

HB

37

FISCAL NOTE Bill Version: CSHB 37(HES)
(H) Publish Date: 3/19/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected DHSS
 Title _____ BRU Health Services
 Relating to smoking education and cessation Component Community Health and EMS
 Sponsor Rep Rokeberg
 Requester House (HES) Component Serial No. 2078

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 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)

See attached documentation for the allocation of the tobacco settlement dollars included in the Governor's budget for these activities.

Prepared by Peter M Nakamura MD, MPH Phone 465-3090
 Division Public Health Date/Time #####
 Approved by Commissioner Date 3/9/99
 Agency Department Of Health and social Services

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FISCAL NOTE

Bill Version: CSHB 37 (FIN)

(H) Publish Date: 4/19/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: _____
Title: Relating to Smoking Education and Cessation

Dept. Affected DHSS
BRU State Health Services
Component Tobacco Prevention and Control

Sponsor: Rokeberg
Requester: _____

Component Serial No. 2375

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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 []						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

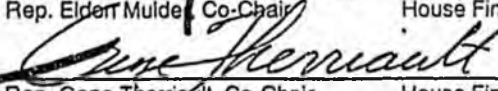
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by


Rep. Eldert Mulde, Co-Chair House Finance Committee

Phone 465-2647


Rep. Gene Theriault, Co-Chair House Finance Committee

Phone 465-4797

Date 4/16/99

TU version

1-LS0247Y
Ford
4/5/00

SENATE CS FOR CS FOR HOUSE BILL NO. 37()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft, Kemplen, Smalley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to restricting sale of cigarettes, to enforcement of certain laws
2 relating to sales of cigarettes, and to smoking education and cessation programs
3 administered by the Department of Health and Social Services."

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

5 * Section 1. AS 43.50 is amended by adding new sections to read:

6 Article 4. Compliance with Federal Laws Relating to Cigarettes.

7 Sec. 43.50.400. Sale or distribution of cigarettes; prohibitions. A person
8 may not

9 (1) sell or distribute to consumers in this state, acquire, hold, own,
10 possess, or transport for sale or distribution in this state, or import or cause to be
11 imported into this state for sale or distribution in this state cigarettes

12 (A) the package of which

13 (i) bears a statement, label, stamp, sticker, or notice
14 indicating that the manufacturer did not intend the cigarettes to be sold,

L

1 distributed, or used in the United States, including labels stating, "for
2 export only," "U.S. tax-exempt," "for use outside U.S.," or similar
3 wording; or

4 (ii) does not comply with all requirements of federal law
5 regarding health warnings and other information on packages of
6 cigarettes manufactured, packaged, or imported for sale, distribution, or
7 use in the United States, including the warning labels required by 15
8 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act), and all
9 federal trademark and copyright laws;

10 (B) imported into the United States on or after January 1, 2000,
11 in violation of 26 U.S.C. 5754; or

12 (C) for which a list of the ingredients added to tobacco in the
13 manufacture of those cigarettes has not been submitted to the Secretary of the
14 United States Department of Health and Human Services as required under 15
15 U.S.C. 1335a (Federal Cigarette Labeling and Advertising Act);

16 (2) alter a package of cigarettes before sale or distribution to the
17 consumer so as to remove, conceal, or obscure

18 (A) a statement, label, stamp, sticker, or notice described in
19 (1)(A)(i) of this section; or

20 (B) any health warning, including a health warning that is
21 specified in 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act).

22 **Sec. 43.50.410. Imported cigarettes: requirements.** A person that imports
23 into this state for sale or distribution in this state cigarettes manufactured outside of
24 the United States shall file with the department, on or before the last day of each
25 calendar quarter, for the cigarettes that the person imported into this state in the
26 preceding calendar quarter, a statement signed by the person under penalty of perjury
27 that the commissioner shall treat as confidential and that shall not be considered a
28 public record under AS 09.25.110, identifying the brand and brand styles of the
29 cigarettes, the quantity of each brand style of cigarettes, and the person or persons to
30 whom the cigarettes have been shipped. In this section, "calendar quarter" means each
31 of the three-month periods ending March 31, June 30, September 30, and

1 December 31.

2 **Sec. 43.50.420. Enforcement.** For the purpose of enforcing AS 43.50.400 -
3 43.50.450, the commissioner may share information with any local, state, or federal
4 government agency.

5 **Sec. 43.50.430. Applicability.** AS 43.50.400 - 43.50.450 do not apply to
6 cigarettes

7 (1) imported into the United States for personal use free of federal tax
8 or duty, or voluntarily abandoned to the United States Secretary of the Treasury at the
9 time of entry; or

10 (2) sold or intended to be sold as duty-free merchandise by a duty-free
11 sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b); however,
12 AS 43.50.400 - 43.50.450 apply to duty-free cigarettes that are brought back into the
13 customs territory for resale within the customs territory.

14 **Sec. 43.50.450. Definitions.** In AS 43.50.400 - 43.50.450, unless the context
15 otherwise requires,

16 (1) "cigarette" has the meaning given in AS 43.50.170;

17 (2) "manufacturer" has the meaning given in AS 43.50.170.

18 * **Sec. 2.** AS 43.70.075 is amended by adding new subsections to read:

19 (g) A person who is required to hold a business license endorsement under this
20 section, or who is required to be licensed or agrees to be licensed under AS 43.50.010,
21 or an agent or employee of the person, may not

22 (1) sell cigarettes to another person unless the cigarettes are sold in
23 groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack
24 or contained in a cigarette carton or box; or

25 (2) sell or possess cigarettes if the cigarette package

26 (A) differs in any respect from the requirements of 15 U.S.C.
27 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of
28 warnings or of any other information upon a package of cigarettes that is sold
29 within the United States;

30 (B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use
31 Outside U.S.," or with similar wording indicating that the manufacturer did not

1 intend that the product be sold in the United States; this subparagraph does not
2 apply to cigarettes sold or intended to be sold as duty-free merchandise by a
3 duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph
4 does apply to duty-free cigarettes that are brought back into the state for resale
5 in the state;

6 (C) has been altered by adding, masking, or deleting wording
7 described in (B) of this paragraph.

8 (h) A violation of (g) of this section is an unfair or deceptive act or practice
9 under AS 45.50.471.

10 (i) The commissioner or the commissioner of revenue may seize cigarettes that
11 do not comply with this section. After notice and an opportunity for a hearing, the
12 commissioner or the commissioner of revenue shall destroy cigarettes seized under this
13 subsection.

14 * Sec. 3. AS 44.29.020(a) is amended to read:

15 (a) The Department of Health and Social Services shall administer the state
16 programs of public health and social services, including

- 17 (1) maternal and child health services;
- 18 (2) preventive medical services;
- 19 (3) public health nursing services;
- 20 (4) nutrition services;
- 21 (5) health education;
- 22 (6) laboratories;
- 23 (7) mental health treatment and diagnosis;
- 24 (8) management of state institutions, except for adult penal institutions;
- 25 (9) medical facilities;
- 26 (10) adult public assistance;
- 27 (11) Alaska temporary assistance program;
- 28 (12) child welfare services;
- 29 (13) general relief; [AND]
- 30 (14) licensing and supervision of child care facilities; and
- 31 (15) a comprehensive smoking education, tobacco use prevention,

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and tobacco control program; to the maximum extent possible, the department shall administer the program required under this paragraph by grant or contract with more than one organization in the state; the department's program must include

(A) a community-based tobacco use prevention and cessation component addressing the needs of youth and adults that includes use of cessation aids such as a nicotine patch or a ^{nicotine} gum (tobacco) substitute;

(B) youth-based efforts that involve youth in the design and implementation of tobacco control efforts;

(C) anti-tobacco counter-marketing targeting both youth and adult populations designed to communicate messages to help prevent youth initiation of tobacco use, promote cessation among current ^{tobacco users} (smokers,) and educate the public about the lethal effects of exposure to secondhand smoke;

(D) tobacco use surveys of youth and adult populations concerning knowledge, awareness, attitude, and use of tobacco products;
and

(E) an enforcement component.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us



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ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
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FAX: (907) 465-2040

Representative Norman Rokeberg

TO: Senator Robin Taylor, Chairman
Senate Judiciary Committee

FROM: Representative Norman Rokeberg

DATE: January 31, 2000

RE: Scheduling Request SCS CSHB 37 (HES)

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

I respectfully request that SCS CSHB 37 (HES), An Act to restrict the sale of cigarettes, to enforcement of certain laws relating to sales of cigarettes, and to smoking education and cessation programs administered by the Department of Health and Social Services, be scheduled for a hearing before the Senate Judiciary Committee.

Attached please find the following:

1. Current version of the bill.
2. Sponsor statement
3. Sectional analysis
4. Fiscal notes
5. List of supporters
6. Letter from Citizens to Protect Kids from Tobacco, March 8, 1999.
7. "The Impact of Tobacco in Alaska," Christie McIntyre, Chair, Alaska Tobacco Control Alliance, pp1-4.
8. "Why Alaska should use its Tobacco Settlement Money To Support A New Comprehensive Statewide Tobacco Control Strategy," CDC estimates, pp1-3, December 31, 1998.
9. "Tobacco Fund Should Help Anti-smoking Effort," Anchorage Daily News Compass article, May 1, 1999.
10. "Supplant the Cigarettes," Fairbanks Daily News-Miner editorial, April 6, 1999,
11. "Quitting Time for Smokers," Money Magazine, pp 139-141, January 1999.

If you have any questions, please contact me or Tom Manninen in my office.

SENATE CS FOR CS FOR HOUSE BILL NO. 37(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 1/28/00

Referred: Judiciary

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft, Kemplen, Smalley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to restricting sale of cigarettes, to enforcement of certain laws
2 relating to sales of cigarettes, and to smoking education and cessation programs
3 administered by the Department of Health and Social Services."

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

5 * **Section 1.** AS 43.70.075 is amended by adding new subsections to read:

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7 section, or who is licensed or agrees to be licensed under AS 43.50.010, or an agent
8 or employee of the person, may not

9 (1) sell cigarettes to another person unless the cigarettes are sold in
10 groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack
11 or contained in a cigarette carton or box; or

12 (2) sell or possess cigarettes if the cigarette package

13 (A) differs in any respect from the requirements of 15 U.S.C.

14 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of

1 warnings or of any other information upon a package of cigarettes that is sold
2 within the United States;

3 (B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use
4 Outside U.S.," or with similar wording indicating that the manufacturer did not
5 intend that the product be sold in the United States; this subparagraph does not
6 apply to cigarettes sold or intended to be sold as duty-free merchandise by a
7 duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph
8 does apply to duty-free cigarettes that are brought back into the state for resale
9 in the state;

10 (C) has been altered by adding, masking, or deleting wording
11 described in (B) of this paragraph.

12 (h) A violation of (g) of this section is an unfair or deceptive act or practice
13 under AS 45.50.471.

14 (i) The commissioner or the commissioner of revenue may seize cigarettes that
15 do not comply with this section. After notice and an opportunity for a hearing, the
16 commissioner or the commissioner of revenue shall destroy cigarettes seized under this
17 subsection.

18 * Sec. 2. AS 44.29.020(a) is amended to read:

19 (a) The Department of Health and Social Services shall administer the state
20 programs of public health and social services, including

- 21 (1) maternal and child health services;
- 22 (2) preventive medical services;
- 23 (3) public health nursing services;
- 24 (4) nutrition services;
- 25 (5) health education;
- 26 (6) laboratories;
- 27 (7) mental health treatment and diagnosis;
- 28 (8) management of state institutions, except for adult penal institutions;
- 29 (9) medical facilities;
- 30 (10) adult public assistance;
- 31 (11) Alaska temporary assistance program;

1 (12) child welfare services;
 2 (13) general relief; [AND]
 3 (14) licensing and supervision of child care facilities; and
 4 (15) a comprehensive smoking education, tobacco use prevention,
 5 and tobacco control program; to the maximum extent possible, the department
 6 shall conduct the program required under this paragraph by grant or contract
 7 with more than one organization in the state; the department's program must
 8 include

- 9 (A) a community-based smoking cessation component using
 10 cessation aids such as a nicotine patch or a gum tobacco substitute;
 11 (B) school-based efforts;
 12 (C) anti-tobacco marketing;
 13 (D) tobacco use surveillance and evaluation; and
 14 (E) enforcement components

*HJR 01/28/00
 Mike Ford
 is DRAFTING
 an amendment
 to delete
 "surveillance"
 Tom*

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 37(HES)

- 1 Page 3, line 13:
- 2 Delete "surveillance"
- 3 Insert "surveys"

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
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Representative Norman Rokeberg

SECTIONAL ANALYSIS CSHB37

"An Act relating to restricting sale of cigarettes, to enforcement of certain laws relating to sales of cigarettes, and to smoking education and cessation programs administered by the Department of Health and Social Services."

Prepared by: Representative Rokeberg

Section 1: Amends AS 43.70.075 (License endorsement) by adding new subsections which specify that:

- cigarettes be sold in groups of at least 20 and in the manufacturer's original cigarette pack or in a cigarette carton or box;
- cigarettes may not be sold or possessed if: (A) the cigarette package is not properly labeled according the federal Cigarette Labeling and Advertising Act; (B) the cigarette package indicates that the product was meant for export; (C) the cigarette package has been altered in order to conceal the language mentioned in (B).
- The commissioner of commerce and economic development may seize cigarettes not in compliance with this section and destroy them after notice and an opportunity for a hearing has been given.

Section 2: Amends AS 44.29.020(a) (Duties of department) to include a comprehensive smoking education, tobacco use prevention and tobacco control program in the list of state programs administered by the Department of Health and Social Services. Mandates that the program will include certain components, and will be conducted by contract or grant with more than one organization in the state.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

NO. CSH837(FIN)

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Relating to Smoking Education and Cessation BRU: Health Services
 Component: Community Health and EMS
 COMPONENT SERIAL NO. 2078
 Sponsor: Rokeberg See also (SN#): _____
 Requestor: Senate (HES)

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	168.8	168.8	168.8	168.8	168.8	168.8
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	701.6	701.6	701.6	701.6	701.6	701.6
SUPPLIES	5.5	5.5	5.5	5.5	5.5	5.5
EQUIPMENT	7.5	7.5	7.5	7.5	7.5	7.5
LAND & STRUCTURES						
GRANTS, CLAIMS	701.6	701.6	701.6	701.6	701.6	701.6
MISCELLANEOUS						
TOTAL OPERATING	1,600.0	1,600.0	1,600.0	1,600.0	1,600.0	1,600.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGES 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	1,600.0	1,600.0	1,600.0	1,600.0	1,600.0	1,600.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	1,600.0	1,600.0	1,500.0	1,600.0	1,600.0	1,600.0

Estimate of any current year (FY2000) cost: \$1.4

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Last year the Department of Health and Social Services received \$1.4 million of the \$3.0 million requested for tobacco control. This fiscal note requests the balance of that 3.0 million. A comprehensive tobacco prevention and control program is required if Alaska is ever to become tobacco-free. Based on CDC's "Best Practices" Guidelines, the attached one page summary describes the core components and requested funding levels of a comprehensive tobacco prevention and control program. It is critical to build the capacity for the program to adequately plan, evaluate, and conduct ongoing surveillance activities. Funding is requested to support 1.0 FTE (percentages of 2 staff) to complete these functions. These positions would work with tobacco prevention and control staff and partners to design and implement on-going surveillance and evaluation efforts required to monitor tobacco control efforts and use over time, and to evaluate tobacco control efforts at all levels. They will analyze data, prepare and disseminate reports and provide technical assistance to statewide organizational partners and program staff. (see attached sheet)

Prepared by: Peter M. Nakamura, MD
 Division: Public Health

Phone: 465-3090
 Date/Time: 1/25/00 9:39 AM

Approved by Commissioner: Karen Berduc, Commissioner
 Agency: Department of Health & Social Services

Date: 1/25/00

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ANALYSIS (cont.):**CDC Best Practices Funding Priorities - Based on a 3 Million Dollar Program****Local Community Partnerships and Statewide Partnerships (\$1,439,475):**

- >Involve individuals in their homes, work sites, places of worship, entertainment venues, and civic organizations;
- >Include community professional, geographic, and ethnic diversity and strengths;
- >Promote community-wide policies such as access and advertising restrictions and clean indoor air initiatives;
- >Promote and support accessible cessation programs;
- >Provide statewide quit line providing general information, referrals, and self-help kits;
- >Ensure physician/health care provider training and statewide evaluation coordination;
- >Reach special populations such as youth, women, ethnic minorities, and low income individuals;
- >Provide technical support to provide updates and materials on educational strategies, policy and current research;
- >Ensure program coordination to expand diversity of alliance members to include tobacco industry target populations such as minorities, youth, and women.

School-Based Programs (\$416,475):

- >Promote a zero tolerance, requiring school policies on tobacco use for students, staff, and visitors;
- >Provide peer-teaching programs;
- >Assure tobacco prevention instruction for all students and teachers;
- >Provide cessation support for tobacco users.

Counter-Marketing (\$511,475):

- >Place effective ads on primetime television, radio, billboard, and print;
- >Focus on the responsibility of the industry relating to financial costs and health liability;
- >Maintain tested, up-to-date, rapid response, and sustained ads;
- >Provide technical assistance to local programs to ensure that statewide campaigns are coordinated with local efforts;

Surveillance and Evaluation (\$257,100):

- >Assist in local program evaluation and outcome measurement work;
- >Develop capacity for data collection and analysis in such areas as regional, state, and national health and tobacco cessation strategies;
- >Produce reports and disseminate findings to partners, grantees, program staff, and policy makers;
- >Provide training and technical assistance to partners, grantees, and program staff on the collection and use of data in program evaluation.

Enforcement (\$375,475):

- >Conduct FDA merchant inspections
- >Conduct/ensure local agency merchant inspections/prosecutions/hearings;
- >Provide merchant education;
- >Develop/provide diversion programs for under-age offenders.

1 **Suggestions for Alaska HB.37**

2

3 Amend paragraph (15) of AS 44.28.28.020(a) to include:

4 **Definitions**

5 (a) "Department" means the department of health and social services.

6 (b) "Grantee" means any public entity or private nonprofit entity approved by the
7 Department of Health and Social Services to receive monies from the Fund for
8 Qualified Youth Smoking Prevention Programs.9 (c) "Qualified Youth Smoking Prevention Program" means a program that meets the
10 criteria set forth in the State Plan for Youth Smoking Prevention.11 (d) "State Plan" means the State Plan for Youth Smoking Prevention adopted pursuant to
12 this Act.

13

14 **State Plan for Youth Smoking Prevention.**15 (a) On or before [date], the Department of Health and Social Services shall
16 propose a State Plan for Youth Smoking Prevention. On or before [date] of each
17 subsequent year, the Department of Health and Social Services may propose amendments
18 to the plan. The Department of Health and Social Services shall submit its proposed
19 State Plan or any proposed amendments thereto to the Governor and legislature. The
20 Governor and legislature may submit comments to the Department of Health and Social
21 Services on or before [date] and may submit comments to the Department of Health and
22 Social Services on its proposed amendments to the State Plan on or before [date] of each
23 subsequent year. On or before [date], the Department of Health and Social Services shall
24 adopt a final State Plan and shall make such plan public. On or before [date] of each

25 subsequent year, the Department of Health and Social Services shall adopt any
26 amendments to the State Plan and shall make such amended State Plan public.

27 (b) The State Plan shall set out the criteria by which grant proposals are
28 considered by the Department of Health and Social Services. Such plan shall also
29 describe the types of youth smoking prevention programs that shall be eligible for
30 consideration for grants from the Fund. Such eligible programs shall include, but not be
31 limited to—

- 32 (1) media campaigns directed to youth to prevent underage consumption
33 of cigarettes;
- 34 (2) school-based education programs to prevent youth smoking;
- 35 (3) community-based youth programs involving youth smoking prevention
36 through general youth development; and
- 37 (4) enforcement and administration of sections 11.76.100 and related
38 retailer education and compliance efforts.

39 (c) The State Plan shall provide that no less than ___ percent of the dollar value of
40 the grants awarded in each year shall be dedicated to programs described in subsections
41 (b)(2) and (b)(3).

42 *Amendment* (d) The State Plan further shall provide for a grant for an annual statewide school
43 based survey to measure cigarette use and behaviors towards cigarette use by individuals
44 in grades 6-12. Such survey shall—

- 45 (1) involve a statistically valid sample of the individuals in each grade 6-
46 12;
- 47 (2) not include any individual who is 19 years of age or older; and

48 (3) be made available to the public, along with the resulting data,
49 excluding respondent identities and respondent-identifiable data, prior to [date] of
50 each year.

51 (e) The State Plan shall provide that no more than ___ percent of the fund shall be
52 expended on the administrative costs of the Department of Health and Social Services.

53 (e) The development and adoption of the State Plan shall not be subject to the
54 notice and comment provisions of the [State Administrative Procedures Act].

55 (f) Monies from the Fund shall not be used to engage in any political activities or
56 lobbying, including but not limited to, support of or opposition to candidates, ballot
57 initiatives, referenda or other similar activities.

58

59 **Procedures for the Award of Grants.**

60 (a) On or before [date] of each year, beginning in 2000, the Department of Health
61 and Social Services shall award grants to qualified applicants for the next fiscal year. To
62 the extent practicable and consistent with the criteria for qualified applicants set forth in
63 the state plan, the Department of Health and Social Services shall make recommendations
64 for the expenditure of the total amount of funds appropriated in each fiscal year for
65 Qualified Youth Smoking Prevention Programs.

66 (b) An applicant for a grant for a Qualified Youth Smoking Prevention Program
67 must file an application with the Department no later than [date] of the year preceding the
68 fiscal year for which the grant is requested.

69 (c) An applicant that requests funding to initiate, continue or expand a youth
70 smoking prevention program shall demonstrate, by means of application, letters of

71 recommendation, and such other means as the Department may designate, that the
72 proposed youth smoking prevention program for which it seeks funds meets the criteria
73 set forth in the State Plan. Previous grant recipients shall include recent evaluations of
74 their programs with their applications. The Department may not recommend the award
75 of a grant unless it makes a specific finding, as to each applicant, that the program
76 proposed to be funded meets the criteria set forth in the State Plan.

77 (d) In addition to evaluating the funding request pursuant to the criteria set out in
78 the State Plan, the Department shall consider:

79 (1) In the case of applications to fund media campaigns directed to youth
80 to prevent underage consumption of cigarettes, whether the campaign provides for
81 sound management and periodic evaluation of the campaign's relevance to the
82 intended audience, including audience awareness of the campaign and
83 recollection of the main message.

84 (2) In the case of applications to fund school-based education programs to
85 prevent youth smoking, whether there is credible evidence that the program is
86 effective in reducing youth smoking.

87 (3) In the case of applications to fund community-based youth programs
88 involving youth smoking prevention through general youth development, whether
89 the program --

90 (a) has a comprehensive strategy with a clear mission and goals;

91 (b) has committed, caring, and professional leadership;

92 (c) offers a diverse array of youth-centered activities in youth-
93 accessible facilities;

94 (d) is culturally sensitive, inclusive and diverse;

95 (e) involves youth in the planning, delivery, and evaluation of
96 services that affect them; and

97 (f) offers a positive focus including all youth.

98 (4) In the case of applications to fund enforcement and administration of
99 section 11.76.100 and related retailer education and compliance efforts, whether
100 such activities and efforts can reasonably be expected to reduce the extent to
101 which tobacco products are available to individuals under the age of 19.

102 (e) State and local government agencies and departments shall be eligible for
103 grants provided pursuant to this Act.

104

105 **Award of Grants.**—On or before [date] each year, the Department of Health and Social
106 Services shall announce the award of grants for the next fiscal year. Any funds
107 appropriated for Qualified Youth Smoking Prevention Programs not expended in any
108 fiscal year shall be retained in the Fund and available for Qualified Youth Smoking
109 Prevention Programs in any following year.

110

111 **Reports.**

112 (a) As a condition to the receipt of funds under this Act, a grantee shall agree to
113 file a report with the Department of Health and Social Services, on or before the [date]
114 day after the end of the fiscal year for which the grant was awarded, as to the following:

115 (1) amount received as a grant and the expenditures made with the
116 proceeds of the grant;

117 (2) a description of the program offered and the number of youths who
118 participated in the program; and

119 (3) specific elements of the program meeting the criteria set forth in the
120 State Plan.

121 (b) Any grantee failing to timely file the report required under this section shall be
122 subject to the jurisdiction of the state Attorney General for repayment of the full amount
123 of the grant expended.

124 (c) The Department of Health and Social Services shall review and evaluate the
125 reports of grantees required under this section and shall file a written report with the state
126 legislature, and Governor on or before [date] of each year on the status and activities of
127 the appropriated funds for the fiscal year most recently ended. The report shall include
128 the beginning and ending balance of the account for each fiscal year, payments or gifts
129 received by the Department of Health and Social Services, income earned and
130 expenditures made, the name of each grantee and the amount of each grant made, the
131 criteria used to award each grant, and whether the program implemented by each grantee
132 met the criteria. The report shall be publicly available immediately upon its filing.

133

CIGARETTE ENFORCEMENT ACT

The State Code is amended by adding a new chapter [x] as follows:

Chapter [X]. Cigarette Enforcement.

SEC. 1. Prohibitions. It shall be unlawful for any person—

(a) to sell or distribute in this state; to acquire, hold, own, possess, or transport, for sale or distribution in this state; or to import, or cause to be imported, into this state for sale or distribution in this state—

(1) any cigarettes the package of which—

(A) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax-Exempt", "For Use Outside U.S.", or similar wording; or

(B) does not comply with—

(i) all requirements imposed by or pursuant to Federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; and

(ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations;

(3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or

(4) any cigarettes for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a;

(b) to alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure—

(1) any statement, label, stamp, sticker, or notice described in subparagraph (a)(1)(A) of this section;

(2) any health warning that is not specified in, or does not conform with the requirements of, the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; or

(c) to affix any stamp required pursuant to Chapter [X] of the State Code to the package of any cigarettes described in subsection (a) of this section or altered in violation of subsection (b).

SEC. 2. Documentation. On the first business day of each month, each person licensed to affix the state tax stamp to cigarettes shall file with the [Commissioner], for all cigarettes imported into the United States to which such person has affixed the tax stamp in the preceding month—

(a) a copy of—

(1) the permit issued pursuant to the Internal Revenue Code, 26 U.S.C. 5713, to the person importing such cigarettes into the United States allowing such person to import such cigarettes; and

(2) the customs form containing, with respect to such cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;

(b) a statement, signed by such person under penalty of perjury, which shall be treated as confidential by the Commissioner and exempt from disclosure under the [public records/FOIA] law, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale; and

(c) a statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with—

(1) the package health warning and ingredient reporting requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a, with respect to such cigarettes; and

(2) [the state's Exhibit T statute], including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of that statute.

SEC. 3. Criminal Penalties. Any person that commits any of the acts prohibited by section 1, either knowing or having reason to know he is doing so, or that fails to comply with any of the requirements of section 2, is guilty of a felony, punishable by a fine of not more than \$5,000 or imprisonment of not more than 5 years, or both.

SEC. 4. Administrative Sanctions.

(a) The [Commissioner] may revoke or suspend the license or licenses of any [licensee] pursuant to the procedures set forth in section [XX] of the State Code, and impose on the [licensee] a civil penalty in an amount not to exceed the greater of 500 percent of the retail value of the cigarettes involved or \$5,000, upon finding a violation by such [licensee] of this act, or any implementing rule promulgated by the [Commissioner].¹

(b) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of this act shall be deemed contraband under section [xx] of the State Code and are subject to seizure and forfeiture as provided therein, and all such cigarettes so seized and forfeited shall be destroyed. Such cigarettes shall be deemed contraband whether the violation of this act is knowing or otherwise.

SEC. 5. Unfair Trade Practices. A violation of section 1 or section 2 of this act shall constitute an unlawful trade practice as provided in section [xx] of the State Code and, in addition to any remedies or penalties set forth in this act, shall be subject to any remedies or penalties available for a violation of that section.

SEC. 6. Unfair Cigarette Sales. For purposes of sections [xx-yy] of the State Code, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as, or is confusingly similar to, any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary channels of trade.

SEC. 7. General provisions.

¹ The referenced licenses are all state licenses required for persons involved in the sale and distribution of tobacco products (e.g., distributors, wholesalers, and retailers). In some cases, provision may need to be made for license suspension or revocation by local authorities.

(a) This act shall be enforced by the [Commissioner]; provided, that at the request of the [Commissioner] or the [Commissioner's] duly authorized agent, the state police and all local police authorities shall enforce the provisions of this act. The attorney general has concurrent power with the prosecuting attorneys of the state to enforce this act.

(b) For the purpose of enforcing this act, the [Commissioner] and any agency to which the [Commissioner] shall have delegated enforcement responsibility pursuant to paragraph (a) may request information from any state or local agency, and may share information with, and request information from, any federal agency and any agency of any other state or any local agency thereof.

(c) In addition to any other remedy provided by law, including enforcement as provided in subsection (a), [any person may bring an action for appropriate injunctive or other equitable relief for a violation of this act; actual damages, if any, sustained by reason of the violation; and, as determined by the court, interest on the damages from the date of the complaint, taxable costs, and reasonable attorney's fees. If the trier of fact finds that the violation is flagrant, it may increase recovery to an amount not in excess of 3 times the actual damages sustained by reason of the violation.][²]

SEC. 8. Definitions.—As used in this act:

- (a) "Cigarette" means [incorporate cigarette tax act definition].
- (b) "[Commissioner]" means [incorporate pertinent reference].
- (c) "Importer" means "importer" as that term is defined in 26 U.S.C. 5702(1).
- (d) "Manufacturer" means [incorporate cigarette tax act definition].
- (e) "Package" means "package" as that term is defined in 15 U.S.C. 1332(4).
- (f) "Person" means [incorporate standard definition].

SEC. 9. Applicability.

- (a) This act does not apply to—

² If possible, the language of this provision should be derived from the language of an existing private right of action provision providing for treble damages (*e.g.*, under the state's antitrust law or its unfair trade practices law).

(1) cigarettes allowed to be imported or brought into the United States for personal use; and

(2) cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations, provided, however, that this act shall apply to any such cigarette that are brought back into the customs territory for resale within the customs territory.

(b) The penalties provided in this act are in addition to any other penalties imposed under other law.

SEC. 10. Severability. [Insert standard severability provision.]

SENATE CS FOR CS FOR HOUSE BILL NO. 37(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft, Kemplen, Smalley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to restricting sale of cigarettes, to enforcement of certain laws
2 relating to sales of cigarettes, and to smoking education and cessation programs
3 administered by the Department of Health and Social Services."

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

5 * Section 1. AS 43.50 is amended by adding new sections to read:

6 Article 4. Compliance with Federal Laws Relating to Cigarettes.

7 Sec. 43.50.400. Sale or distribution of cigarettes; prohibitions. A person
8 may not

9 (1) sell or distribute to consumers in this state, acquire, hold, own,
10 possess, or transport for sale or distribution in this state, or import or cause to be
11 imported into this state for sale or distribution in this state cigarettes

12 (A) the package of which

13 (i) bears a statement, label, stamp, sticker, or notice
14 indicating that the manufacturer did not intend the cigarettes to be sold,

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distributed, or used in the United States, including labels stating, "for export only," "U.S. tax-exempt," "for use outside U.S.," or similar wording; or

(ii) does not comply with all requirements of federal law regarding health warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including the warning labels required by 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act), and all federal trademark and copyright laws;

(B) imported into the United States on or after January 1, 2000, in violation of 26 U.S.C. 5754; or

(C) for which a list of the ingredients added to tobacco in the manufacture of those cigarettes has not been submitted to the Secretary of the United States Department of Health and Human Services as required under 15 U.S.C. 1335a (Federal Cigarette Labeling and Advertising Act);

(2) alter a package of cigarettes before sale or distribution to the consumer so as to remove, conceal, or obscure

(A) a statement, label, stamp, sticker, or notice described in (1)(A)(i) of this section; or

(B) any health warning, including a health warning that is specified in 15 U.S.C. 1333 (Federal Cigarette Labeling and Advertising Act).

Sec. 43.50.410. Imported cigarettes: requirements. A person that imports into this state for sale or distribution in this state cigarettes manufactured outside of the United States shall file with the department, on or before the last day of each calendar quarter, for the cigarettes that the person imported into this state in the preceding calendar quarter, a statement signed by the person under penalty of perjury that the commissioner shall treat as confidential and that shall not be considered a public record under AS 09.25.110, identifying the brand and brand styles of the cigarettes, the quantity of each brand style of cigarettes, and the person or persons to whom the cigarettes have been shipped. In this section, "calendar quarter" means each of the three-month periods ending March 31, June 30, September 30, and

L

1 December 31.

2 **Sec. 43.50.420. Enforcement.** For the purpose of enforcing AS 43.50.400 -
3 43.50.450, the commissioner may share information with any local, state, or federal
4 government agency.

5 **Sec. 43.50.430. Applicability.** AS 43.50.400 - 43.50.450 do not apply to
6 cigarettes

7 (1) imported into the United States for personal use free of federal tax
8 or duty, or voluntarily abandoned to the United States Secretary of the Treasury at the
9 time of entry; or

10 (2) sold or intended to be sold as duty-free merchandise by a duty-free
11 sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b); however,
12 AS 43.50.400 - 43.50.450 apply to duty-free cigarettes that are brought back into the
13 customs territory for resale within the customs territory.

14 **Sec. 43.50.450. Definitions.** In AS 43.50.400 - 43.50.450, unless the context
15 otherwise requires,

16 (1) "cigarette" has the meaning given in AS 43.50.170;

17 (2) "manufacturer" has the meaning given in AS 43.50.170.

18 * **Sec. 2.** AS 43.70.075 is amended by adding new subsections to read:

19 (g) A person who is required to hold a business license endorsement under this
20 section, or who is required to be licensed or agrees to be licensed under AS 43.50.010,
21 or an agent or employee of the person, may not

22 (1) sell cigarettes to another person unless the cigarettes are sold in
23 groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack
24 or contained in a cigarette carton or box; or

25 (2) sell or possess cigarettes if the cigarette package

26 (A) differs in any respect from the requirements of 15 U.S.C.
27 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of
28 warnings or of any other information upon a package of cigarettes that is sold
29 within the United States;

30 (B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use
31 Outside U.S.," or with similar wording indicating that the manufacturer did not

1 intend that the product be sold in the United States; this subparagraph does not
2 apply to cigarettes sold or intended to be sold as duty-free merchandise by a
3 duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph
4 does apply to duty-free cigarettes that are brought back into the state for resale
5 in the state;

6 (C) has been altered by adding, masking, or deleting wording
7 described in (B) of this paragraph.

8 (h) A violation of (g) of this section is an unfair or deceptive act or practice
9 under AS 45.50.471.

10 (i) The commissioner or the commissioner of revenue may seize cigarettes that
11 do not comply with this section. After notice and an opportunity for a hearing, the
12 commissioner or the commissioner of revenue shall destroy cigarettes seized under this
13 subsection.

14 * Sec. 3. AS 44.29.020(a) is amended to read:

15 (a) The Department of Health and Social Services shall administer the state
16 programs of public health and social services, including

- 17 (1) maternal and child health services;
18 (2) preventive medical services;
19 (3) public health nursing services;
20 (4) nutrition services;
21 (5) health education;
22 (6) laboratories;
23 (7) mental health treatment and diagnosis;
24 (8) management of state institutions, except for adult penal institutions;
25 (9) medical facilities;
26 (10) adult public assistance;
27 (11) Alaska temporary assistance program;
28 (12) child welfare services;
29 (13) general relief; [AND]
30 (14) licensing and supervision of child care facilities; and
31 (15) a comprehensive smoking education, tobacco use prevention,

1 and tobacco control program; to the maximum extent possible, the department
2 shall administer the program required under this paragraph by grant or contract
3 with more than one organization in the state; the department's program must
4 include

5 (A) a community-based tobacco use prevention and cessation
6 component addressing the needs of youth and adults that includes use of
7 cessation aids such as a nicotine patch or a nicotine gum tobacco
8 substitute;

9 (B) youth-based efforts that involve youth in the design and
10 implementation of tobacco control efforts;

11 (C) anti-tobacco counter-marketing targeting both youth and
12 adult populations designed to communicate messages to help prevent youth
13 initiation of tobacco use, promote cessation among tobacco users, and
14 educate the public about the lethal effects of exposure to secondhand
15 smoke;

16 (D) tobacco use surveys of youth and adult populations
17 concerning knowledge, awareness, attitude, and use of tobacco products;
18 and

19 (E) an enforcement component.

Alaska State Legislature

Senator Robin Taylor

District A

State Capitol Rm 30, Juneau, Alaska 99801-1182 Phone (907)465-3873 Fax (907)465-3922



Memorandum

To: Legis Legal

Fm: Jim Pound

Re: HB 37

Via fax: 2029

Date: 4/12/00

Please make the following changes to Senate CS for CS for HB 37 regarding today's action by the Senate Judiciary Committee and prepare bill for Rules.

Work Draft 1-LS 0247\T (Ford) 4/11/00 was adopted and amended. Amendment 1-LS0247\T.2 was passed as written.

With that change the bill is ready to go.

Thank you

Jim Pound

ALASKA STATE LEGISLATURE

Sen. Robin Taylor, Chair
Sen. Rick Halford, Vice-Chair
Sen. Dave Donley
Sen. John Torgerson
Sen. Johnny Ellis



State Capitol
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Senate Judiciary Committee

To: Legis. Legal
Fm: Jim Pound
Re: Judiciary Amendments
Date: 4/10/00

J.P. Fax: 2029

Please make the following changes regarding today's action by the Senate Judiciary Committee.

HB 37- Please redraft 1-LS0247\Y (Ford) with the following amendments and return to Jim Pound or Sue Mossgrove.

Page 5 line 7- cessation aids such as a nicotine patch or a nicotine gum (tobacco) substitute.

Page 5 line 12 initiation of tobacco use, promote cessation among tobacco users (current smokers), and

Just FYI they are looking for language on Page 4 line 8 to upgrade from a violation to possible a misdemeanor.

HNR HB37Y
PENALTY

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

WOLF & STRONG
FAX # 6735

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 11, 2000

SUBJECT: Restricting sale of cigarettes - (SCS CSHB 37() Version "Y")

TO: Representative Norman Rokeberg
Attn: Tom

FROM: Michael F. Ford *M.F.F.*
Legislative Counsel *AS 45.50.471*

You have asked for a description of the penalty contained in subsection (h) in Sec. 2 of the draft SCS for HB 37. This provision makes a violation of AS 43.70.075(g) an unfair trade practice under the provisions of AS 45.50.471. An unfair trade practice is subject to several statutes intended to preclude or halt the practice, including investigation by the attorney general (AS 45.50.495), civil injunction process (AS 45.50.501), private and class actions (AS 45.50.531), and private injunctive relief (AS 45.50.535). I would also point out that a person who is injured by an unfair trade practice is entitled to treble damages (AS 45.50.531(a)) and to costs and full reasonable attorney fees if they are the prevailing party (AS 45.50.537(a)). In short, making a violation of AS 43.70.075(g) an unfair trade practice does trigger significant potential penalties for the offender.

Nevertheless, the legislature could also impose a criminal sanction for a violation of AS 43.70.075(g). For example the violation could constitute a class B or class A misdemeanor, or even a felony. A class B misdemeanor has a maximum fine of \$1,000 and a maximum jail time of 90 days. A class A misdemeanor has a maximum fine of \$5,000 and a maximum jail time of one year.

Please contact me if you have further questions.

MFF:pljr
00-133.plm

AMENDMENT

Passed

OFFERED IN THE SENATE

TO: SCS CSHB 37(JUD), Draft Version "T"

1 Page 4, following line 13:

2 Insert a new subsection to read:

3 "(j) A person who violates (g) of this section is guilty of a class B
4 misdemeanor."

adds to UNFAIR TRADE

MEMORANDUM

State of Alaska

Department of Revenue, Office of the Commissioner

TO: Senate Judiciary Committee
c/o Sen. Robin Taylor

DATE: March 30, 2000

PHONE: 465-5469

FROM: Larry Persily
Deputy Commissioner

SUBJECT: HB 37

The Department of Revenue's major concern with SCS CSHB37 is the proposed amendment to AS 45.53. The Legislature last year adopted AS 45.53, which is a model statute offered to states to protect their payments under the nationwide Master Settlement Agreement (MSA) with the major tobacco companies. If a state adopted the model statute "without modification or addition and not in conjunction with any other legislative or regulatory proposal," the statute would be recognized as a "qualifying statute." **States without a qualifying statute are subject to an adjustment factor in the MSA that could cost Alaska all of its payments under the settlement.**

If the manufacturers who signed the MSA lose market share to manufacturers who did not sign the agreement, states without qualifying statutes will lose payments under the MSA. The adjustment is allocated among states without a qualifying statute. If Alaska is the only state without a qualifying statute, the entire nationwide adjustment would be allocated to Alaska. (Alaska's payment under the MSA for FY 2000 is projected at almost \$22 million.)

The adjustment is triggered when the participating manufacturers lose more than 2% of their market share to nonparticipating manufacturers. The National Association of Attorneys General expect this could happen as early as the year 2000.

Again, any modification to AS 45.53 would make it an unqualified statute and potentially jeopardize our entire payment under the MSA. The Department of Revenue is opposed to any modification to AS 45.53.

We have one other recommendation: The words "required to be" need to be added to AS 43.70.075 (g) as follows:

(g) a person who is required to hold a business license endorsement under this section, or who is required to be licensed or agrees to be licensed under AS 43.50.010, or an agent or employee of the person, may not ...

Adding those three words ensures that this new statute is applicable to everyone who is required to have a license whether or not they have one.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER



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FAX: (907) 465-2040

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

Representative Norman Rokeberg

Sponsor Statement

SCS CSHB 37 (HES)

“An Act relating to restricting sale of cigarettes and to smoking education programs administered by the Department of Health and Social Services”

SCS CSHB 37 authorizes: comprehensive smoking education, tobacco use prevention and tobacco control program, ensures that the programs will be administered by non-State contractor(s). The Alaska Department of Health and Social Services will monitor private tobacco settlement contracts. This is not intended to add to the State of Alaska bureaucracy. It also contains provisions to bolster tobacco control enforcement efforts in Alaska. This legislation was introduced to ensure a fair allocation of the estimated \$669 million tobacco settlement monies (subsequently revised to \$816 million) that Alaska will receive under the tobacco settlement.

According to the Alaska Tobacco Control Alliance, **SMOKING IS THE LEADING CAUSE OF DEATH IN ALASKA**, about 500 Alaskans die every year from smoking-related illnesses. Alaska has one of the highest smoking rates in the country-110,000 smokers-and more than 80 percent of Alaskans who smoke report that they want to quit. We need to lend a hand to those who want to quit, and prevent people-our youth, in particular-from starting this potentially deadly habit.

CSHB37 outlines a comprehensive tobacco control program based on the Center for Disease Control's guidelines. Similar programs in California and Massachusetts have yielded remarkable results: cigarette consumption in California has declined 40% overall, and smoking in Massachusetts has decreased by 31%. Alaska is long overdue for such a program. The sooner we implement it, the sooner we can save lives and reduce the costs to individuals and the State for smoking-related illnesses.

Additionally, this bill prohibits sales of cigarettes in groups of less than 20, not

in their original packaging, and not properly labeled for sale in the United States. By strengthening tobacco control enforcement, these provisions help support the comprehensive program.

It is the sponsor's intention that upon passage of this bill, contractual agreements will be made with organizations such as the American Lung Association of Alaska, the American Cancer Society, and the Alaska Native Health Board to implement the program. The Department of Health and Social Services will be responsible for oversight; we do not need to contribute to government bureaucracy by burdening the State with additional programmatic duties.

This bill will be a valuable tool in shaping the future of all Alaskans-whether they be young or old, smokers or not-by improving their overall health, decreasing smoking-related medical costs, protecting our future generations from the negative effects of smoking, and even saving lives.

I urge you to support this legislation.

ED2:01/31/00

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT & TOURISM, MEMBER

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Representative Norman Rokeberg

Many organizations and individuals support the use of tobacco funds for the program outlined in House Bill 37. The following is a list of those who have sent messages and letters of support:

American Cancer Society
American Heart Association
American Lung Association
Alaska Native Health Board
American Industrial Hygiene Association, Midnight Sun Section
Alaska Academy of Physician Assistants
Alaska Dental Society
Alaska State Dental Hygienists' Association
Rena Anderson, RDH
Alaska Association of Elementary School Principals
Alaska Women's Resource Center
Southeast Alaska Regional Health Consortium
Native Village of Gambell
Office of Health Nations
Recovery Center, Ketchikan General Hospital
"Haa Gaaw aat lax-ee" (The Drum Dancers)
Juneau Tobacco Prevention Network
Anchorage School Board
Cordova Public Schools
Teens Against Tobacco Use
Judy Downs, RN, Safe and Drug Free Schools
Jane Combs, PHN (for Barrow's public health nurses and self)
Dr. Hal Post, UAA, retired
Judith Bendersky, Public Health Educator
Christina Reagle
Evelyn Williams
Paul Barrett

My office has also received numerous POMs from individuals favoring the use of tobacco settlement funds for tobacco control and cessation programs.

Citizens To Protect Kids from Tobacco

1057 W. Fireweed Lane, Suite 204 • Anchorage, Alaska 99503 • (907) 277-8696 • Fax: (907) 263-2073

March 8, 1999

Dear Legislators:

This Plan for the Future was developed by the Alaska Tobacco Control Alliance to provide a blueprint for dramatically reducing tobacco-caused addiction, disease, and death in Alaska. It incorporates proven strategies and expert recommendations for an effective, comprehensive statewide tobacco control program.

During the Hickel Administration, Alaska adopted a goal to reduce smoking prevalence to no more than 15% by the year 2000. We're not going to reach that goal, not in this century. But that doesn't mean we should give up. As Dr. Michael Eriksen, director of the CDC Office on Smoking and Health said, *"The challenge is to put into place what we know works. To do anything less is to turn our backs on the health of future generations."*

Another reason not to give up is because we now have the resources to fight tobacco and win. Those resources are in the form of tobacco industry payments to Alaska, amounting to over \$25 million a year for 25 years. With this money, we have a historic opportunity to make sure that the past does not become the future.

Citizens To Protect Kids from Tobacco supports using at least 30% of the tobacco settlement payments to fund an ongoing, comprehensive tobacco control program. We ask that you consider the following points:

Tobacco company payments should go to fight tobacco company harms. The tobacco companies' payments to Alaska for past tobacco-related harm to the state should be used to reduce the amount of damage tobacco use will cause Alaska and its citizens in the future.

The public supports using tobacco settlement money for tobacco control. In a pre-election poll of likely Alaska voters, 77% said that about half or more of the settlement funds should be spent on programs to reduce smoking.

Tobacco is the biggest killer in Alaska. One out of five deaths in the state are caused by smoking. More than 4,000 Alaskan kids under age 18 become new daily smokers each year.

A comprehensive statewide tobacco control strategy would dramatically reduce smoking and other tobacco use in Alaska. We know from the experience in other states that investing substantial resources in tobacco prevention and cessation programs pays off. The money is not wasted.

New tobacco control spending will save Alaska money. Tobacco use costs the Alaskan economy \$150 million each year in direct health care costs alone. This figure is



The **impact** of

tobacco in Alaska

Tobacco use is the leading cause of preventable death in Alaska. One out of five deaths in the state are attributable to smoking.

- Approximately 500 Alaskans die each year from smoking-related causes.
- Cigarettes kill more Americans each year than alcohol, AIDS, murders, suicides, car accidents, cocaine, heroin, and fires combined.
- Deaths related to cigarette smoking include a portion of cardiovascular disease; cancers of the lung, larynx, oral cavity, esophagus, pancreas, bladder, kidney, and cervix; chronic bronchitis, emphysema, and other respiratory deaths.
- Alaska's smoking rate among adults is 26.7% (1997). Among high school students, the rate is 36.5% (1995). State goals (Healthy Alaskans 2000) call for reducing the smoking prevalence among both youth and adults to no more than 15%.
- More than 80% of Alaskans who smoke report that they want to quit.
- Studies show that most smokers don't receive cessation advice from doctors and are confused about the best strategies for quitting.

Passive smoking/secondhand smoke

- Smoking can cause spontaneous abortion in pregnant women who smoke, as well as premature birth and low birth weight infants. Maternal smoking can cause Sudden Infant Death Syndrome.
- Secondhand smoke kills approximately 54,000 Americans each year, making it the third leading cause of death in the country. For every eight smokers killed by tobacco, one non-smoker dies too (60 each year in Alaska).

Tobacco addiction starts with kids

- Tobacco addiction almost always starts in childhood or adolescence. The average age of smoking initiation is 14.5. Almost 90% of smokers start before the age of 19.
- The number of American teenagers taking up smoking as a daily habit jumped 73% between 1988 and 1996. Youth smoking and smokeless tobacco use rates in Alaska are higher than in the U.S. as a whole.
- Four thousand Alaskan kids join the ranks of daily cigarette smokers each year.

Smokers need help in quitting

- Researchers widely regard nicotine to be as addictive as heroin or cocaine.

The economic burden of tobacco

- Total medical expenditures attributable to smoking amount to over \$70 billion a year in the U.S. In Alaska, these expenditures total \$154 million annually. Of this total, Medicaid pays about \$23 million.
- Additional direct health care expenditures caused by tobacco include the costs related to exposure to secondhand smoke, smoking-caused fires, and smokeless tobacco use. These costs are believed to total in the tens of millions of dollars.
- Other non-health costs by tobacco include work productivity losses and direct residential and commercial property losses from fires caused by smoking.

(over)—

The Alaska **Tobacco Control** Program

Executive Summary

Components of the proposed comprehensive tobacco control program for Alaska are:

- Community Programs – \$2 million
- Cessation Programs – \$1.4 million
- Counter-marketing – \$1 million
- School-based Programs – \$750,000
- Tobacco-free Partnership Projects – \$1.8 million
- Enforcement – \$600,000
- Program Development, Management, and Evaluation – \$650,000

TOTAL: \$8.2 million

BACKGROUND

Investing in tobacco prevention and cessation **WORKS**, saving lives and dollars. The clearest evidence of this comes from California and Massachusetts, two states that have invested significant resources (from tobacco tax revenues) to fund comprehensive tobacco control programs.

In California, which has the longest-running tobacco control program, **cigarette consumption has declined by more than 40%** since 1988. In Massachusetts, a 25¢ tax increase and large, comprehensive tobacco control program have reduced smoking consumption by 31% since 1994.

The federal Centers for Disease Control and Prevention has analyzed the experience in California, Massachusetts, and other states to identify **components of effective state tobacco control programs and recommend funding levels** to achieve tobacco use reduction goals in each state.

For Alaska, **CDC guidelines** specify a lower estimate of \$8.7 million and an upper estimate of \$17.7 million annually for comprehensive tobacco prevention and control. The **Alaska Tobacco Control Alliance** has studied the CDC guidelines as well as information from other sources and developed a tobacco control plan funded at \$8.2 million annually (minimum level).

ATCA's plan for preventing tobacco-caused addiction, disease, and death in Alaska calls for a **broad-based collaborative effort** involving state and

local policy makers, the professional health care community, businesses, educators, parents, and children. Major goals are to prevent children from becoming addicted to tobacco, help youth and adults who want to quit, and protect nonsmokers from secondhand smoke. The ATCA plan incorporates **proven strategies** for tobacco use reduction.

In November 1998, **Alaska joined a multi-state settlement with the tobacco industry** that is expected to provide \$669 million over the next 25 years. The ATCA plan for tobacco control could be funded with less than a third of the average annual payment from the settlement.

Alaska's share of the multi-state settlement includes **an extra \$200 million** that was negotiated to cover the costs associated with implementing a comprehensive tobacco control program.

Revenue from tobacco sources in Alaska (tobacco taxes and settlement payments) will soon exceed \$70 million annually. However, the state currently spends only \$200,000 from general fund revenues for tobacco control efforts.

In a **statewide survey of registered voters** conducted in October 1998, 77% of respondents said that at least half of the tobacco settlement money coming to Alaska should be used for programs to reduce tobacco use.

The Alaska **Tobacco Control** Program

Program Components

The seven essential components of a comprehensive tobacco control program are:

COMMUNITY PROGRAMS

Community efforts to change public attitudes and behaviors about tobacco represent a key component in any comprehensive program to reduce tobacco addiction. Such efforts must involve as many community members as possible in planning and carrying out public awareness campaigns and other activities to promote tobacco-free social norms. Coordination and technical assistance will ensure that community partners are accountable for effective project implementation.

CESSATION PROGRAMS

The vast majority of smokers want to quit. Those who succeed greatly reduce their risk of smoking-related disease and early death. In addition, helping adults to quit smoking protects their children from the dangers of secondhand smoke and can reduce the number of newborn babies who suffer or die as a result of "passive smoking." Cessation programs that include counseling and pharmaceutical support can increase success rates dramatically. Other components of a statewide tobacco control program, such as community-based projects and a high profile media campaign, will help motivate smokers to take advantage of cessation services.

TOBACCO-FREE PARTNERSHIP PROJECTS

Within this component, a variety of external partners will expand project reach and impact by targeting at-risk populations, incorporating tobacco prevention and cessation efforts within other health programs, and providing critical networking, communications, technical assistance, and research services from outside the state bureaucracy. Like the Quit Line and counteradvertising campaign, these projects are statewide in scope.

COUNTERMARKETING

No one knows better than the tobacco industry the power of advertising and product promotion. Health advocates can use these same tools with powerful impact. Research shows that tobacco countermarketing promotes quitting, decreases the likelihood of initiation, and supports school and community efforts to create tobacco-free social norms.

SCHOOL-BASED PROGRAMS

While almost all children know that "smoking is bad for you," this fact alone has not prevented a dramatic increase in youth smoking since 1988. The Centers for Disease Control and Prevention has evaluated school-based tobacco prevention programs and issued guidelines for choosing and implementing an effective program. When these guidelines are followed, a school-based program can reduce smoking prevalence significantly.

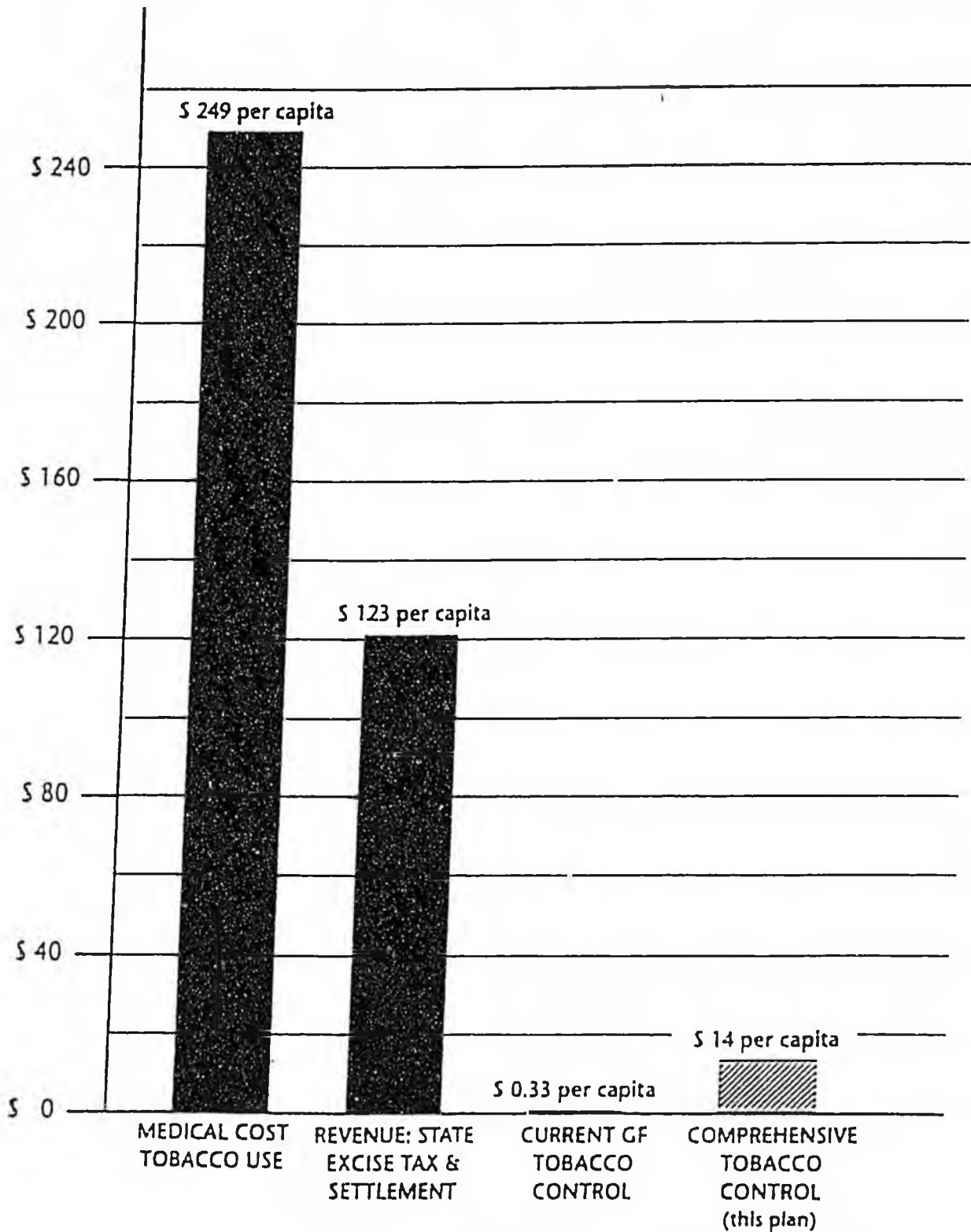
ENFORCEMENT

Enforcement of tobacco control policies enhances their efficacy both by deterring violations and by sending a message to the public that community leadership believes the policies are important. Existing laws and new laws in the areas of youth access, tax compliance, and clean indoor air all require enforcement for maximum impact.

PROGRAM DEVELOPMENT, MANAGEMENT, and EVALUATION

Ultimate accountability for the wise use of state tobacco control program dollars must rest with the Alaska Department of Health and Social Services. A comprehensive statewide program cannot work smoothly and effectively without sufficient investment in program planning and coordination. Likewise, surveillance and evaluation provide critical feedback and help ensure accountability.

ALASKA: THE COST OF TOBACCO USE, STATE TOBACCO REVENUE,
CURRENT GENERAL FUND SPENDING for TOBACCO CONTROL,
and PROPOSED SPENDING, ATCA PLAN
(annual, per capita)



Why Alaska Should Use Its Tobacco Settlement Money To Support A New Comprehensive Statewide Tobacco Control Strategy

Alaska has already begun deciding how to use the millions of dollars it will receive each year from the settlement agreement with the tobacco companies. While some state legislators and others might be tempted to direct those new funds to a tax cut or to other favorite projects or causes, the arguments for directing a substantial portion of the settlement payments to establish a comprehensive statewide tobacco control strategy are overwhelming. It would substantially reduce smoking and other tobacco use, save thousands of lives and millions of dollars, dramatically improve public health, and do more to help Alaska and its citizens than any other option.

Tobacco Company Payments Should Go To Fight Tobacco Company Harms. The tobacco companies' payments to Alaska for past tobacco-related harm to the state should be used to reduce the amount of damage tobacco use will cause Alaska and its citizens in the future -- and that means using settlement funds to sharply curtail smoking and other tobacco use throughout the state, especially among children.

The Public Supports Using Tobacco Settlement Money For Tobacco Control. In a pre-election poll of likely Alaska voters, 77% said that about half or more of the settlement funds should be spent to reduce smoking among kids (with only 1% saying that none of the funds should be so used). Similarly, in a recent nationwide poll, 84 percent of the respondents favored spending the money their state receives to reduce tobacco use among kids, including more than two-thirds (69%) who "strongly favor" spending the money for this purpose.

The Smoking Problem Is Big And Getting Worse. Approximately 27 percent of adult men and 25 percent of adult women in Alaska are current smokers, along with 36 percent of all high school students. While adult smoking has generally been declining in recent years, the number of kids who are smoking has been increasing steadily throughout the 1990s, and has only just experienced a small decline. Underage smoking remains at historically high levels, and over the past 10 years the number of kids under 18 who become daily smokers each year has increased by more than 70 percent. In Alaska alone, more than 4,000 kids under 18 become new daily smokers each year.

A Comprehensive Statewide Tobacco Control Strategy Would Dramatically Reduce Smoking And Other Tobacco Use In Alaska. California and Massachusetts have already initiated tobacco control campaigns that have reduced overall smoking levels within their borders at a faster rate than elsewhere in the country. Similarly, while youth smoking rates were going up nationwide, in California and Massachusetts they either declined or increased much more slowly -- despite significant reductions to both states' tobacco control efforts and despite aggressive tobacco company efforts to dampen the impact of the state programs.

New Tobacco Control Spending Will Save Lives. Tobacco use is responsible for more deaths than alcohol, auto accidents, AIDS, suicides, murders, and illegal drugs combined. Each year, about 400 people die from smoking-related causes in Alaska, and countless others suffer from tobacco-related disease and distress, including many of those exposed to second hand smoke. If current smoking trends are not reversed, roughly 17,000 of the children currently alive in the state will eventually die from smoking-related causes. Directing tobacco settlement monies to tobacco control can reduce this unnecessary disease, misery, and death -- and there is no better investment Alaska can make to save lives and improve public health.

New Tobacco Control Spending Will Save Alaska Money. Public and private direct expenditures in Alaska to treat health problems caused by smoking annually total roughly \$150 million, with the state government paying approximately \$20 million every year in cigarette-related Medicaid expenditures. Alaska and its citizens annually pay millions more for health care relating to smokeless tobacco use, cigar and pipe smoking, and exposure to second hand smoke. Beyond these direct health expenditures are tobacco-related labor costs and lost productivity (e.g., tobacco-related sick days); damage and loss from cigarette-related fires; and tobacco-related maintenance and cleaning expenses. An aggressive statewide tobacco control strategy would reduce all of these tobacco-related costs and save the state, its businesses, and its citizens many millions of dollars each and every year.

Nickel And Diming The Problem Won't Work. Significantly reducing tobacco use in Alaska requires substantial investment in a sustained and comprehensive multi-year tobacco control strategy. Anything less will not effectively counter the addictive power of nicotine or the tobacco companies' advertising and marketing expenditures (more than \$11 million per year in Alaska). Existing tobacco control efforts throughout the country show that the best way to reduce tobacco use, other than raising prices, is to take full advantage of a wide range of proven effective measures, including counter advertising, school and community-based prevention and cessation programs, the enhanced enforcement of laws prohibiting the sale of tobacco products to kids, and the firm maintenance of smoke-free workplaces and public areas. While any one of these tobacco control measures can reduce tobacco use by itself, they work much more powerfully and effectively when done together.

Relying On The Settlement Agreement's Tobacco Control Provisions Won't Work. Although the tobacco settlement contains some useful restrictions on tobacco marketing, they will not, by themselves, significantly hinder the tobacco industry's ability to market to kids. Similarly, the new national public education campaign financed by the multi-state settlement can significantly reduce tobacco use only if it is accompanied by strong state tobacco control efforts. Put simply, the tobacco settlement can dramatically cut tobacco use in Alaska only if the state uses its tobacco company payments to finance new tobacco control initiatives.

If The State Doesn't Do It, No One Else Will. Because of a special provision in the settlement agreement, until 2003 the tobacco companies' payments to Alaska will be reduced by any new federal funding made available to the state for tobacco control efforts that comes from an increase in the federal tobacco tax or from any other new charges against the tobacco companies. Consequently, it is highly unlikely that Congress will direct any new federal tobacco control funding to Alaska for some time.

Adequately Funding A Comprehensive Statewide Tobacco Control Strategy Would Still Leave Plenty Of Settlement Funding For Other Purposes. The U.S. Centers for Disease Control and Prevention estimates that adequately funding a comprehensive tobacco control effort in Alaska requires \$8 to \$17 million per year in new funding. Accordingly, Alaska could create a strong new tobacco control program and still have roughly \$10 million or more per year available for other purposes. Moreover, by increasing its tax on cigarettes (currently 100¢ per pack), one of the best ways to reduce tobacco use, Alaska could secure even more funding for tobacco control and other worthwhile initiatives.

Directing Settlement Payments To Tobacco Control Will Not Waste Money. Tobacco control efforts throughout the country have been carefully researched and evaluated. Accordingly, Alaska could easily direct its settlement payments to support only those types of tobacco control initiatives that have established track records and follow available research findings on how to maximize beneficial results. To further enhance cost effectiveness, Alaska could also require that all of its new tobacco control activities be carefully monitored and evaluated, both to avoid fraud and abuse and to continue to improve program performance.

Sources

Polling data on using tobacco settlement payments for new tobacco control efforts from state-specific and national polls of likely voters conducted for the National Center for Tobacco-Free Kids, by Mason Dixon Political/Media Research in early October 1998, and by Market Facts' TeleNation in early November 1998, respectively.

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December 31, 1998

Tobacco fund should help anti-smoking efforts

By ERIC F. MYERS

Each day tobacco kills another Alaskan with cancer, emphysema, stroke, heart disease, premature birth, AIDS and other causes. Tobacco use is by far the greatest cause of preventable death. Nothing else even comes close.

If this were simply a matter of reckless adults making foolish choices, it would be one thing, but that's not the case. Nearly all tobacco use starts in childhood at the average age of 14½. Even while the tobacco tax increase enacted two years ago is working as intended, some 14,000 Alaskans 18 and under who are alive today will become addicted and will die prematurely from tobacco-caused illness if present trends are not reversed. That's why



nicotine addiction is considered a "pediatric disease."

There are also economic effects. Tobacco-caused illness costs Alaskans \$150 million in needless medical costs, expenses paid by smokers and nonsmokers alike through increased insurance rates and higher health care expenses.

As compensation for these human and economic harms, Alaska joined in a settlement with the tobacco industry last November that will provide the state \$669 million over the next 25 years. The tobacco industry settlement is not a "windfall" — the roughly \$27 million per year Alaska

will receive is a direct result of thousands of Alaska deaths from tobacco addiction. Most importantly, the settlement provides the opportunity to prevent the past from becoming the future.

How many more Alaska kids are addicted and eventually killed by the tobacco industry is now up to the state Legislature. In the state House, Rep. Norm Hokeberg is working to make sure settlement money is invested in tobacco use prevention and cessation. Sen. Sean Parnell is leading efforts in the Senate.

But the going is tough, and many legislators say "we can't afford a new program" on tobacco use prevention and cessation. That tobacco control efforts are considered a "new program" pro-

vides the most disturbing insight of all, for it acknowledges that we've done so little to stop the needless parade of deaths. To date, Alaska has invested virtually nothing to prevent tobacco addiction (cigarette tax revenues go into the school construction fund, not for tobacco control efforts).

A statewide coalition of health organizations has developed a plan that would involve investing 30 percent of the tobacco settlement funds in comprehensive tobacco prevention and cessation efforts. A statewide poll shows that 84 percent of Alaskans support using settlement funds this way. There is no more fundamental purpose of state government than to protect public health. Experienced in California, Massachu-

setts, Oregon and Florida proves that tobacco prevention programs work. We know we can save thousands of lives while avoiding needless costs. But only if we try. To not use the settlement funds for tobacco use prevention amounts to disregarding the thousands of deaths that have gone before and turning our backs on thousands of kids, the tobacco industry's victims of the future.

If there were an infectious disease killing one additional Alaskan each day, we know the Legislature would rush to combat such a threat. That's just the case with tobacco. The distinction is that the "infections" are taking place via expensive and sophisticated marketing and the lethal effects of tobacco use are de-

layed many years.

In just the five months since Alaska joined the settlement, more than 150 Alaskans have died from tobacco-caused illnesses. Tomorrow another Alaskan will die from tobacco, someone the following day and the day after that.

You can change that by contacting your legislators and insisting that the tobacco settlement be used with a priority on tobacco use prevention and cessation. Don't let the tobacco industry addict a whole new generation.

Can we afford to invest in tobacco control? With the lives of 14,000 Alaska kids at stake, we can't afford not to.

J. Eric F. Myers serves on the board of the American Cancer Society in Anchorage.

4/6/99

FAIRBANKS

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Supplant the cigarettes

Officials from several states squeezed an immense settlement from tobacco companies last year using a cost argument. It costs government to treat people with tobacco ailments, the officials said, so government has a right to collect. Pay up, they told the tobacco companies, or we will pursue you as far as our courts can carry us. The companies paid.

Now the states, including Alaska, must decide what to do with the money. The honorable thing would be to spend a substantial chunk on an anti-tobacco campaign.

If the state is so concerned about how much tobacco is costing our society that it will coerce millions from the tobacco companies, then the state ought to use that coerced money to reduce tobacco's use.

After all, that was the real goal of all this legal maneuvering, right? Let's stick to it.

The state of Alaska expects to receive a staggering \$669 million from the settlement during the next 25 years. That's about \$26 million a year on average.

Few in Juneau seem interested in applying any substantial chunk of this money to solving the problem, though. Legislators have proposed no increase in spending on tobacco education. The governor asked for \$3 million.

A coalition of anti-smoking groups has created a plan that would spend about \$8 million. They developed the plan by looking at what has worked in other states. It's a credible proposal and deserves support.

Of course, one can argue that the state could reasonably apply the tobacco money elsewhere in the budget. For example, it could help offset the increases in Medicaid spending. Some of those increases are presumably related to smoking (although some studies have concluded that the government's overall health care costs are actually reduced by smoking because smokers die sooner and faster).

But Medicaid just deals with the end result. If we were so concerned about smoking that we forced tobacco companies to pay government penalties, then we ought to make sure our government spends those penalties in a way that discourages that behavior. Anything less gives the government a bizarre financial interest in the continuance of such behavior.

Let's put our money where our mouths are. The dollars will supplant a few cigarettes.

To: Alaska legislators

From: Citizens To
Protect Kids from
Tobacco

(Cancer Society
Heart Association
Lung Association
AK Native Health Board)

FY 1



Healthwise by Andrea Rock

Quitting Time for Smokers

New products and programs can quadruple your chances of success.

IF YOU'RE among the millions of smokers who resolve to quit each New Year's Day, only to find yourself a few days later dejectedly puffing away, take heart. A revolution in medical understanding of how smokers get hooked has led to new approaches to quitting that can increase your chances of success from the 5% typical of cold-turkey quitters to 20% or more. And at least part of the \$206 billion tobacco settlement will go to funding programs to help you.

Recent studies provide clues to why breaking an addiction to nicotine is so difficult—even more difficult than kicking heroin or cocaine, according to Steven Adelman, medical director of substance abuse services for Harvard Vanguard Medical Associates. Nicotine stimulates brain cells to release a pleasure-inducing chemical called dopamine. "Each puff of a cigarette is a hit, a neurobiological mini-orgasm that is repeated millions of times, which explains why smokers yearn for that experience much longer than people addicted to many other pleasure-giving substances," Adelman says.

To still quitters' cravings, doctors and counselors have come to rely on various forms of nicotine replacement—from the now familiar skin patches to the cigarette-like Nicotrol Inhaler introduced last year. And the new drug Zyban targets the pathways of nicotine addiction in the brain, rather than replacing nicotine. The table at right details the cost, side effects and percentages of smokers

who are still off cigarettes a year after quitting while using each of these products. Although you may see ads touting a product's success among those who've used it for a month or two, the one-year success rate is the best indicator of effectiveness, says Richard Merrick, whose 10-week smoking-cessation program at Kaiser Permanente in Harbor City, Calif. has an astounding 57% one-year quit rate.

How Zyban helps

Richard E. Hurt, director of the Mayo Clinic's \$3,000 eight-day inpatient program, which has helped 43% of its severely addicted clients kick the habit, generally recommends that smokers start taking Zyban—the first pill to be approved by the FDA as a smoking-cessation aid—about a week before they plan to quit.

The drug, which is also sold as an antidepressant called Wellbutrin SR (the initials stand for sustained release), lessens the desire to smoke by raising dopamine levels in the brain, just as cigarettes do. Zyban also whittles the average quitter's five-pound weight gain.

Zyban has no effect on 15% to 20% of smokers who try it, says Linda Ferry, a researcher at Loma Linda University School of Medicine, who first discovered that the drug helped people quit smoking. Experts suggest giving Zyban a one-month trial; most people take it for 12 weeks. Some health plans don't cover Zyban, but a few less than forthcoming smokers have gotten around that by asking doctors to diagnose them with depression and prescribe Wellbutrin SR, which is generally covered.

TOOLS FOR THE WOULD-BE NONSMOKER

Consult your doctor before using any nicotine-replacement product, particularly if you have heart disease or are taking medication for asthma or depression.

Product	How it works	One-year quit rate	Monthly cost
Nicorette gum	Average smoker chews six to nine pieces daily; each piece has 4mg of nicotine. Side effect: jaw pain	2% to 15%	\$120
Nicotine-replacement patches (Nicoderm and Nicotrol are both sold over the counter; other brands are sold by prescription only)	Smokers apply skin patches daily, absorbing doses of nicotine that range from 7mg to 21mg. Side effect: skin irritation	10% to 15%	108
Nicotrol Nasal Spray (prescription only)	Delivers 0.5mg per spray; can be used daily for up to six months. Nicotine hits bloodstream faster than gum, patch or inhaler.	10% to 15%	120
Nicotrol Inhaler (prescription only)	Patient puffs on plastic mouthpiece containing nicotine cartridge to receive 4mg of nicotine, or about one-third the blood level delivered by a cigarette.	10% to 15%	160
Zyban (prescription only)	Two tablets a day changes brain chemistry to relieve cravings. Also reduces weight gain that occurs after quitting. Side effects: dry mouth, insomnia and a one in 1,000 risk of seizure	23%	\$84 to \$100

Source: See Schiffman of the University of Pittsburgh; Hurt, Mayo Clinic; Ferry, Loma Linda University; Adelman, Harvard Vanguard Medical Associates; Merrick, Kaiser Permanente; and others.

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PERSONAL INTEREST

Healthwise continued

Because Zyban carries a slight (one in 1,000) risk of seizures, Harvard Vanguard's Adelman prefers starting patients off with a nicotine patch. But for smokers who find they crave the ritual and hand-to-mouth activity of smoking, nicotine gum, the inhaler or nasal spray may work better, he says. The nasal spray gets nicotine into your system fastest, while the inhaler most closely replicates the act of smoking. The gum's advantage is that it's available without a prescription; most smokers will need the 4mg version.

To help the most intractable smokers, specialists now combine Zyban with nicotine-replacement products, using double patches or patches plus gum or an inhaler. "Most patches deliver only half the nicotine a smoker would get from one pack a day. So some may find nico-



tine replacement hasn't worked well simply because they're being underdosed," says the Mayo Clinic's Hurt. Some doctors keep patients on the products for several months rather than the 10 to 12 weeks most manufacturers recommend.

But to avoid dangerously high blood pressure or nicotine overdosing (40mg to 60mg is considered lethal, but individual tolerances can vary), combining products or straying from dosage instructions should be done only under a doctor's supervision. And while nicotine replacement is safer than smoking, new studies from the University of Minnesota suggest that using nicotine replacement for more than three to six months may damage blood and lung cells, possibly leading to artery disease, bronchitis or both.

Why you may need a support group
"Smoking is a way of coping with stress as well as of obtaining pleasure, so break-

CHRISTOPHER LIMON/STAMPART VISUALS

ing that psychological addiction is just as crucial as eliminating the physical one," says Bonnie Spring, a University of Illinois-Chicago psychologist whose programs achieve long-term quit rates of 40% or more. Adding some form of counseling to your quitting plan is essential, says Richard Merrick. Participants in his highly successful Kaiser Permanente program attend Nicotine Anonymous meetings (+15-750-0328). Merrick says that the group, which applies Alcoholics Anonymous principles to smokers, is the best of the many low-cost or free groups because it offers long-term support. If Nicotine Anonymous doesn't meet in your area, both the American Cancer Society (800-227-2345) and the American Lung Association (800-586-4872) sponsor counseling programs of four to eight weeks' duration.

What's coming

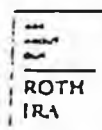
In the research pipeline now are several drugs that, like Zyban, target brain chemistry. There are also novel forms of nicotine replacement, including an under-the-tongue tablet and a lollipop. The market for these drugs is expanding at a rapid pace. In 1998, sales of over-the-counter nicotine-replacement products exceeded \$568 million, according to Information Resources, a Chicago-based marketing research firm. That's nearly double total sales in 1996, when these products first became available over the counter. Prescriptions are soaring too. Sales for the 12 months that ended September 1998 totaled \$184.4 million, up 154% from the previous year, according to LMS Health, a health-care information company in Plymouth Meeting, Pa.

Using smoking-cessation aids as part of a plan you develop with an experienced doctor makes you more likely to reap their full benefits. First, though, talk to your health plan. About 75% of HMOs now cover smoking-cessation products and programs, which may be provided by the plan itself. You can also locate a physician who specializes in smoking cessation by calling the 3,200-member American Society of Addiction Medicine (301-656-3920).

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