

HB

228

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 06 2001

SENATE FINANCE
COMMITTEE

DATE: 5/4/01

FURTHER:

DATE TURNED
IN TO OFFICE: 6 May 2001

Finance Committee considered CS FOR HOUSE BILL NO. 228(FIN)
SALE OF TOBACCO PRODUCTS

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	5/6/01	139.1		
LAW	5/6/01	77.4		
H&SS	5/6/01	487.9		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Revenue	4/13/01		✓	**1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			⊗	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	

REPORTED OUT
MAY 06 2001
SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 228(L&C)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Sale of Tobacco Products BRU: Revenue Operations
Component: Tax Division
Sponsor: Representative Harris
Requester: House Labor and Commerce Committee Component Number: 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Johanna Bales Phone 269-6628
Division: Tax Division Date/Time April 13, 2001, 10 a.m.
Approved by: Larry Persily, Deputy Commissioner Date 4/13/01
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

Department of Revenue Bill Analysis
HB 228 – Tobacco Enforcement - April 13, 2001 - FN#1

The Department of Revenue supports HB 228, which would increase the penalties for selling cigarettes to individuals under the age of 19 and give the Department of Revenue new tools to enforce the nationwide Master Settlement Agreement (MSA) signed by the major cigarette producers and states.

Under the provisions of the MSA, entered into and subsequently adopted by the State of Alaska under AS 45.53, cigarette manufacturers that did not sign the MSA (nonparticipating manufacturers) must establish and fund escrow accounts for the benefit of the State of Alaska. If the state fails to enforce this provision of the MSA, the state can be sued by manufacturers that signed the MSA (participating manufacturers) and could potentially lose some or all of its payments under the agreement.

Alaska expects to receive approximately \$28 million each year from the MSA, provided the payments are not reduced for failing to enforce the provisions of the agreement.

The following sections of HB 228 would enhance the Department of Revenue's ability to protect the state's revenue from the MSA:

Section 3. Disclosure of information for compliance with the tobacco product Master Settlement Agreement.

The Department of Revenue is responsible for determining the amount of escrow payments that must be made by each nonparticipating manufacturer each year. The information used to determine the amount of the escrow payments comes from cigarette tax and tobacco product tax returns filed with the Department of Revenue. The Department of Law is responsible for suing those nonparticipating manufacturers that fail to make escrow payments. Although the Department of Revenue may provide information to the Department of Law at the time an official investigation begins, it is precluded from sharing this information with other states and entities that may aid the Department of Revenue in enforcing the MSA. We believe this section of the bill is needed to allow for increased sharing of information with the Department of Law and other entities, such as the National Association of Attorneys General and the Federation of Tax Administrators. Both of these agencies are heavily involved with aiding states in enforcing the provisions of the MSA.

Section 4. Notification of noncompliance; confiscation of noncomplying cigarettes.

The MSA was recognized and adopted by the State of Alaska effective June 3, 1999. For the period June 3, 1999, through December 31, 1999, the Department of Revenue identified 23 nonparticipating manufacturers that sold cigarettes into Alaska. Of these 23 nonparticipating manufacturers, only three have established and funded escrow accounts as required in AS 45.53. Section 4 of this bill would prohibit the state's cigarette and tobacco products licensees from importing and selling cigarettes made by nonparticipating manufacturers that have failed to comply with AS 45.53. This provision is needed to aid in the enforcement of the MSA and protect Alaska's current and future payments under the MSA.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 228 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): 5/6/2001 Dept. Affected: DCED
Title: An Act Relating to the offense of selling or giving tobacco to a minor BRU: Occupational Licensing
Component: Occupational Licensing
Sponsor: Rep. Harris
Requester: Senate Finance Committee Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	100.5	100.5	61.7	0.0	0.0	0.0
Travel	10.0	10.0	10.0	0.0	0.0	0.0
Contractual	19.6	19.6	19.6	0.0	0.0	0.0
Supplies	5.0	5.0	5.0	0.0	0.0	0.0
Equipment	4.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	139.1	135.1	96.3	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156 RSS)*	100.0	100.0	100.0	100.0	100.0	100.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other - 1007 inter-agency receipts	139.1	135.1	96.3	0.0	0.0	0.0
TOTAL	139.1	135.1	96.3	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1			
Part-time						
Temporary	1	1				

ANALYSIS: (Attach a separate page if necessary)

Provisions of the bill that affect AS 43.70 require a tobacco endorsement for each location where a business offers tobacco products for sale and simplify suspension of business license tobacco endorsements. A detailed explanation of the expenditures and revenue is attached.

Personal Services expenditures decrease in FY04 to reflect the elimination of the administrative clerk after the requirement for an endorsement for each location has been implemented.

*1156 - RSS is the revenue type. This means receipt supported services

Prepared by: Catherine Reardon, Division Director Phone 465-2538
Division: Occupational Licensing Date/Time 5/6/01 12:00 AM
Approved by: Deborah B. Sedwick, Commissioner Date 5/6/2001
Agency: Department of Community and Economic Development

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

CS HB 228(FIN) An Act relating to the offense of selling or giving tobacco to a minor...

Page 2 of 2 - FN #4

The expenditures provide the following in support of changes to AS 43.70, business license tobacco endorsements:

Personal Services: \$100.5

\$38.8 - 1 Administrative Clerk II, range 10, GGU, 12 months to process tobacco endorsement applications from each location, to disseminate information regarding the tobacco endorsement requirement, and to promote the proactive enforcement program. This position will be eliminated in FY04, after the requirement for an endorsement for each location has been implemented.

\$61.7 - 1 Investigator III, range 18, GGU, 12 months to prepare and coordinate cases, issue suspension notices, and present cases to the hearing officer if a hearing is requested.

Travel: \$10.0, for investigator and hearing officer travel.

Contractual Services: \$19.6

\$14.6 for contract hearing officer time based on approximately 3 days per case at \$975/case, and assuming 15 cases will go to a hearing in each fiscal year.

\$5.0 for printing forms, endorsements, and communications.

Supplies: \$5.0, for daily operations relating to tobacco endorsements

Equipment: \$4.0 in one-time costs for the clerk and investigator.

Revenue: \$100.0 in estimated Receipt Supported Services funds.

The revenue estimate is based on an increase in the annual number of endorsement's to 1,000 and a fee of \$100.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 228 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): 5/6/2001 Dept. Affected: Health & Social Services
Title: Relating to tobacco sales to minors and BRU: State Health Services
license endorsements for tobacco sales Component: Community Health/EMS Services
Sponsor: Rep. Harris
Requester: Senate (FIN) Component Number: 2078

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	72.1	77.1	82.1			
Travel	60.9	60.9	60.9			
Contractual	344.4	344.4	344.4			
Supplies	2.0	2.0	2.0			
Equipment	8.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	487.9	484.4	489.4	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1119 Tobac Sell	487.9	384.4	389.4			
Other (Statutorily Designated Rcpts.)		100.0	100.0			
TOTAL	487.9	484.4	489.4	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 230.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Alaska's statewide tobacco-sales-to-minors enforcement efforts were funded for that past three years on a grant from the Food and Drug Administration (FDA). In March 2000 this funding ended abruptly when the US Supreme Court ruled that the FDA had no regulatory authority over tobacco. Since that time, funding has been diverted from community-based tobacco prevention and control efforts, as well as alcohol and drug abuse prevention and treatment, to continue enforcement activities. Currently, federal substance and alcohol abuse treatment funds are threatened to be reduced because of high tobacco sales to youth noncompliance rates.

An effective enforcement program includes community-based enforcement, year-round enforcement checks, accountability of sales staff and vendors, and vendor education and training. This bill would enable such a program. It also would provide revenues to offset part of the program costs. Program costs would include the following:

Prepared by: Karen Pearson, M.S. Phone (907) 465-3090
Division: Public Health Date/Time: _____
Approved by: Elmer A. Lindstrom, Special Assistant Date 5/6/01 1:12 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

\$72,095 for personnel costs include a full-time project coordinator, responsible for: (1) facilitating an inter-departmental working group with the Division of Public Health, the Division of Alcohol and Drug Abuse, the Civil and Criminal Divisions of the Department of Law, the Department of Public Safety, and the Division of Occupational Licensing; (2) developing an interagency working agreement; (3) developing vendor education; (4) coordinating enforcement efforts; (5) administering contracts with local police departments; and (6) facilitating community education and community development. This line also includes 10% of the existing tobacco prevention and control program manager who is responsible for coordinating the overall tobacco prevention and control program, as well as 25% of an existing part-time administrative clerk II. The expenditure line is projected to increase over the next 5 years to cover annual meritorious increases.

\$60,860 for travel costs include: (1) 18 coordination trips for project and program coordinators to meet with community-based partners and the Alaska Tobacco Control Alliance (ATCA); (2) transporting enforcement staff and youth to communities where investigations will occur; and (3) project coordinator attendance at the annual Synar conference.

\$344,400 in contractual services costs include: (1) contracts with local police departments and officers to conduct the enforcement checks (approximately 1,000 checks will occur each year); (2) contracts to design, print, and distribute vendor educational materials to assist vendors in meeting state law; (3) training of vendors in the use of these materials; (4) RSAs with the Departments of Law and Commerce and Economic Development for adjudicating noncompliance cases; and (5) other administrative costs.

\$2,000 is included for office supplies and program materials.

\$8,500 is included for computer equipment and a workstation in the FY02.

The legislature will reexamine the funding requirements for a tobacco enforcement program in FY05.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: CSHB 228 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to the accounting of fees from BRU Civil Division
business license endorsements for tobacco products . . ." Component Fair Business Practices
Sponsor Representative Harris
Requester Senate Finance Committee Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	60.6	60.6	60.6			
Travel	0.2	0.2	0.2			
Contractual	9.4	9.4	9.4			
Supplies	0.8	0.8	0.8			
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	77.4	70.9	70.9	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts	77.4	70.9	70.9	0.0	0.0	0.0
TOTAL	77.4	70.9	70.9	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time	1	1	1			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 228 (FiN) provides additional tools to prohibit the sale of tobacco to minors.

Several changes are made to the current requirement that a person selling tobacco products must have a tobacco endorsement attached to their state business license. The fee for a two-year tobacco endorsement would be increased from \$25 to \$100. The bill would require a tobacco endorsement for each location and outlet where the business sells tobacco products. Current law requires only one, no matter how many store locations or outlets a business uses to sell tobacco products. This change will make it easier to track locations or outlets where tobacco products are sold to be sure the tobacco tax and other laws are being uniformly followed. This change, as well as the increased endorsement fee, would help offset the increasing cost of the administration and enforcement of endorsement requirements. The bill establishes civil penalties in the form of significant fines for those who sell tobacco without an endorsement, for sale of gray market cigarettes, and failure to post required warning signs. It would

Prepared by: Joan M. Kasson Phone 465-5370
Division Attorney General's Office Date/Time 5/6/01 12:43 PM
Approved by: Joan M. Kasson for Bruce M. Botelho, Attorney General Date 5/6/01
Agency Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 228 (FIN)

ANALYSIS CONTINUATION

establish a streamlined administrative process for suspending the endorsements of those businesses who violate the state's laws on selling tobacco products to minors. It would also allow for the revocation of endorsements or an increase in the suspension period if the person continues the conduct which led to an endorsement during a suspension period.

A recent survey initiated by the Department of Health and Social Services indicated that nearly two-thirds of tobacco vendors in rural Alaska sold tobacco products to children, and more than one-third of the vendors in urban Alaska did. Federal law requires no more than a 20 percent noncompliance rate. In order to improve Alaska's noncompliance rate, DH&SS anticipates approximately 1,000 enforcement checks each year will be performed if this bill is enacted.

The Department of Law estimates the services of one-half of a full-time equivalent attorney position will be necessary to provide the necessary legal services associated with the compliance checks and the administrative process resulting from any noncompliance. This position will be funded by interagency receipts from the Department of Health and Social Services, and will be assigned to the Fair Business Practices section in the Anchorage office of the Civil Division.

This estimate is based on our prior experience with tobacco compliance checks and endorsement proceedings under current law. The few cases undertaken in FY99 took an average of 27 hours of attorney time each to complete. With the streamlined process intended by this bill, cases should move faster. However, none of the cases pursued in FY99 went to administrative hearing, which by requiring additional time, may offset the gains from the streamlined procedure to some extent.

Using the department's FY02 standard attorney cost schedule, the fiscal impact from this legislation for the Civil Division's Fair Business Practices section would be \$70,888. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include one-time new equipment purchases, and \$6,500 is added in FY02 for this purpose.

The legislature intends to reevaluate the program in FY05.

SENATE COMMITTEE REPORT

DATE: 5/1/01

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/4/01

State Affairs Committee considered

CS FOR HOUSE BILL NO. 228(FIN)

SALE OF TOBACCO PRODUCTS

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DHSS	4/25	✓		5
DCED	4/11	✓		4
LAW	4/12	✓		2
REVENUE	4/11		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>K. L. E. Hill</i>			✓	
<i>Betty Lewis</i>	X			
CHAIR: <i>Gene Therman</i>			X	



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement
HB 228 - Tobacco Sales Enforcement

Alaska has a huge problem with the sale of tobacco products to kids. In a recent survey of tobacco retailers initiated by the Department of Health and Social Services, it was determined that nearly 2/3 of vendors in rural Alaska sold tobacco products to children, while more than 1/3 of those in urban Alaska did.

This will take a toll on these young people if they continue to use tobacco products into their adult years, in terms of unnecessary illness and early death. It also continues to place a heavy burden on health care providers whose duty it is to help those who are battling tobacco related disease. The cost to the public will continue to spiral upward. Additionally, the state is liable, under the federal Synar amendment, for a penalty of \$1.5 million (to be deducted from its drug and alcohol abuse block grant) because the rate of sales to minors is above the 20 percent federal limit. If increased state enforcement effort of at least \$481,687.00 is approved through the fiscal notes for this bill, the Synar penalty will be lifted.

HB 228 seeks to derail some of the ever-growing problem of tobacco sales to minors – and the consequences down the road – by beefing up enforcement of state laws prohibiting the sale of tobacco products to minors, and it does so in several areas.

First, the CS proposes fining a business that sells tobacco to minors from \$300 on a first offense to \$2,500 on a fourth offense. It also provides for mandatory suspensions and possible revocation of the endorsement to sell tobacco products if multiple violations take place over a two-year period. The bill also gives authorized employees or agents of the Department of Health and Social Services the authority to issue citations for certain tobacco offenses.

The bill would increase revenues from tobacco vendors to help pay for enforcement efforts by raising the fee for a tobacco endorsement on a business license from \$25 to \$100. It would also require a separate endorsement for each location at which a retailer sells tobacco products. Current law requires only one, regardless of how many locations or outlets a business has in which it sells tobacco.

In sections unrelated to the problem of tobacco sales to minors, HB 228 also adds language to allow the Department of Revenue to keep better track of compliance with the tobacco settlement.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 228-SALE OF TOBACCO PRODUCTS

NAME: A. Ir. Jr. J. J. J. J. Subject/Bill No: HB 228
Co./Dept./Title: Special Assistant Phone: 465-1613
Address: DHSE Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Catharine Truitt Subject/Bill No: HR 228
Co./Dept./Title: Director Division of Phone: 465-2537
OC Capital Budget ^{Dir}
Address: PO 1100000 Zip: 99711
Do you wish to testify? Yes No Respond To Questions

NAME: ED SASSER Subject/Bill No: HR 228
Co./Dept./Title: Tobacco Subsidy Phone: 465 3126
Director Public
Address: 200 1100000 Zip: 99711
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions