

HB

224

HB 224



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 27, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to a tobacco product manufacturer's compliance with certain statutory requirements regarding cigarette sales.

The model for the bill was drafted by the National Association of Attorneys General in cooperation with a working group of participating states and is designed to aid state enforcement of the tobacco product Master Settlement Agreement and AS 45.53, and thus preserve, to the fullest extent possible, the revenue stream under the Master Settlement Agreement. We understand that most of the 46 participating states will seek to pass this legislation in their respective upcoming legislative sessions. We also understand that the bill has been reviewed and approved by two of the principal tobacco parties to the Master Settlement Agreement, Phillip Morris and RJ Reynolds.

In 1999, 46 states, including Alaska, collectively settled their claims against certain tobacco manufacturers and entered into the "Master Settlement Agreement" (MSA). Under the MSA, the participating tobacco product manufacturers agreed to pay certain amounts to the settling states in perpetuity in exchange for dismissal of the states' lawsuits. One of the provisions of the MSA, however, required that the states enact legislation that would "level the playing field" for non-participating tobacco manufacturers. This leveling legislation required such non-participating tobacco manufacturers to deposit money into escrow for every cigarette they sold in the state. The intent of this escrow requirement was to prevent the non-participants from undermining the overall goals of MSA by guaranteeing "a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise." See sec. 1, ch. 46, SLA 1999.

The Honorable Pete Kott
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Since 1999, the participating states have detected concerted efforts by non-participating tobacco manufacturers to evade the legislated escrow requirements. Various schemes have been employed, often through use of elusive foreign tobacco manufacturers, to attempt to circumvent the requirement of escrow deposits.

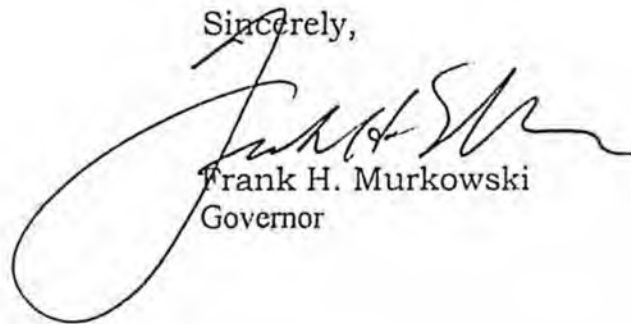
This bill seeks to bring an end to these schemes. In order to sell cigarettes in this state, a tobacco product manufacturer will have to annually certify that it is in compliance with AS 45.53. Additionally, tobacco product manufacturers must include certain information that will assist the Department of Revenue in its enforcement efforts in this regard.

The Department of Revenue will publish and update a directory of cigarettes that are approved for sale in this state. Cigarettes that are not listed in this directory are contraband and may not be sold in the state. The bill provides for civil penalties for selling or possessing contraband cigarettes.

The enactment of this bill will bring an end to efforts by non-participating manufacturers to evade their obligations to deposit escrow for their in-state cigarette sales.

I urge your prompt and favorable action on this measure.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Frank H. Murkowski', is written over the typed name and title.

Frank H. Murkowski
Governor

HB 224

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: 4B 224
(H) Publish Date: 3/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to a tobacco product manufacturer's compliance with certain statutory requirements . . ." BRU: Civil
Sponsor: Rules Committee Component: Commercial
Requester: Governor Component No.: 2211

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill, based on a model developed by the National Association of Attorneys General in cooperation with a working group of participating states, is designed to aid state enforcement of the tobacco product Master Settlement Agreement (MSA) and AS 45.53, and thus preserve, to the fullest extent possible, the revenue stream under the MSA. One of the provisions of the MSA required states to enact legislation that would "level the playing field" for non-participating tobacco manufacturers, by requiring them to deposit money into escrow for every cigarette they sell in the state. Since 1999, participating states have detected concerted efforts to evade the legislative escrow requirement. This bill is intended to end those efforts.

This bill will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone: (907) 465-5370
Division: Attorney General's Office Date/Time: 1/28/03 11:30 AM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date: 1/28/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 224
 (H) Publish Date: 3/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Hearing Process: BRU Revenue Operations
Master Settlement Agreement Component Tax Division
 Sponsor Rules Committee
 Requester Governor Component No. 2476

Expenditures/Revenue: (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no significant fiscal impact on the Department of Revenue. The intent is to aid the state in the enforcement of the nationwide tobacco products Master Settlement Agreement, therefore preserving, to the fullest extent possible, the revenue stream from that agreement.

The legislation would aid the state in its enforcement efforts against non-participating tobacco manufacturers that may try to circumvent the terms of the agreement.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 1/29/03 11:23 AM
 Approved by: Larry Persily, Deputy Commissioner Date 1/29/2003
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: HB 224
 (H) Publish Date: 4/17/03
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title COMPLIANCE WITH TOBACCO MASTER SETTLEMENT

BRU State Health Services
 Component Tobacco Prevention and Control

Sponsor HOUSE (RLS) BY REQUEST OF THE GOVERNOR

Requester HOUSE (L&C)

Component No. 2384

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HB 224 requires tobacco manufacturers who are not participating in the Tobacco Master Settlement Agreement to register with the Department of Revenue and report their sales to the State. These manufacturers are already responsible for contributing a set percentage of their tobacco sales to an escrow account established under AS 45.53. HB 224 will aid the State in the enforcement of AS 45.53. The department supports this bill.

 The Department of Health & Social Services would not be directly involved in enforcement of this new law, and would not experience a fiscal impact as a result of passage of this legislation.

Prepared by: Doug Bruce, Director
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3090
 Date/Time 04/16/2003
 Date 04/16/2003

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