statute," creates a reserve fund for nonparticipating manufacturers to pay future claims and is intended to level the playing field between the manufacturers who participated in the MSA (or sign on to it in the future) and those who did not. It is intended to neutralize the cost

Prepared by Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date/Time 2/8/99, 8:37 AM
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 2/8/99
 Agency Department of Law

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ANALYSIS CONTINUATION

disadvantages that the participating manufacturers experience (relative to the nonparticipating manufacturers) as a result of the MSA. It requires the nonparticipating manufacturers that sell tobacco products in the state and are not signators of the MSA to establish escrow accounts to pay for qualified claims for health-related concerns tied to their sales of tobacco products in the state.

Alaska does not need to pass the model/qualifying statute in order to receive payments under the Master Settlement Agreement, but failure to enact it could result in a significant reduction (as much as 65 percent) in the state's allotment under the agreement in the future. If a state does not pass the model statute, the MSA provides for an adjustment to that state's payments if the participating manufacturers, as a result of the marketing restrictions, payments, and other restrictions in the settlement, experience a disadvantage and lose market share for sales of their tobacco products to nonparticipating manufacturers. However, under the terms of the MSA, if a state passes the model statute and enforces it, it will be exempt from any payment reductions, even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

Under terms of the legislation, a tobacco product manufacturer selling cigarettes in the state must either become a participating manufacturer or place a set amount into an escrow account for each unit sold in the state. The Commissioner of Revenue will be responsible for receiving certification that the manufacturer is in compliance with the terms of the legislation, and the Attorney General will be responsible for bringing a civil action against a non-complying manufacturer. It is impossible to predict whether nonparticipating manufacturers will enter the Alaska market and whether there will be a need for the Attorney General to take legal action against companies that do not comply with the terms of the statute. At this time, however, we do not anticipate additional costs related to enforcing the legislation.

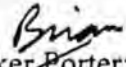
TONY KNOWLES
GOVERNOR
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 102
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February 19, 1999

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182


Dear Speaker Porter:

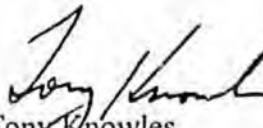
Cigarette smoking presents serious public health concerns to the state and its citizens. Recently, this Administration, along with virtually every other state, reached a monumental master settlement agreement with the leading tobacco producers. That agreement was approved by the Alaska Superior Court on February 9, 1999. Under the terms of the settlement, it is anticipated the State of Alaska will receive \$670 million over the next 25 years and will benefit from important restrictions on advertising and other matters to address public health concerns.

While this is an important step forward in addressing this significant health problem, the states that are parties to the agreement wanted to be sure the problem was more comprehensively addressed. This bill I transmit today would help do that by placing some requirements on tobacco product manufacturers who sell cigarettes in the state but do not sign the settlement agreement.

Under this bill, the non-participating tobacco manufacturers will take responsibility for their share of the financial burden caused by their products by setting up escrow accounts to cover qualified claims for health-related concerns. The availability of the escrow money will better ensure a source of compensation for Alaskans while preventing those manufacturers from deriving large, short-term profits from sales in this state and then becoming judgment-proof before liability may arise. This bill is fair and puts all tobacco product manufacturers on an equal footing regarding cigarette sales in Alaska.

I urge your prompt and favorable action on this bill, as part of an overall solution to address this major public health concern.

Sincerely,


Tony Knowles
Governor

FISCAL NOTE

Version: HB 102

(H) Publish Date: 2/19/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

5/14/99

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue
 Title Federal Government Tobacco Settlement BRU Revenue Operations
 Component Income and Excise Audit
 Sponsor RLS
 Requester Governor Component Serial No. 113

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attachment.

Prepared by Tim Cottongim, Appeals Officer
 Division Income and Excise Audit
 Approved by Wilson L. Condon
 Commissioner
 Agency Department of Revenue

Phone 465-3695
 Date/Time February 5, 1999
 Date February 5, 1999

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COMMITTEE COPY

ALASKA DEPARTMENT OF REVENUE
Income and Excise Audit Division

Cigarette Escrow Account
Draft 1-GB1036.A
February 5, 1999
Page 2 of 2

BILL ANALYSIS

Section 1 describes the health consequences from smoking cigarettes, and the state's obligation to provide and pay for medical assistance to and for persons with health conditions associated with cigarette smoking. This section holds the tobacco product manufacturers responsible for the financial burdens imposed on the state by cigarette smoking, describes the Master Settlement Agreement reached with the leading tobacco product manufacturers, and discusses the intent of this legislation, which is to prevent non-signatory manufacturers from deriving short-term profits and from becoming judgement-proof before liability arises.

Section 2 requires non-signatory manufacturers selling cigarettes in the state to either participate in the Master Settlement Agreement or place into a qualified escrow account by April 15 of each year an established amount for each cigarette sold in the state in the prior year. Funds in escrow will only be released: 1) to pay judgements or settlements from claims brought against the non-signatory manufacturer, 2) to the non-signatory manufacturer if payments placed in escrow exceed what would have been paid if the non-signatory manufacturer participated in the Master Settlement Agreement, or 3) to the non-signatory manufacturer after 25 years from the date of deposit. This section directs non-signatory manufacturers selling cigarettes in the state to certify that they are in compliance with the escrow requirements, and provides for civil actions if they fail to comply.

Section 3 establishes an immediate effective date.

OPERATING EXPENDITURES

This bill will require the Department of Revenue to revise its tax forms to allow verification of the name of each manufacturer whose cigarettes are being sold in the state. We believe the costs of new forms and the accompanying data capture and computer program modifications can be absorbed into the existing budget.

REVENUE

This Act provides no new revenue to the state.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 102-CIGARETTE SALES: AGREEMENT/ESCROW

NAME: Donny Gardner AIAG Sub./Bill No: 102

Co./Dept./Title: Dep't of Law Phone: 4682

Address: D. mand Courthouse 6th floor Zip: _____

Do you wish to testify? ___ Yes ___ No Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions

NAME: _____ Sub./Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions