

SB

117

<target><bill>SB 117</bill><subject>SB
117</subject><comm>SF26</comm></target>

SENATE FINANCE COMMITTEE REPORT

DATE: 3/4/10

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 117

SB 117 PRICE OF CIGARETTES

"An Act requiring the Department of Revenue to set the minimum price for cigarettes for sale by wholesalers and retailers; and prohibiting a wholesaler or retailer from selling at wholesale or retail cigarettes at a lower price than the price set by the Department of Revenue."

and recommends:

- be replaced with SCS or CS _____ ()
- adopt previous SCS or CS SB 117 (L+C)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____




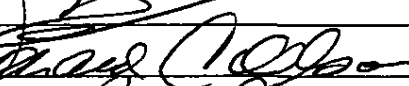

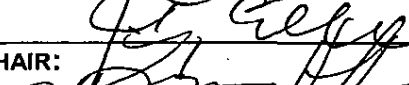

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	2/15/10			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Huggins	✓			
	Thomas	✓			
	Egan	✓			
	OLSON			✓	
	ELLIS	✓			
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 		✓			

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 117(L&C)
 (S) Publish Date: 3/4/10

Identifier (file name): SB117-REV-TAX-02-05-10 Dept. Affected: Revenue
 Title: Price of Cigarettes RDU: Taxation and Treasury
 Component: Tax Division
 Sponsor: Senator McGuire
 Requester: (S) Labor and Commerce Component Number: 2476

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill would amend Alaska's current cigarette minimum price statutes by removing the ability for a cigarette distributor or retailer to present evidence to the Department of Revenue that their actual cost of selling cigarettes is below the state mandated mark-ups of 4.5% for wholesale and 6% for retail. There would be no effect on state revenues as a result of this bill. There also would be no effect on the operating costs incurred by the Department of Revenue. However, the Department would be able to divert the resources currently expended on auditing a distributor or retailer's actual cost to cigarette tax audits. The Department will still continue to expend resources to update the minimum price of cigarettes on its website and conduct investigations to insure distributors and retailers are not selling cigarettes below state mandated minimums.

Prepared by: Johanna Bales, Deputy Director
 Division: Tax Division
 Approved by: Ginger Blaisdell, Director
Administrative Services Division

Phone: (907) 269-6628
 Date/Time: 02-05-10; 1:23pm
 Date: 02-05-10; 9:19pm

ALASKA STATE LEGISLATURE

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Senate Special Committee on Energy
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Co-Chair
Senate Resources Committee

Member
Senate Judiciary Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT CS for SENATE BILL NO. 117

Alaska, along with at least 23 other states, prohibits wholesale cigarette distributors and retailers from selling cigarettes below a state regulated minimum price. This reflects a public policy which seeks to prevent the use of cigarettes as a "loss leader" or a bargain item. Furthermore, studies have shown that pricing cigarettes below cost has been linked to youth smoking.

However, current law contains a loophole which allows large, high-volume cigarette sellers to price their cigarettes at less than the minimum price set by law if they can prove their actual cost of doing business is lower than the mandated minimum price.

In order to qualify for the lower price, application for each cigarette brand must be made. The Department of Revenue must then review the financial data provided to see if the submission is available for an exception. This process of verifying the cost versus price calculations by brand is both expensive and time consuming for the agency. If the exception is granted, it changes the state minimum prices for all wholesalers and retailers. Consequently, cigarettes in effect become somewhat of a "loss leader" because the granted exemption price is at or below cost for some retailers, thus defeating the original purpose of setting a minimum price.

If CS SB 117 is passed, it requires the Department of Revenue to set the same minimum cigarette price for all vendors – regardless of size, volume, or accounting practices. Thereby promoting fairness by putting all cigarette sellers on the same playing field with regard to the state mandated minimum cigarette price. Furthermore, CS SB 117 would ensure that it will no longer be permissible for anyone to set a price any lower than that which the State establishes.

The percentages in CS SB 117 are based on a compromise between interested parties. As a result, major cigarette brands will experience an increase in price.

In the end, if passed, CS SB 117 will increase the price of cigarettes overall; will eliminate the labor and expense for the Department of Revenue in calculating exceptions to the minimum price; and it will promote fair and reasonable competition in the marketplace.

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SECTIONAL ANALYSIS **Senate Bill No. 117 (26-LS0386S)**

Section 1. Amends AS 43.50.710(a) by removing language that currently allows wholesalers and retailers to price cigarettes as low as that seller's actual cost. This section replaces that language by setting the Department's minimum price as the lowest price at which a wholesaler or retailer can sell cigarettes.

Section 2. Amends AS 43.50.710(b) by removing language that currently permits a retailer to attempt to procure the purchase of cigarettes at a price as low as the actual cost to a wholesaler. This section replaces that language by setting the Department's minimum price as the lowest price.

Section 3. Amends AS 43.50.710(c). This section of law allows the State to utilize evidence of advertisement or offers to sell cigarettes at less than actual cost as prima facie evidence of intent to injure competition. The proposed change simply replaces the actual cost with the minimum price set by the Department as the new benchmark for constituting prima facie evidence.

Section 4. Amends AS 43.50.720. This section of law requires that when cigarettes are priced together with other merchandise the selling price may not be less than the wholesaler or retailer's actual cost. This section will again replace the seller's actual cost with the minimum price set by the Department as the lowest price available.

Section 5. Amends AS 43.50.790(a). This section removes the Department's authority to calculate and set the actual cost of doing business as the lowest price available to sell cigarettes. It would now require the Department to instead determine only the applicable minimum price for cigarette sales.

Section 6. Adds a new section to AS 43.50 at 43.50.810. This section requires the Department to set the minimum price for which a wholesaler or retailer may advertise or sell cigarettes, and it sets forth the applicable formula for determining that minimum price.

Section 7. Repeals several sections of Title 43 to make the law consistent with the foregoing changes.

AS 43.50.730 is repealed, which currently requires wholesalers to provide their actual costs to one another when selling cigarettes. Since the actual cost is no longer available for setting a sales price, this provision is irrelevant.

AS 43.50.740(a) is repealed, which allows sellers to cut their prices to match the actual cost.

AS 43.50.760, AS 43.50.770, and AS 43.50.800 are repealed, which all currently set forth the factors used in determining the actual cost to a wholesaler or retailer. Since actual cost will not be utilized to set the lowest price, these provisions are irrelevant.

AS 43.50.849(4) is repealed, which is the definition of a direct-buying retailer.

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SUMMARY OF CHANGES CS FOR SB 117 – VERSION S

(1) Section 6 (a)

Changed the multiplier used to calculate the Wholesale Minimum Price from 1.045 to 1.02.

(2) Section 6 (b)

Changed the multiplier used to calculate the minimum price for which a retailer or wholesaler may advertise, offer to sell, or sell cigarettes at retail from 1.06 to 1.04.

Reasons:

The CS represents a compromise among interested parties with respect to the specific minimum price formula. While it still eliminates the exception to price below minimum, it reflects a slightly lower minimum wholesale and retail price than the original Senate Bill 117.

This change allows the State to firmly establish a minimum wholesale price; prohibits any exceptions; and sets the figure at a price that is consistent with fair competitive market principles. Compared to historical exemptions granted, it will raise the minimum price slightly to a figure that allows market competition, and still maintains the policy of setting a minimum price.

**RAISING CIGARETTE TAXES REDUCES SMOKING, ESPECIALLY AMONG KIDS
(AND THE CIGARETTE COMPANIES KNOW IT)**

The cigarette companies have opposed tobacco tax increases by arguing that raising cigarette prices would not reduce adult or youth smoking. But the companies' internal documents, disclosed in the tobacco lawsuits, show that they know very well that raising cigarette prices is one of the most effective ways to prevent and reduce smoking, especially among kids.

- Philip Morris: *Of all the concerns, there is one - taxation - that alarms us the most. While marketing restrictions and public and passive smoking [restrictions] do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking*¹
- Philip Morris: *When the tax goes up, industry loses volume and profits as many smokers cut back.*²
- RJ Reynolds: *If prices were 10% higher, 12-17 incidence [youth smoking] would be 11.9% lower.*³
- Philip Morris: *It is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.*⁴
- Philip Morris: *Jeffrey Harris of MIT calculated...that the 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke... We don't need to have that happen again.*⁵
- Philip Morris: *A high cigarette price, more than any other cigarette attribute, has the most dramatic impact on the share of the quitting population...price, not tar level, is the main driving force for quitting.*⁶
[For more on cigarette company documents and price/tax increases see the 2002 study in the *Tobacco Control* journal, "Tax, Price and Cigarette Smoking: Evidence from the Tobacco Documents."⁷]

The cigarette companies have even publicly admitted the effectiveness of tax increases to deter smoking in their required filings with the U.S. Securities and Exchange Commission.

- Philip Morris: *Tax increases are expected to continue to have an adverse impact on sales of tobacco products by our tobacco subsidiaries, due to lower consumption levels... [10-Q Report, November 3, 2008]*
- Lorillard Tobacco: *We believe that increases in excise and similar taxes have had an adverse impact on sales of cigarettes. In addition, we believe that future increases, the extent of which cannot be predicted, could result in further volume declines for the cigarette industry, including Lorillard Tobacco... [10-Q Report, November 4, 2008]*
- R.J. Reynolds: *Together with manufacturers' price increases in recent years and substantial increases in state and federal taxes on tobacco products, these developments have had and will likely continue to have an adverse effect on the sale of tobacco products. [10-Q Report, October 24, 2008]*

Economic Research Confirms That Cigarette Tax Increases Reduce Smoking. Numerous economic studies in peer-reviewed journals have documented that cigarette tax or price increases reduce both adult and underage smoking. The general consensus is that every 10 percent increase in the real price of cigarettes reduces overall cigarette consumption by approximately three to five percent, reduces the number of young-adult smokers by 3.5 percent, and reduces the number of kids who smoke by six or seven percent.⁸ Research studies have also found that:

- Cigarette price and tax increases work even more effectively to reduce smoking among males, Blacks, Hispanics, and lower-income smokers.⁹
- A cigarette tax increase that raises prices by ten percent will reduce smoking among pregnant women by seven percent, preventing thousands of spontaneous abortions and still-born births, and saving tens of thousands of newborns from suffering from smoking-affected births and related health consequences.¹⁰
- Higher taxes on smokeless tobacco reduce its use, particularly among young males; and increasing cigar prices through tax increases reduce adult and youth cigar smoking.¹¹

- Cigarette price increases not only reduce youth smoking but also reduce both the number of kids who smoke marijuana and the amount of marijuana consumed by continuing users.¹²
- By reducing smoking levels, cigarette tax increases reduce secondhand smoke exposure among nonsmokers, especially children and pregnant women.

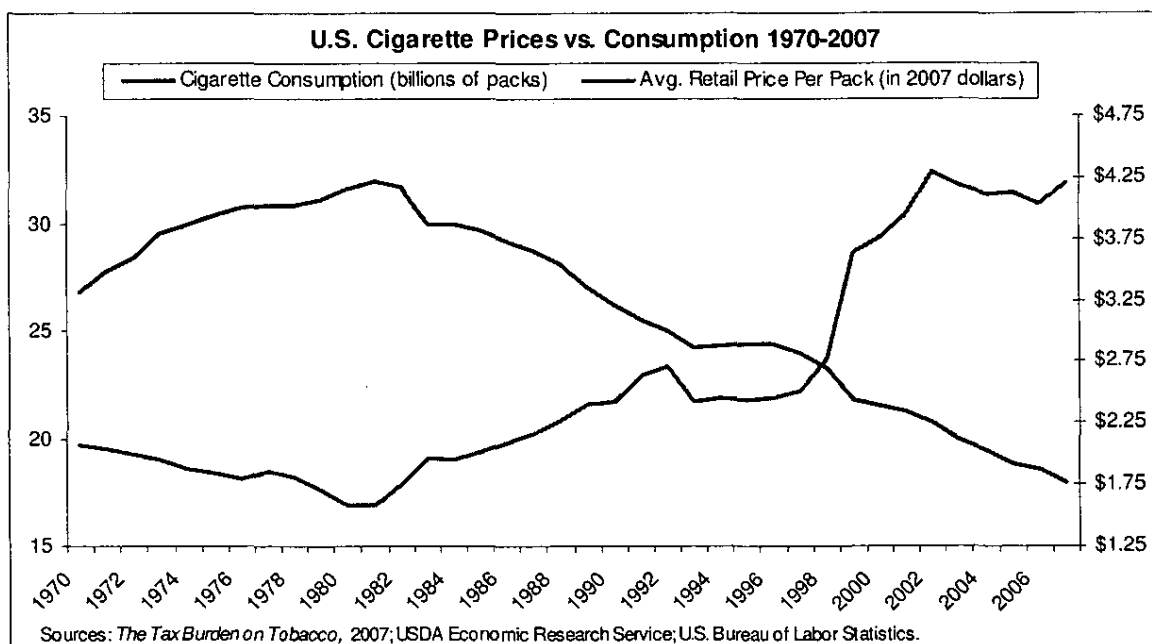
Recent State Experiences

In every single state that has significantly raised its cigarette tax rate, pack sales have gone down sharply.¹³ While some of the decline in pack sales comes from interstate smuggling and from smokers going to other lower-tax states to buy their cigarette, reduced consumption from smokers quitting and cutting back plays a more powerful role. As shown in more detail, below, nationwide data – which counts both legal in-state purchases and the vast majority of packs purchased through cross-border, Internet, or smuggled sales – shows that overall packs sales go down as state cigarette tax increases push up the average national price.

In-state evidence shows that state cigarette tax increases are prompting many smokers to quit or cutback. For example, the Wisconsin Quit Line received a record-breaking 20,000 calls in the first two months after its \$1.00 per cigarette pack increase (it typically receives 9,000 calls per year). Likewise, in Texas and Iowa, which each increased their cigarette taxes by \$1.00 in 2007, the number of calls to the state quitlines have been much higher compared to the year before.¹⁴ It is also clear that these efforts to quit by smokers after tax increases translate directly into lower future smoking rates. In Washington State, for example, adult smoking from the year before its 60-cent cigarette tax increase in 2002 to the year afterwards declined from 22.6 to 19.7 percent, reducing the number of adult smokers in the state by more than 100,000, despite overall population increases.¹⁵

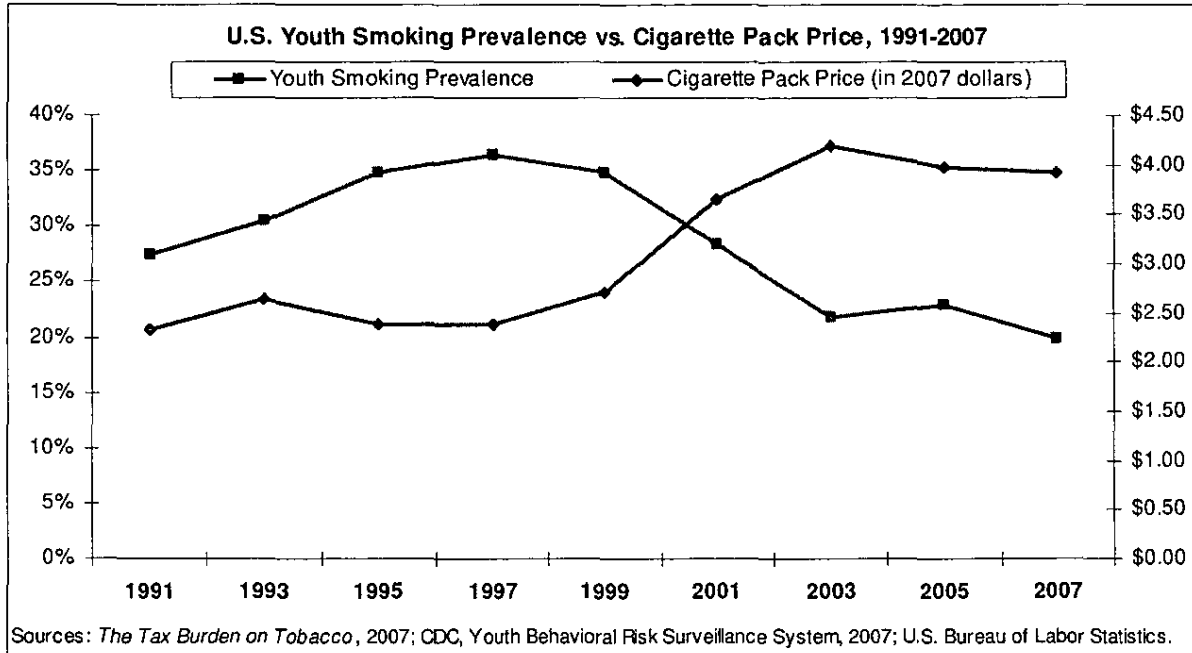
Increasing U.S. Cigarette Prices and Declining Consumption

Although there are many other factors involved, comparing the trends in cigarette prices and overall U.S. cigarette consumption from 1970 to 2007 shows that there is a strong correlation between increasing prices and decreasing consumption.



While U.S. cigarette prices are largely controlled by the cigarette companies' price-setting decisions, from 1970 to 2006, the federal tax on cigarettes also increased from eight cents to 39 cents per pack and the average state cigarette tax increased from 10 cents to \$1.07 per pack during that time period. Without these federal and state tax increases, U.S. cigarette prices would be much lower and U.S. smoking levels would be much higher.

Prices and Youth Smoking Rates. The chart below shows how closely youth smoking prevalence is to cigarette pack prices. As prices climbed in the late 1990s and early 2000s, youth smoking rates declined, but as the price decreased between 2003 and 2005 (along with funding for tobacco prevention programs in many states), youth rates increased. Even the slight increase in price between 2005 and 2007 corresponds with a decline in youth smoking rates.



Expert Conclusions on Cigarette Prices and Smoking Levels

- In its 2007 report, *Ending the Tobacco Problem: A Blueprint for the Nation*, the National Academy of Sciences' Institute of Medicine recommends raising cigarette taxes in states with low rates and indexing them to inflation, to reduce cigarette consumption and to provide money for tobacco control. The report states, "Tobacco excise tax revenues pose a potential funding stream for state tobacco control programs. Setting aside about one-third of the per-capita proceeds from tobacco excise taxes would help states fund programs at the level suggested by CDC."¹⁶
- The President's Cancer Panel's 2007 report, *Promoting Healthy Lifestyles*, advised increasing state tobacco taxes, stating, "Increases in tobacco excise taxes, which are passed along to consumers in the form of higher tobacco product prices, have proven highly effective in reducing tobacco use by promoting cessation among current users, discouraging relapse among former users, preventing initiation among potential users, and reducing consumption among those who continue to use tobacco. These revenues also provide crucial dollars needed to fund anti-tobacco efforts."¹⁷
- The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies.¹⁸
- Wall Street tobacco industry analysts have long recognized the powerful role increased cigarette taxes and rising cigarette prices play in reducing U.S. smoking levels. For example, a December 1998 "Sensitivity Analysis on Cigarette Price Elasticity" by Credit Suisse First Boston Corporation settled on a "conservative" estimate that cigarette consumption will decline by four percent for every 10 percent increase in price.
- In its 1998 report, *Taking Action to Reduce Tobacco Use*, the National Academy of Sciences' Institute of Medicine concluded that "the single most direct and reliable method for reducing consumption is to increase

the price of tobacco products, thus encouraging the cessation and reducing the level of initiation of tobacco use."¹⁹

Campaign for Tobacco-Free Kids, January 9, 2009 / Eric Lindblom & Ann Boonn

For more information, please see <http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18> and <http://tobaccofreekids.org/reports/prices>.

¹ Philip Morris document, "General Comments on Smoking and Health," Appendix I in *The Perspective of PM International on Smoking and Health Initiatives*, March 29, 1985, Bates No. 2023268329-8348.

² Ellen Merlo, Senior Vice President of Corporate Affairs, Philip Morris, 1994 draft speech to the Philip Morris USA Trade Council, <http://legacy.library.ucsf.edu/tid/oyf35e00>.

³ R.J. Reynolds Executive D. S. Burrows, "Estimated Change In Industry Trend Following Federal Excise Tax Increase," RJR Document No. 501988846 -8849, September 20, 1982.

⁴ Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," PM Document No. 2001255224, September 17, 1981.

⁵ Philip Morris Executive Jon Zoler, "Handling An Excise Tax Increase," PM Document No. 2022216179, September 3, 1987.

⁶ Philip Morris Executive Claude Schwab, "Cigarette Attributes and Quitting," PM Doc. 2045447810, March 4, 1993.

⁷ Chaloupka, F, et al., "Tax, Price and Cigarette Smoking: Evidence from the Tobacco Documents and implications for tobacco company marketing strategies," *Tobacco Control* 11: 62-72, March 2002.

⁸ See, e.g., Chaloupka, F, "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research*, 1999; other studies at <http://tigger.uic.edu/~flic/>; Tauras, J, "Public Policy and Smoking Cessation Among Young adults in the United States," *Health Policy* 67:321-32, 2004; Tauras, J, et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," Bridging the Gap Research, ImpacTeen, April 24, 2001, and others at <http://www.impactteen.org/researchproducts.htm>. Chaloupka, F & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998, <http://tigger.uic.edu/~flic/>; Emery, S, et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001; Evans, W & Huang, L, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998, www.bsos.umd.edu/econ/evans/wrkpap.htm; Harris, J & Chan, S, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2):3-12, February 1998, www.mit.edu/people/jeffrey.

⁹ See, e.g., U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups - United States 1976-1993," *Morbidity and Mortality Weekly Report* 47(29):605-609, July 31, 1998, <http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm>; Chaloupka, F & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998.

¹⁰ Ringel, J & Evans, W, "Cigarette Taxes and Smoking During Pregnancy," *American Journal of Public Health*, 2001. See also, TFK Factsheet, *Harm Caused by Pregnant Women Smoking or Being Exposed to Secondhand Smoke*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0007.pdf>.

¹¹ Chaloupka, F, Tauras, J & Grossman, M, "Public Policy and Youth Smokeless Tobacco Use," *Southern Economic Journal* 64(2):503-16, October 1997. Ringel, JS, Wasserman, J, & Andreyeva, T, "Effects of Public Policy on Adolescents' Cigar Use: Evidence From the National Youth Tobacco Survey," *American Journal of Public Health* 95:995-998, 2005.

¹² Chaloupka, F, et al., *Do Higher Cigarette Prices Encourage Youth to Use Marijuana?*, National Bureau of Economic Research, Working Paper No. 6939, February 1999.

¹³ TFK Factsheet, *Raising State Cigarette Taxes Always Increases State Revenues (and Always Reduces Smoking)*, <http://tobaccofreekids.org/research/factsheets/pdf/0098.pdf>.

¹⁴ "Calls to Wisconsin Tobacco Quit Line breaks all records," *The Dunn County News*, March 12, 2008. Souza, M, "Thank you for Smoking," *Longview-News Journal*, April 22, 2007; "Calls to Quitline Iowa double after cigarette tax raised," *AP*, March 22, 2007. See also, TFK Factsheet, *Quitlines Provide Essential and Effective Treatment Services*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0326.pdf>.

¹⁵ CDC, Current Adult Smokers, Behavioral Risk Factor Surveillance System (BRFSS).

¹⁶ Institute of Medicine (IOM), *Ending the tobacco problem: A blueprint for the nation*, Washington, DC: The National Academies Press, 2007, <http://www.iom.edu/CMS/3793/20076/43179.aspx>.

¹⁷ President's Cancer Panel, *Promoting Healthy Lifestyles*, 2006-2007 Annual Report, August 2007, <http://deainfo.nci.nih.gov/advisory/pcp/pcp07rpt/pcp07rpt.pdf>.

¹⁸ U.S. Department of Health and Human Services (HHS), *Reducing Tobacco Use: A Report of the Surgeon General*, Atlanta, Georgia: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000, http://www.cdc.gov/tobacco/data_statistics/sgr/sgr_2000/index.htm.

¹⁹ IOM, *Taking Action to Reduce Tobacco Use*, Washington, DC: National Academy Press, 1998, http://www.nap.edu/catalog.php?record_id=6060.



January 21, 2010

Senator Lesil McGuire
Alaska Senate
Room 125
State Capitol
Juneau, AK 99801

RE: In Support of Committee Substitute for Senate Bill 117

Dear Senator McGuire:

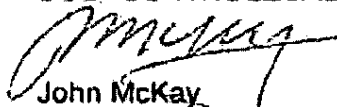
I am writing to you on behalf of Costco Wholesale Corporation ("Costco") to support Committee Substitute for Senate Bill 117 ("CSSB 117"). Costco holds licenses as a wholesale distributor and a retailer of cigarettes and other tobacco products.

Currently, the law is difficult to interpret. CSSB 117 clarifies the language in the statute and makes it easier for wholesale distributors and retailers to determine the minimum price of cigarettes. The Department of Revenue and all licensees will benefit with CSSB 117 because the determination of price for cigarettes is simpler and more efficient, thus saving valuable state resources. Further, we believe that CSSB 117 is consistent with the fair and competitive practices in Alaska.

Thank you for your time and the opportunity to comment on this pending legislation.

Sincerely,

COSTCO WHOLESALE



John McKay
Senior Vice President

Michael J. Elerding
Box 5811
Ketchikan, AK 99901

March 19, 2010

Senator Bert Stedman
Alaska State Senate
State Capitol Room 516
Juneau, AK 99801

RE: CS for SB 117 Price of Cigarettes

Dear Senator Stedman,

The purpose of this letter is to urge your support of the above referenced bill. This bill is a technical correction of the Un-Fair Cigarette Sales Act, which was passed in 2005. The bill is strictly defined and deals with just one topic – The Minimum Price of Cigarettes. While the bill may not have much sex appeal it is an important legislation for the following reasons:

1. Price is a significant determinant to youth access to cigarettes. Studies ad nauseam have linked the price to cigarettes to youth smoking rates. The higher the price of cigarettes the lower youth smoking rates.
2. Article 7 of AS 43 50 700 was intended to end the predatory pricing practice of selling cigarettes at below cost. This legislation closes a loophole in the original measure (AS 43 50 800(c)) which allows large mega distributors to sell cigarettes for less than presumptive costs if they can show that their "Cost of Doing Business" is less than 4.50% at the wholesale level. By eliminating this loophole, using a percentage that all parties collaborated on, the legislation is promoting competition and leveling the playing field for wholesalers and retailers.
3. This legislation will save the Department of Revenue time and money contrary to the fiscal note because the department would no longer need to perform time consuming audits on a distributor's "Cost of Doing Business." Instead the department could redeploy their auditors to conduct audits on actual tax returns – a much more beneficial use of their time.

The concept of ending predatory pricing practices and restricting youth access to cigarettes has been vetted among all of the vested constituency groups; Tobacco Alliance Groups (Mark Hickey et al), Large Wholesale/Retailer's (Costco); Big Tobacco (Philip Morris – Bob Evans) and the Department of Revenue. There is no opposition to the measure. The negotiations and discussions that have taken place among these diverse groups is nothing short of amazing. The fact that all of these interest groups are on the same page mandates that the legislature take a serious look and support the efforts that have manifested themselves in the form of SB 117.

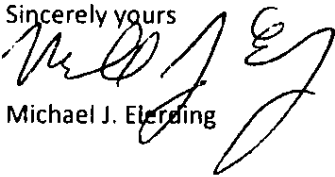
As with many measures that arrive on your door step there has been a lot of blood, sweat and tears that have gone into the crafting of SB 117. Senator McGuire and her staff have done a yeoman's job of carrying this measure thus far. Now we need your support and your leadership in getting a hearing for SB 117 before your Senate Finance Committee. Because this legislation is narrowly defined and only deals with a technical correction regarding the price of cigarettes there is no controversy or any danger of unintended consequences. Finally, there is no opposition to this legislation.

Michael J. Elerding
Box 5811
Ketchikan, AK 99901

As you know this legislation is important to Northern Sales Company and their eighty two (82) plus employees who live and work in SE Alaska. Your support and leadership in marshalling this legislation through your Senate Finance Committee will not go unnoticed by your constituents who work for Northern Sales.

If you have any questions or if you require additional information please feel free to give me a call at 907-617-5412. If you think my testimony would assist with the passage of this legislation I would be happy to arrange my schedule to accommodate the hearing schedule of your Senate Committee. Thank you in advance for your leadership and support of this legislation.

Sincerely yours



Michael J. Elerding