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Kurtz
4/5/04

CS FOR HOUSE BILL NO. 538(W&M)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to taxes on cigarettes and tobacco products, to tax stamps on cigarettes, to forfeiture of cigarettes and of property used in the manufacture, transportation, facilitation of transportation, possession, offering for sale, or sale of unstamped cigarettes, to accounting for and use of part of the proceeds of the additional cigarette tax, and to licenses and licensees under the Cigarette Tax Act; and providing for an effective date."

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

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT. It is the intent of the legislature to provide aggregate funding to meet the minimum amount of tobacco control programs recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, from tobacco taxes and other revenue sources accounted for in the tobacco use education and cessation fund established in AS 37.05.580.

* **Sec. 2.** AS 43.50.030(a) is amended to read:

(a) For each license issued to a manufacturer, and for each renewal, the fee is **<u>$50</u>** [$5].

* **Sec. 3.** AS 43.50.030(c) is amended to read:

(c) For each license issued to a vending machine operator, and for each renewal, the fee is **<u>$50</u>** [$25].

* **Sec. 4.** AS 43.50.030(d) is amended to read:

(d) For each license issued to a direct-buying retailer, and for each renewal, the fee is **<u>$50</u>** [$25].

* **Sec. 5.** AS 43.50.035 is repealed and reenacted to read:

Sec. 43.50.035. Wholesaler-distributor license. (a) A person outside of this state who sells or distributes cigarettes into this state and is not required to be licensed under AS 43.50.010 may apply for a wholesaler-distributor license.

(b) A person outside of this state who sells or distributes cigarettes into this state, who is not required to be licensed under AS 43.50.010, and who wishes to purchase stamps under this chapter is required to be licensed as a wholesaler-distributor.

(c) The department shall adopt reasonable regulations necessary for the collection of cigarette taxes on cigarette sales or distributions made by a wholesaler-distributor licensee into this state and standards for

(1) application and issuance of the license; and

(2) refusal to issue the license.

* **Sec. 6.** AS 43.50.090(a) is amended to read:

(a) There is levied an excise tax of 38 mills on each cigarette imported or acquired in the state. The tax shall be paid through the use of stamps as provided in AS 43.50.500 - 43.50.700. **<u>A person who imports or acquires cigarettes in the state upon which a stamp required by this chapter has not been affixed in accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps as required by AS 43.50.540(a), and who fails to pay the tax through the use of stamps is not relieved</u>** [THE FAILURE TO PAY THE TAX THROUGH THE USE

OF STAMPS DOES NOT RELIEVE A PERSON] of the obligation to pay taxes due under this chapter. The person shall still pay the tax, and the tax is due on or before the end of the month following the month in which cigarettes were manufactured, imported, acquired, or sold in this state. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

* **Sec. 7.** AS 43.50.090(d) is amended to read:

(d) The tax imposed under (a) of this section does not apply to the first 100 cigarettes imported by an individual for personal consumption during the calendar month <u>**or the first 600 cigarettes personally transported into the state by an individual for that individual's personal consumption during the calendar month**</u>.

* **Sec. 8.** AS 43.50.105(g) is amended to read:

(g) A person who violates the provisions of this section is guilty of a

(1) class A misdemeanor if the person unlawfully ships, causes to be shipped, or transports at least one but fewer than <u>**5,000**</u> [1,000] cigarettes;

(2) class C felony if the person unlawfully ships, causes to be shipped, or transports <u>**5,000**</u> [1,000] or more cigarettes.

* **Sec. 9.** AS 43.50.105 is amended by adding a new subsection to read:

(i) A person who violates the provisions of this section is jointly and severally liable for the taxes imposed by AS 43.50.090 and 43.50.190. To the fullest extent permitted by the Constitution of the United States, a person who violates the provisions of this section is required to collect the taxes and pay them to the department.

* **Sec. 10.** AS 43.50.170(1) is amended to read:

(1) "buyer" means a person who imports or acquires cigarettes for the person's own consumption from any source other than a manufacturer, distributor, direct-buying retailer, [OR] retailer<u>**, or wholesaler-distributor**</u>;

* **Sec. 11.** AS 43.50.170(3) is amended to read:

(3) "direct-buying retailer" means a person who is engaged in the sale of cigarettes at retail in this state, and who brings <u>**cigarettes**</u> or causes <u>**cigarettes**</u> to be brought [CIGARETTES] into the state <u>**that are not purchased from a wholesaler-distributor**</u>;

* **Sec. 12.** AS 43.50.170(4) is amended to read:

(4) "distributor" means a person who brings cigarettes **that are not purchased from a wholesaler-distributor**, or has cigarettes **that are not purchased from a wholesaler-distributor** brought into the state, and who sells or distributes at least 75 **percent** [PER CENT] of the cigarettes to others for resale in the state;

* **Sec. 13.** AS 43.50.170(12) is amended to read:

(12) "wholesaler-distributor" means a person outside this state who sells or distributes cigarettes into this state**,** [AND] who is not required to be licensed under AS 43.50.010**, and who is licensed under AS 43.50.035**.

* **Sec. 14.** AS 43.50.190(a) is amended to read:

(a) There is levied an excise tax of **62** [12] mills on each cigarette imported or acquired in this state.

* **Sec. 15.** AS 43.50.190(c) is amended to read:

(c) The tax imposed under (a) of this section does not apply to the first 100 cigarettes imported by an individual for personal consumption during the calendar month **or the first 600 cigarettes personally transported into the state by an individual for that individual's personal consumption during the calendar month**.

* **Sec. 16.** AS 43.50.190 is amended by adding a new subsection to read:

(d) A portion of the annual proceeds of the tax levied under (a) of this section equal to the total proceeds of the tax multiplied by the quotient of seven divided by 62 shall be deposited into the tobacco use education and cessation fund established in AS 37.05.580. This deposit shall be in addition to any sums deposited into the fund under AS 37.05.580(a).

* **Sec. 17.** AS 43.50.300 is amended to read:

Sec. 43.50.300. Excise tax levied. An excise tax is levied on tobacco products in the state at the rate of **100** [75] percent of the wholesale price of the tobacco products. The tax is levied when a person

(1) brings, or causes to be brought, a tobacco product into the state from outside the state for sale;

(2) makes, manufactures, or fabricates a tobacco product in the state for sale in the state; or

(3) ships or transports a tobacco product to a retailer in the state for sale by the retailer.

* **Sec. 18.** AS 43.50.540(f) is amended to read:

(f) Title to the stamps passes immediately to the licensee at the time the stamps are obtained in person or, if the stamps are shipped or transported, at the time the stamps are placed in the United States mail or received by the common or private carrier. The licensee bears all costs associated with shipping or transporting the stamps**. The department may replace stamps lost or damaged in transit if the licensee provides proof acceptable to the department verifying that the loss or damage occurred while the stamps were in the possession of the shipping company and the shipping company substantiates the loss or damage. Damaged stamps must be returned to the department before the department may replace them** [AND ALL RISKS OF POSSIBLE LOSS OR DAMAGE WHILE IN TRANSIT].

* **Sec. 19.** AS 43.50.550(b) is amended to read:

(b) A licensee who submits an application for the purchase of stamps on a deferred-payment basis shall**, as a condition of approval of the application,** post a bond acceptable to the department in an amount equal to

(1) 200 percent of the maximum dollar amount of allowed monthly purchases under this section **; or**

(2) 100 percent of the maximum dollar amount of allowed monthly purchases under this section if the licensee

(A) holds a license issued under AS 43.50.010 for a physical location in this state; and

(B) has been in full compliance with the provisions of this title and regulations adopted under this title during the preceding 60 months [AS A CONDITION OF APPROVAL OF THE APPLICATION].

* **Sec. 20.** AS 43.50.580(b) is amended to read:

(b) A licensee may possess unstamped cigarettes in this state if

(1) the licensee posts a surety bond in an amount satisfactory to the department to ensure performance of its duties under this chapter; and

(2) unstamped cigarettes are necessary for the conduct of the licensee's business in making sales or distributions

(A) to an instrumentality of the federal government or an Indian tribal organization authorized by law to possess cigarettes not taxed under this chapter**; or**

(B) to customers outside the state and the licensee provides proof acceptable to the department that the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are made.

* **Sec. 21.** AS 43.50.590(a) is amended to read:

(a) The department shall adopt procedures for a refund or credit to a licensee in the amount of the denominated value, less the discount given under AS 43.50.540, for

(1) unused or damaged stamps; [OR]

(2) stamps affixed to cigarette packages that have become unfit for use or sale, are destroyed, or are returned to the manufacturer for credit or replacement if the licensee provides proof acceptable to the department that the cigarettes have not been and will not be consumed in this state**; or**

(3) stamps affixed to cigarette packages that are sold or distributed outside the state if the licensee provides proof acceptable to the department that the cigarettes have not been and will not be consumed in this state and the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are made.

* **Sec. 22.** AS 43.50 is amended by adding a new section to read:

Sec. 43.50.625. Forfeiture of other property. (a) Upon a showing of probable cause that a person has committed the crime of misconduct involving unstamped cigarettes or stamps in the first degree under AS 43.50.640, the following are subject to forfeiture:

(1) material and equipment used in the manufacture, sale, offering for sale, or possession for sale of cigarettes in this state in violation of AS 43.50.500 - 43.50.640 or 43.50.660 - 43.50.700;

(2) aircraft, vehicles, or vessels used to transport or facilitate the transportation of cigarettes manufactured, sold, offered for sale, or possessed for sale in this state in violation of AS 43.50.500 - 43.50.640 or 43.50.660 - 43.50.700;

(3) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited under AS 43.50.500 - 43.50.640 or 43.50.660 - 43.50.700.

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under (a) of this section; property seized under this paragraph may be held for not more than 48 hours unless an order of forfeiture is issued by the court before the end of that time period.

(c) Within 30 days after a seizure under this section, the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest, or an assignee of a person holding an interest, in the property seized, including a right to possession, or a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in the seized property of the impending forfeiture, and, before forfeiture, the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if a newspaper is not published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 43.50.640; or

(2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section.

(e) The owner of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had, within the last 10 years,

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(f) The court may allow the owner of property that is subject to forfeiture under (a) of this section to redeem the property by paying an amount determined by the court to be the fair market value of the property.

(g) A person other than the owner holding, or the assignee of, a lien, mortgage, or conditional sales contract on, or the right to possession of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(h) It is not a defense in an in rem forfeiture proceeding brought under (d)(2) of this section that a criminal proceeding is pending or has resulted in conviction or acquittal of a person charged with violating AS 43.50.640.

(i) Property forfeited under this section shall be placed in the custody of the commissioner of public safety for disposition according to an order entered by the court. The court shall order destroyed any property forfeited under this section that is harmful to the public and may order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized or to another municipality affected by the crime for which the property was forfeited. The state shall notify all municipalities affected by the crime of the forfeiture proceeding. Other property shall be ordered sold and the proceeds used for payment of expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs. The remainder of the proceeds shall be deposited in the general fund.

(j) The title to a vehicle or vessel forfeited to the state under this section may be transferred by the state to a municipality or the local governing body of a village for official use by the municipality or village, on condition that the vehicle or vessel not be available for use by the defendant.

* **Sec. 23.** AS 43.50.640(a) is amended to read:

(a) A person commits the crime of misconduct involving unstamped cigarettes or stamps in the first degree if the person

(1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes **5,000** [1,000] or more unstamped cigarettes in a single transaction;

(B) owns or possesses **5,000** [1,000] or more unstamped cigarettes with the intent to sell; or

(C) acquires, holds, transports, imports, or possesses 10,000 or more unstamped cigarettes; or

(2) with reckless disregard that the stamp was previously affixed to another cigarette package [;]

(A) affixes a previously used stamp to a cigarette package; or

(B) possesses, sells, or distributes a previously used stamp.

* **Sec. 24.** AS 43.50.650(a) is amended to read:

(a) A person commits the crime of misconduct involving unstamped cigarettes or stamps in the second degree if the person

(1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes at least one but fewer than **<u>5,000</u>** [1,000] unstamped cigarettes in a single transaction;

(B) owns or possesses at least one but fewer than **<u>5,000</u>** [1,000] unstamped cigarettes, with intent to sell; [OR]

(C) acquires, holds, transports, imports, or possesses at least **<u>601</u>** [ONE] but fewer than 10,000 unstamped cigarettes; or

<u>(D) acquires, holds, transports, imports, or possesses at least one but fewer than 601 unstamped cigarettes that are not for personal consumption; or</u>

(2) is not licensed under this chapter or otherwise authorized by the department to possess stamps and possesses a stamp that is not affixed to a cigarette package.

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FLOOR STOCK TAX FOR CERTAIN CIGARETTES IN THE STATE ON THE EFFECTIVE DATE OF THIS ACT. (a) Notwithstanding any other provision to the contrary, a floor stock tax is imposed at 12:01 a.m. on the effective date of this Act upon every person in control or possession of cigarettes for sale or distribution in the state that were taxed at the rate in effect before the effective date of this Act. The floor stock tax is the difference between the tax computed on each cigarette as provided in AS 43.50.190, as amended by sec. 14 of this Act, on the effective date of this Act and the tax actually paid on each cigarette as required by AS 43.50.190 as it read on the day before the effective date of this Act. The person subject to the floor stock tax under this section must provide proof that the tax required by AS 43.50.190, as it read on the day before the effective date of this Act, on each cigarette was previously paid or the tax actually paid on each cigarette is considered to be zero.

(b) A person subject to the floor stock tax under this section shall file a report not later than the last day of the month in which this Act takes effect on a form prescribed by the

Department of Revenue and pay the tax to the Department of Revenue in six sequential monthly installments. The first installment shall be paid not later than the last day of the month in which this Act takes effect. The penalty, interest, and taxpayer remedy provisions of AS 43.05 apply to the floor stock tax under this section.

* **Sec. 26.** This Act takes effect July 1, 2004.

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TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to taxes on cigarettes and tobacco products; relating to tax stamps on cigarettes; relating to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes; relating to licenses and licensees under the Cigarette Tax Act; and providing for an effective date."

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

* **Section 1.** AS 43.50.030(a) is amended to read:

(a) For each license issued to a manufacturer, and for each renewal, the fee is **<u>$50</u>** [$5].

* **Sec. 2.** AS 43.50.030(c) is amended to read:

(c) For each license issued to a vending machine operator, and for each renewal, the fee is **<u>$50</u>** [$25].

* **Sec. 3.** AS 43.50.030(d) is amended to read:

(d) For each license issued to a direct-buying retailer, and for each renewal, the fee is **<u>$50</u>** [$25].

* **Sec. 4.** AS 43.50.035 is repealed and reenacted to read:

Sec. 43.50.035. Wholesaler-distributor license. (a) A person outside of this state who sells or distributes cigarettes into this state and is not required to be licensed under AS 43.50.010 may apply for a wholesaler-distributor license.

(b) A person outside of this state who sells or distributes cigarettes into this state, who is not required to be licensed under AS 43.50.010, and who wishes to purchase stamps under this chapter is required to be licensed as a wholesaler-distributor.

(c) The department shall adopt reasonable regulations necessary for the collection of cigarette taxes on cigarette sales or distributions made by a wholesaler-distributor licensee into this state and standards for

(1) application and issuance of the license; and

(2) refusal to issue the license.

* **Sec. 5.** AS 43.50.090(a) is amended to read:

(a) There is levied an excise tax of 38 mills on each cigarette imported or acquired in the state. The tax shall be paid through the use of stamps as provided in AS 43.50.500 - 43.50.700. **<u>A person who imports or acquires cigarettes in the state upon which a stamp required by this chapter has not been affixed in accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps as required by AS 43.50.540(a), and who fails to pay the tax through the use of stamps is not relieved</u>** [THE FAILURE TO PAY THE TAX THROUGH THE USE OF STAMPS DOES NOT RELIEVE A PERSON] of the obligation to pay taxes due under this chapter. The person shall still pay the tax, and the tax is due on or before the end of the month following the month in which cigarettes were manufactured, imported, acquired, or sold in this state. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

* **Sec. 6.** AS 43.50.105(g) is amended to read:

(g) A person who violates the provisions of this section is guilty of a

(1) class A misdemeanor if the person unlawfully ships, causes to be shipped, or transports at least one but fewer than **<u>5,000</u>** [1,000] cigarettes;

(2) class C felony if the person unlawfully ships, causes to be shipped,

or transports **5,000** [1,000] or more cigarettes.

* **Sec. 7.** AS 43.50.105 is amended by adding a new subsection to read:

(i) A person who violates the provisions of this section is jointly and severally liable for the taxes imposed by AS 43.50.090 and 43.50.190. To the fullest extent permitted by the Constitution of the United States, a person who violates the provisions of this section is required to collect the taxes and pay them to the department.

* **Sec. 8.** AS 43.50.170(1) is amended to read:

(1) "buyer" means a person who imports or acquires cigarettes for the person's own consumption from any source other than a manufacturer, distributor, direct-buying retailer, [OR] retailer**, or wholesaler-distributor**;

* **Sec. 9.** AS 43.50.170(3) is amended to read:

(3) "direct-buying retailer" means a person who is engaged in the sale of cigarettes at retail in this state, and who brings **cigarettes** or causes **cigarettes** to be brought [CIGARETTES] into the state **that are not purchased from a wholesaler-distributor**;

* **Sec. 10.** AS 43.50.170(4) is amended to read:

(4) "distributor" means a person who brings cigarettes **that are not purchased from a wholesaler-distributor**, or has cigarettes **that are not purchased from a wholesaler-distributor** brought into the state, and who sells or distributes at least 75 **percent** [PER CENT] of the cigarettes to others for resale in the state;

* **Sec. 11.** AS 43.50.170(12) is amended to read:

(12) "wholesaler-distributor" means a person outside this state who sells or distributes cigarettes into this state**,** [AND] who is not required to be licensed under AS 43.50.010**, and who is licensed under AS 43.50.035**.

* **Sec. 12.** AS 43.50.190(a) is amended to read:

(a) There is levied an excise tax of **62** [12] mills on each cigarette imported or acquired in this state.

* **Sec. 13.** AS 43.50.300 is amended to read:

Sec. 43.50.300. Excise tax levied. An excise tax is levied on tobacco products in the state at the rate of **100** [75] percent of the wholesale price of the tobacco products. The tax is levied when a person

(1) brings, or causes to be brought, a tobacco product into the state from outside the state for sale;

(2) makes, manufactures, or fabricates a tobacco product in the state for sale in the state; or

(3) ships or transports a tobacco product to a retailer in the state for sale by the retailer.

*** Sec. 14.** AS 43.50.540(f) is amended to read:

(f) Title to the stamps passes immediately to the licensee at the time the stamps are obtained in person or, if the stamps are shipped or transported, at the time the stamps are placed in the United States mail or received by the common or private carrier. The licensee bears all costs associated with shipping or transporting the stamps**. The department may replace stamps lost or damaged in transit if the licensee provides proof acceptable to the department verifying that the loss or damage occurred while the stamps were in the possession of the shipping company and the shipping company substantiates the loss or damage. Damaged stamps must be returned to the department before the department may replace them** [AND ALL RISKS OF POSSIBLE LOSS OR DAMAGE WHILE IN TRANSIT].

*** Sec. 15.** AS 43.50.580(b) is amended to read:

(b) A licensee may possess unstamped cigarettes in this state if

(1) the licensee posts a surety bond in an amount satisfactory to the department to ensure performance of its duties under this chapter; and

(2) unstamped cigarettes are necessary for the conduct of the licensee's business in making sales or distributions

(A) to an instrumentality of the federal government or an Indian tribal organization authorized by law to possess cigarettes not taxed under this chapter**; or**

(B) to customers outside the state and the licensee provides proof acceptable to the department that the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are

made.

* **Sec. 16.** AS 43.50.590(a) is amended to read:

(a) The department shall adopt procedures for a refund or credit to a licensee in the amount of the denominated value, less the discount given under AS 43.50.540, for

(1) unused or damaged stamps; [OR]

(2) stamps affixed to cigarette packages that have become unfit for use or sale, are destroyed, or are returned to the manufacturer for credit or replacement if the licensee provides proof acceptable to the department that the cigarettes have not been and will not be consumed in this state**; or**

(3) stamps affixed to cigarette packages that are sold or distributed outside the state if the licensee provides proof acceptable to the department that the cigarettes have not been and will not be consumed in this state and the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are made.

* **Sec. 17.** AS 43.50 is amended by adding a new section to read:

Sec. 43.50.625. Forfeiture of other property. (a) Upon a showing of probable cause that a person has committed the crime of misconduct involving unstamped cigarettes or stamps in the first degree under AS 43.50.640, the following are subject to forfeiture:

(1) material and equipment used in the manufacture, sale, offering for sale, or possession for sale, barter, or exchange of cigarettes in this state in violation of AS 43.50.500 - 43.50.700;

(2) aircraft, vehicles, or vessels used to transport or facilitate the transportation of cigarettes manufactured, sold, offered for sale, possessed for sale, or bartered or exchanged in this state in violation of AS 43.50.500 - 43.50.700;

(3) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited under AS 43.50.500 - 43.50.700.

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under (a) of this section; property seized under this paragraph may be held for not more than 48 hours unless an order of forfeiture is issued by the court before the end of that time period.

(c) Within 30 days after a seizure under this section, the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest, or an assignee of a person holding an interest, in the property seized, including a right to possession, or a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in the seized property of the impending forfeiture, and, before forfeiture, the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if a newspaper is not published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 43.50.640 or 43.50.650; or

(2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section.

(e) The owner of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, or conditional sales contract on, or the right to possession of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(g) It is not a defense in an in rem forfeiture proceeding brought under (d)(2) of this section that a criminal proceeding is pending or has resulted in conviction or acquittal of a person charged with violating AS 43.50.640 or 43.50.650.

(h) Property forfeited under this section shall be placed in the custody of the commissioner of public safety for disposition according to an order entered by the court. The court shall order destroyed any property forfeited under this section that is harmful to the public and shall order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized. Other property shall be ordered sold and the proceeds used for payment of expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs. The remainder of the proceeds shall be deposited in the general fund.

(i) The title to a vehicle or vessel forfeited to the state under this section may be transferred by the state to a municipality or the local governing body of a village for official use by the municipality or village, on condition that the vehicle or vessel not be available for use by the defendant.

* **Sec. 18.** AS 43.50.640(a) is amended to read:

(a) A person commits the crime of misconduct involving unstamped cigarettes or stamps in the first degree if the person

(1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes **<u>5,000</u>** [1,000] or more unstamped cigarettes in a single transaction;

(B) owns or possesses **<u>5,000</u>** [1,000] or more unstamped cigarettes with the intent to sell; or

(C) acquires, holds, transports, imports, or possesses 10,000 or more unstamped cigarettes; or

(2) with reckless disregard that the stamp was previously affixed to another cigarette package [;]

(A) affixes a previously used stamp to a cigarette package; or

(B) possesses, sells, or distributes a previously used stamp.

* **Sec. 19.** AS 43.50.650(a) is amended to read:

(a) A person commits the crime of misconduct involving unstamped cigarettes or stamps in the second degree if the person

(1) with reckless disregard that the cigarettes are unstamped

(A) sells or distributes at least one but fewer than **<u>5,000</u>** [1,000] unstamped cigarettes in a single transaction;

(B) owns or possesses at least one but fewer than **<u>5,000</u>** [1,000] unstamped cigarettes, with intent to sell; or

(C) acquires, holds, transports, imports, or possesses at least one but fewer than 10,000 unstamped cigarettes; or

(2) is not licensed under this chapter or otherwise authorized by the department to possess stamps and possesses a stamp that is not affixed to a cigarette package.

* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FLOOR STOCK TAX FOR CERTAIN CIGARETTES IN THE STATE ON THE EFFECTIVE DATE OF THIS ACT. (a) Notwithstanding any other provision to the contrary, a floor stock tax is imposed at 12:01 a.m. on the effective date of this Act upon every person in control or possession of cigarettes for sale or distribution in the state that were taxed at the rate in effect before the effective date of this Act. The floor stock tax is the difference between the tax computed on each cigarette as provided in AS 43.50.190, as amended by sec. 12 of this Act, on the effective date of this Act and the tax actually paid on each cigarette as required by AS 43.50.190 as it read on the day before the effective date of this Act. The person subject to the floor stock tax under this section must provide proof that the tax required by AS 43.50.190, as it read on the day before the effective date of this Act, on each cigarette was previously paid or the tax actually paid on each cigarette is considered to be zero.

(b) A person subject to the floor stock tax under this section shall file a report not later than the last day of the month in which this Act takes effect on a form prescribed by the Department of Revenue and pay the tax to the Department of Revenue in six sequential monthly installments. The first installment shall be paid not later than the last day of the month in which this Act takes effect. The penalty, interest, and taxpayer remedy provisions of AS 43.05 apply to the floor stock tax under this section.

* **Sec. 21.** This Act takes effect July 1, 2004.

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MEMORANDUM March 30, 2004

SUBJECT: Comparison of HB 538 and CSHB 538(W&M), Draft Version \D (Work Order No. 23-GH2116\D)

TO: Representative Mike Hawker
Attn: Paulyn Swanson

FROM: Kathryn L. Kurtz KK
Legislative Counsel

You requested a detailed comparison of HB 538 and CSHB 538(W&M), Draft Version \D.

The following is a list of sections in CSHB 538(W&M), Draft Version \D, with changes from HB 538 noted. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. New section increasing license fee in AS 43.50.030(a).

Section 2. New section increasing license fee in AS 43.50.030(c).

Section 3. Same as sec. 1 in HB 538.

Section 4. (Sec. 2 of HB 538) In subsection (b) following both "state," and "under AS 43.50.010, and" inserts the word "who." Changes "must" to "is required to." In subsection (d), corrects the spelling of "distributions."

Section 5. (Sec. 3 of HB 538) In the second sentence, inserts the word "who" in two places.

Section 6. Same as sec. 4 in HB 538.

Section 7. (Sec. 5 of HB 538) Changes "brings or causes to be brought cigarettes" to "brings cigarettes or causes cigarettes to be brought."

Section 8. (Sec. 6 of HB 538) Changes "per cent" to "percent."

Section 9. (Sec. 7 of HB 538) In last clause, changes "but" to "and."

Section 10. Same as sec. 8 in HB 538.

Section 11. Same as sec. 9 in HB 538.

Section 12. (Sec. 10 of HB 538) Places material added in HB 538 before deleted material.

Section 13. (Sec. 11 of HB 538) Indents subparagraphs and changes the designation from (i) and (ii) to (A) and (B).

Section 14. Same as sec. 12 in HB 538.

(Note: section 13 of HB 538 is not included in CSHB 538(W&M), Draft Version \D. That section took the text of AS 43.50.620 and moved it to AS 43.50.610(b). CSHB 538(W&M), Draft Version \D leaves the text of AS 43.50.620 where it is now.)

Section 15. (Sec. 14 of HB 538) In sec. 43.50.625(a)(1), inserts "or" before possession. In sec. 43.50.625(b)(3), changes "no more than 48 hours" to "not more than 48 hours." In sec. 43.50.625(c), inserts a comma between "and" and "before forfeiture," and changes "if no newspaper is published" to "if a newspaper is not published." In sec. 43.50.625(e) and (f), changes "had no" to "did not have" in paragraphs 2 and 3. In sec. 43.50.625(g), changes "It is no defense" to "It is not a defense." In sec. 43.50.625(i), moves "the court" after the "if" clause and deletes an "and" before "subject to remission." In sec. 43.50.625(j)(2)(B), deletes "if" and "would not be entitled to remission, they."

Section 16. Inserts ", as amended by sec. 10 of this Act," after the first reference to AS 43.50.190. Reorders the provisions of subsection (b).

(Note: section 16 of HB 538 is not included in CSHB 538(W&M), Draft Version \D. That section was a revisor's instruction relating to the heading for AS 43.50.610, which is not amended in CSHB 538(W&M), Draft Version \D.)

Section 17. No change.

KLK:lmb
04-091.lmb

23-GH2116\D
Kurtz
3/29/04

CS FOR HOUSE BILL NO. 538(W&M)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to taxes on cigarettes and tobacco products; relating to tax stamps on cigarettes; relating to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes; relating to licenses and licensees under the Cigarette Tax Act; and providing for an effective date."

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

*** Section 1.** AS 43.50.030(a) is amended to read:

(a) For each license issued to a manufacturer, and for each renewal, the fee is **$50** [$5].

*** Sec. 2.** AS 43.50.030(c) is amended to read:

(c) For each license issued to a vending machine operator, and for each renewal, the fee is **$50** [$25].

*** Sec. 3.** AS 43.50.030(d) is amended to read:

(d) For each license issued to a direct-buying retailer, and for each renewal, the fee is **$50** [$25].

* **Sec. 4.** AS 43.50.035 is repealed and reenacted to read:

Sec. 43.50.035. Wholesaler-distributor license. (a) A person outside of this state who sells or distributes cigarettes into this state and is not required to be licensed under AS 43.50.010 may apply for a wholesaler-distributor license.

(b) A person outside of this state who sells or distributes cigarettes into this state, who is not required to be licensed under AS 43.50.010, and who wishes to purchase stamps under this chapter is required to be licensed as a wholesaler-distributor.

(c) The department shall adopt reasonable regulations necessary for the collection of cigarette taxes on cigarette sales or distributions made by a wholesaler-distributor licensee into this state and standards for

(1) application and issuance of the license; and

(2) refusal to issue the license.

* **Sec. 5.** AS 43.50.090(a) is amended to read:

(a) There is levied an excise tax of 38 mills on each cigarette imported or acquired in the state. The tax shall be paid through the use of stamps as provided in AS 43.50.500 - 43.50.700. <u>**A person who imports or acquires cigarettes in the state upon which a stamp required by this chapter has not been affixed in accordance with AS 43.50.500 - 43.50.700, who fails to apply to purchase stamps as required by AS 43.50.540(a), and who fails to pay the tax through the use of stamps is not relieved**</u> [THE FAILURE TO PAY THE TAX THROUGH THE USE OF STAMPS DOES NOT RELIEVE A PERSON] of the obligation to pay taxes due under this chapter. The person shall still pay the tax, and the tax is due on or before the end of the month following the month in which cigarettes were manufactured, imported, acquired, or sold in this state. Cigarettes upon which the excise is imposed are not again subject to the excise when acquired by another person.

* **Sec. 6.** AS 43.50.170(1) is amended to read:

(1) "buyer" means a person who imports or acquires cigarettes for the person's own consumption from any source other than a manufacturer, distributor, direct-buying retailer, [OR] retailer<u>**, or wholesaler-distributor**</u>;

* **Sec. 7.** AS 43.50.170(3) is amended to read:

(3) "direct-buying retailer" means a person who is engaged in the sale of cigarettes at retail in this state, and who brings **cigarettes** or causes **cigarettes** to be brought [CIGARETTES] into the state **that are not purchased from a wholesaler-distributor**;

* **Sec. 8.** AS 43.50.170(4) is amended to read:

(4) "distributor" means a person who brings cigarettes **that are not purchased from a wholesaler-distributor**, or has cigarettes **that are not purchased from a wholesaler-distributor** brought into the state, and who sells or distributes at least 75 **percent** [PER CENT] of the cigarettes to others for resale in the state;

* **Sec. 9.** AS 43.50.170(12) is amended to read:

(12) "wholesaler-distributor" means a person outside this state who sells or distributes cigarettes into this state**,** [AND] who is not required to be licensed under AS 43.50.010**, and who is licensed under AS 43.50.035**.

* **Sec. 10.** AS 43.50.190(a) is amended to read:

(a) There is levied an excise tax of **62** [12] mills on each cigarette imported or acquired in this state.

* **Sec. 11.** AS 43.50.300 is amended to read:

Sec. 43.50.300. Excise tax levied. An excise tax is levied on tobacco products in the state at the rate of **100** [75] percent of the wholesale price of the tobacco products. The tax is levied when a person

(1) brings, or causes to be brought, a tobacco product into the state from outside the state for sale;

(2) makes, manufactures, or fabricates a tobacco product in the state for sale in the state; or

(3) ships or transports a tobacco product to a retailer in the state for sale by the retailer.

* **Sec. 12.** AS 43.50.540(f) is amended to read:

(f) Title to the stamps passes immediately to the licensee at the time the stamps are obtained in person or, if the stamps are shipped or transported, at the time the stamps are placed in the United States mail or received by the common or private carrier. The licensee bears all costs associated with shipping or transporting the stamps**. The department may replace stamps lost or damaged in transit if the licensee provides proof acceptable to the department verifying that the loss or damage occurred while the stamps were in the possession of the shipping company and the shipping company substantiates the loss or damage. Damaged stamps must be returned to the department before the department may replace them** [AND ALL RISKS OF POSSIBLE LOSS OR DAMAGE WHILE IN TRANSIT].

*** Sec. 13.** AS 43.50.580(b) is amended to read:

(b) A licensee may possess unstamped cigarettes in this state if

(1) the licensee posts a surety bond in an amount satisfactory to the department to ensure performance of its duties under this chapter; and

(2) unstamped cigarettes are necessary for the conduct of the licensee's business in making sales or distributions

(A) to an instrumentality of the federal government or an Indian tribal organization authorized by law to possess cigarettes not taxed under this chapter**; or**

(B) to customers outside the state and the licensee provides proof acceptable to the department that the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are made.

*** Sec. 14.** AS 43.50.590(a) is amended to read:

(a) The department shall adopt procedures for a refund or credit to a licensee in the amount of the denominated value, less the discount given under AS 43.50.540, for

(1) unused or damaged stamps; [OR]

(2) stamps affixed to cigarette packages that have become unfit for use or sale, are destroyed, or are returned to the manufacturer for credit or replacement if the licensee provides proof acceptable to the department that the cigarettes have not been and will not be consumed in this state**; or**

(3) stamps affixed to cigarette packages that are sold or distributed outside the state if the licensee provides proof acceptable to the

department that the cigarettes have not been and will not be consumed in this state and the licensee is properly licensed in the jurisdictions outside the state where the sales or distributions are made.

* **Sec. 15.** AS 43.50 is amended by adding a new section to read:

Sec. 43.50.625. Forfeiture of other property. (a) The following are subject to forfeiture:

(1) material and equipment used in the manufacture, sale, offering for sale, or possession for sale, barter, or exchange of cigarettes for goods and services in this state in violation of AS 43.50.500 - 43.50.700;

(2) aircraft, vehicles, or vessels used to transport or facilitate the transportation of cigarettes manufactured, sold, offered for sale, possessed for sale, or bartered or exchanged for goods and services in this state in violation of AS 43.50.500 - 43.50.700;

(3) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited under AS 43.50.500 - 43.50.700.

(b) Property subject to forfeiture under this section may be actually or constructively seized under an order issued by the superior court upon a showing of probable cause that the property is subject to forfeiture under this section. Constructive seizure is effected upon posting a signed notice of seizure on the item to be forfeited, stating the violation and the date and place of seizure. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or search;

(2) the property subject to seizure is the subject of a prior judgment in favor of the state; or

(3) there is probable cause to believe that the property is subject to forfeiture under (a) of this section; property seized under this paragraph may be held for not more than 48 hours unless an order of forfeiture is issued by the court before the end of that time period.

(c) Within 30 days after a seizure under this section, the Department of Public Safety shall make reasonable efforts to ascertain the identity and whereabouts of any person holding an interest, or an assignee of a person holding an interest, in the property seized, including a right to possession, or a lien, mortgage, or conditional sales contract. The Department of Public Safety shall notify the person ascertained to have an interest in the seized property of the impending forfeiture, and, before forfeiture, the Department of Law shall publish, once a week for four consecutive calendar weeks, a notice of the impending forfeiture in a newspaper of general circulation in the judicial district in which the seizure was made, or if a newspaper is not published in that judicial district, in a newspaper published in the state and distributed in that judicial district.

(d) Property subject to forfeiture under (a) of this section may be forfeited

(1) upon conviction of a person for a violation of AS 43.50.640 or 43.50.650; or

(2) upon judgment by the superior court in a proceeding in rem that the property was used in a manner subjecting it to forfeiture under (a) of this section.

(e) The owner of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the owner shows that the owner

(1) was not a party to the violation;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, or conditional sales contract on, or the right to possession of property subject to forfeiture under (a) of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture;

(2) did not have actual knowledge or reasonable cause to believe that the property was used or was to be used in violation of the law; and

(3) did not have actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this chapter; or

(B) committed other violations of this chapter.

(g) It is not a defense in an in rem forfeiture proceeding brought under (d)(2) of this section that a criminal proceeding is pending or has resulted in conviction or acquittal of a person charged with violating AS 43.50.640 or 43.50.650.

(h) Property forfeited under this section shall be placed in the custody of the commissioner of public safety for disposition according to an order entered by the court. The court shall order destroyed any property forfeited under this section that is harmful to the public and shall order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized. Other property shall be ordered sold and the proceeds used for payment of expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs. The remainder of the proceeds shall be deposited in the general fund.

(i) Upon conviction of a person for a violation of AS 43.50.640 or 43.50.650, if an aircraft, vehicle, or vessel is subject to forfeiture under (a) of this section, subject to remission to innocent parties under this section, the court shall order the forfeiture of

(1) the aircraft to the state;

(2) the vehicle or vessel to the state if the defendant

(A) has a prior felony conviction for a violation of AS 11.41;

(B) is on felony probation or parole; or

(C) has a prior conviction for violation of AS 43.50.640 or 43.50.650.

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or vessel if the court determines that

(1) the vehicle or vessel is the sole means of transportation for a family

residing in a village;

(2) either

(A) the members of the family would be entitled to remission under this section if they were owners of or held security interests in the vehicle or vessel; or

(B) the members of the family were unable as a practical matter to stop the violation of this chapter making the vehicle or vessel subject to forfeiture; and

(3) the court can impose conditions that will effectively prevent the defendant's use of the vehicle or vessel.

(k) The title to a vehicle or vessel forfeited to the state under this section may be transferred by the state to a municipality or the local governing body of a village for official use by the municipality or village, on condition that the vehicle or vessel not be available for use by the defendant.

(*l*) In this section, "village" means a community of less than 1,000 persons located off the interconnected state road system.

*** Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FLOOR STOCK TAX FOR CERTAIN CIGARETTES IN THE STATE ON THE EFFECTIVE DATE OF THIS ACT. (a) Notwithstanding any other provision to the contrary, a floor stock tax is imposed at 12:01 a.m. on the effective date of this Act upon every person in control or possession of cigarettes for sale or distribution in the state that were taxed at the rate in effect before the effective date of this Act. The floor stock tax is the difference between the tax computed on each cigarette as provided in AS 43.50.190, as amended by sec. 10 of this Act, on the effective date of this Act and the tax actually paid on each cigarette as required by AS 43.50.190 as it read on the day before the effective date of this Act. The person subject to the floor stock tax under this section must provide proof that the tax required by AS 43.50.190, as it read on the day before the effective date of this Act, on each cigarette was previously paid or the tax actually paid on each cigarette is considered to be zero.

(b) A person subject to the floor stock tax under this section shall file a report not later than the last day of the month in which this Act takes effect on a form prescribed by the Department of Revenue and pay the tax to the Department of Revenue in six sequential monthly installments. The first installment shall be paid not later than the last day of the month in which this Act takes effect. The penalty, interest, and taxpayer remedy provisions of AS 43.05 apply to the floor stock tax under this section.

* **Sec. 17.** This Act takes effect July 1, 2004.

HOUSE BILL NO. 538
"AN ACT RELATING TO TOBACCO TAX; LICENSING; PENALTIES"

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Increases the cigarette license fee for direct-buying retailers from $25 to $50. This increase makes the license fee the same for distributors and direct-buying retailers who are engaged in substantially similar activities.

Section 2. This section is a technical correction to the wholesaler-distributor cigarette license type. This correction ensures that in-state individuals and retailers are not double taxed on product that is sold to them by an entity holding a wholesaler-distributor license.

Section 3. This section requires unlicensed entities that bring cigarettes into the state upon which a tax stamp is not affixed to pay the cigarette excise tax and remit it to the department each month.

Section 4. This section is a technical correction to the definition of a "buyer" that ensures that an individual bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax.

Section 5. This section is a technical correction to the definition of "direct-buying retailer" that ensures that a retailer bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax.

Section 6. This section is a technical correction to the definition of "distributor" that ensures that a distributor bringing cigarettes into the state that were purchased from a licensed wholesaler-distributor are not again subject to tax.

Section 7. This section is a technical correction to the definition of "wholesaler-distributor" that ensures that entities outside the state who make sales of cigarettes into the state are properly licensed.

Section 8. This section increases the tax on cigarettes by 50 mills or $1.00 per pack of 20.

Section 9. This section increases the tax on other tobacco products from 75% to 100% of the wholesale cost.

Section 10. This section allows licensees to apply for a credit for cigarette tax stamps that were lost or damaged in transit.

Section 11. This section allows in-state cigarette licensees to maintain unstamped cigarette inventories if the licensee is in the business of making cigarette sales to customers outside the state and the licensee is properly licensed in the other states where it makes sales.

Section 12. This section allows in-state cigarette licensees to claim a credit for cigarette tax stamps affixed to packages of cigarettes that are sold outside the state provided the licensee is properly licensed in the other states where it makes sales and the licensee provides proof acceptable to the department that the stamped cigarettes were not consumed in Alaska.

Section 13. This section provides that unstamped cigarettes that are seized are forfeited to the state and shall be destroyed by the state.

Section 14. This section allows the seizure of assets used in the sale or transport of cigarettes that are sold in the state in violation of the cigarette tax act. This section further outlines the types of assets that may be seized, procedures for seizing assets, and procedures for the disposition of assets seized.

Section 15. This section requires that a floor stock tax be paid by all persons in control or possession of cigarettes for resale at the effective date of this bill. A floor stock tax is the difference between the tax paid at the old and new tax rates. The floor stock tax will apply to cigarettes only. The floor stock tax is due no later than 30 days after the effective date of this bill.

Section 16. This section is a technical correction to the heading of AS 43.50.610.

Section 17. The section defines the effective date of this legislation as July 1, 2004.

FRANK H. MURKOWSKI
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March 16, 2004

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 article III, section 18 of the Alaska Constitution, I am transmitting a bill that would increase the cigarette excise tax from five cents per cigarette to ten cents per cigarette. The tax on "other tobacco products" such as smokeless tobacco would be increased from 75 percent to 100 percent of the wholesale cost.

This bill provides the multiple benefits of saving Alaskan lives, reducing health related expenditures, and raising state revenue. Increasing the price of tobacco is one of the most effective ways of reducing tobacco use, especially among youths. It is well substantiated that as the price of cigarette increases, rates of smoking decline. As youths are especially sensitive to such price increases, we can expect the proposed $1.00 per pack cigarette tax increase will add to the 50 percent drop in youths smoking rates we have seen in Alaska since 1995. A further drop in youths smoking rates of just 15 percent from current levels would translate into 1,800 lives saved from premature death due to tobacco addiction among Alaska high school students alive today.

Among current adult smokers, 3,500 will quit smoking because of the tax, and of those, 800 will be saved from a smoking-caused death. Smoking among expectant mothers would also be reduced significantly, resulting in 850 babies being spared from exposure to maternal smoking while in utero during the next five years. The impact of tobacco taxes on health is not unprecedented in Alaska. Within a year of the implementation of the $1.00 per pack cigarette tax in October 1997, the number of cigarettes consumed in Alaska had dropped by 15 percent, and sales have not rebounded since then.

Alaska Natives should particularly see the benefits from reduced smoking. While smoking rates are declining within the U.S. general population, the rate of smoking is unchanged among Alaska Native adults and, at 44 percent, is almost double that of non-Natives. Currently, 44 percent of

Alaska Native high school students smoke, almost four times the rate among non-Native students. One-third of Alaska Native high school boys use smokeless tobacco, as do one-sixth of their female counterparts. Use of smokeless tobacco among Alaska Native girls is nine times higher than the national rate. Lung cancer, the leading cause of cancer deaths, is increasing at an alarming rate among Alaska Natives of both sexes. Cardiovascular disease, including heart disease and stroke, is also linked with tobacco use, and kills approximately 120 Alaska Natives each year.

In addition to the devastating health impacts, smoking is a fiscal disaster for Alaska. The state receives nearly $47 million in cigarette and other tobacco product tax revenues, but this amount doesn't even begin to cover the economic and social costs associated with smoking-related illnesses. The Centers for Disease Control and Prevention (CDCP) estimates that in 1998 the cost for direct medical expenses attributed to smoking-related disease and death in Alaska was nearly $133 million. In addition, CDCP estimates Alaska's total cost of lost productivity due to early tobacco-related deaths in 2001 was $137 million.

Alaska can expect to see fiscal savings relatively soon following implementation of this proposed tax. Within five years, the health care savings from fewer smoking affected pregnancies and births will amount to $1.6 million, according to the Campaign for Tobacco-Free Kids. This group estimates that the savings in the state from fewer smoking-related heart attacks and strokes will be $1.8 million, and the long-term health care savings from adult and youth smoking declines will be $146.3 million.

While saving in medical and lost-productivity expenditures, the proposed tax would also generate an estimated $35.5 million in new tax revenues for the state annually. In addition, an estimated $350,000 in new revenues will be generated for those municipalities in the state that levy a sales tax on the retail price of cigarettes.

With cigarette taxes at $2.00 a pack, there will be incentive for tax evasion and smuggling. The new tobacco tax stamp, as passed into law last year, will help address this issue by serving to identify illegal cigarettes. To further advance this enforcement effort, my proposed bill allows the Department of Public Safety to seize and dispose of equipment, vehicles, money, and other assets used in cigarette smuggling and tax evasion activities. These types of seizures will make cigarette smuggling and tax evasion less attractive and protect state revenues.

G ven the health impact, cost savings, and revenue to be generated from the proposed tobacco tax, I urge your support for this legislation.

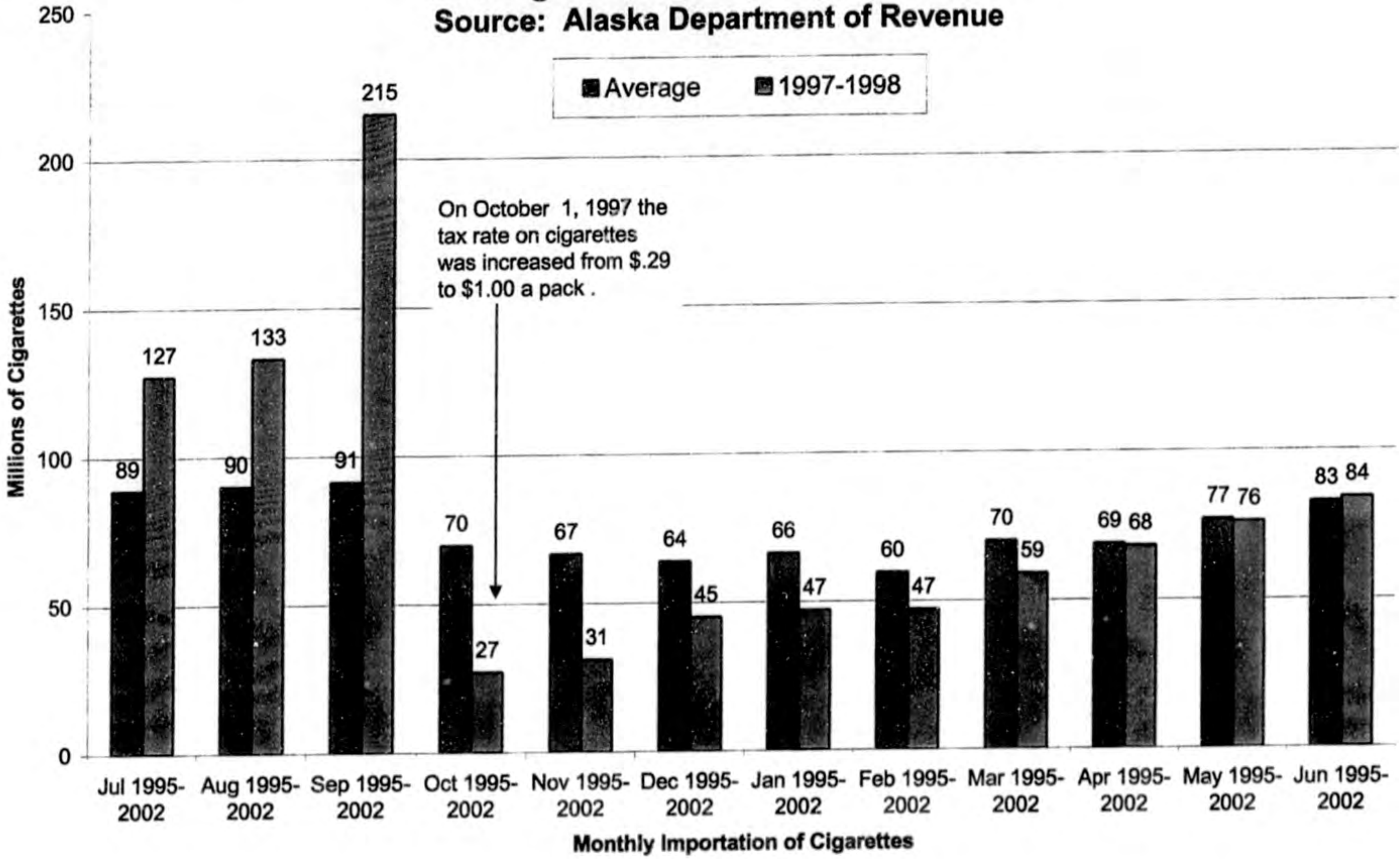
Sincerely yours,

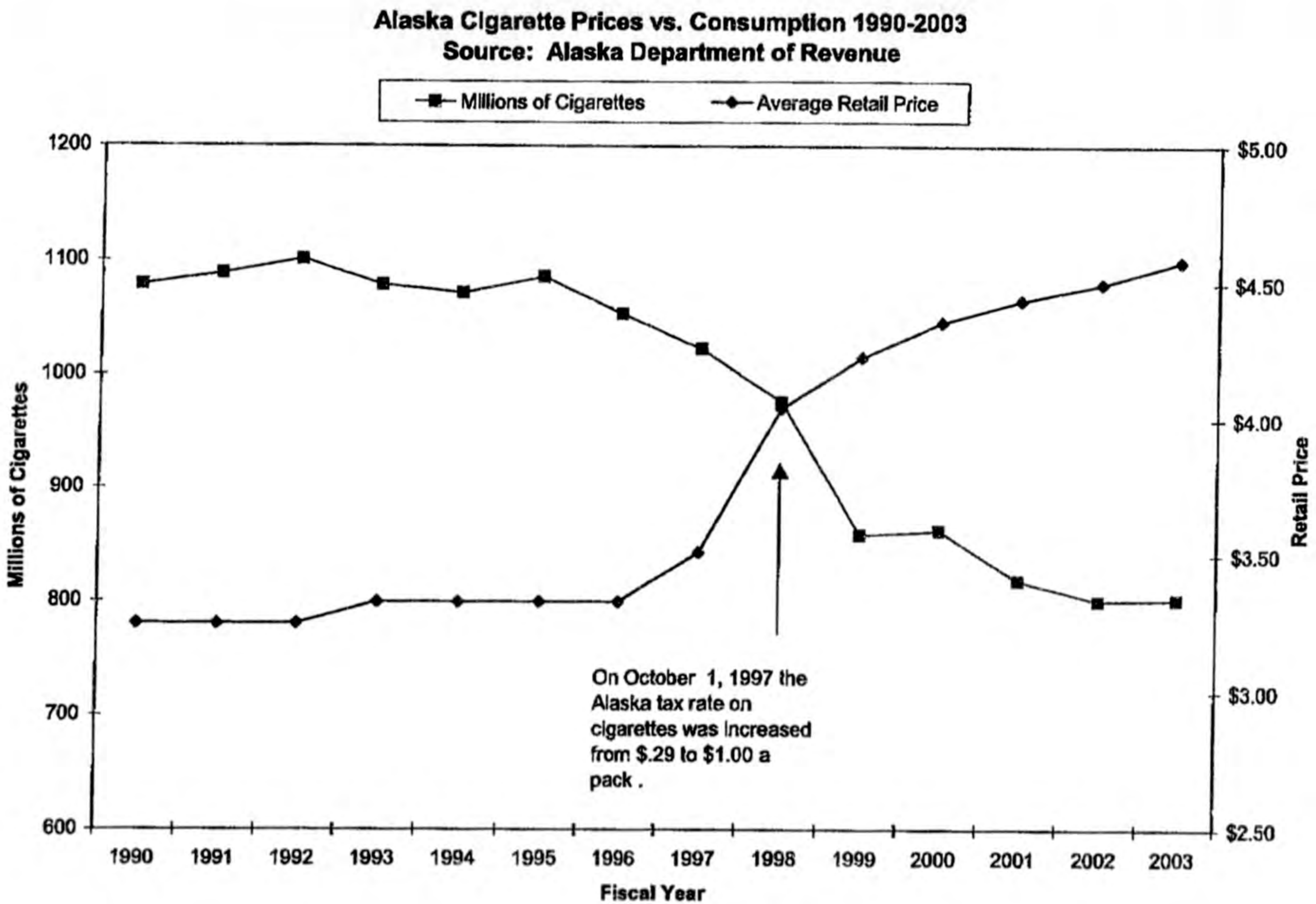
Frank H. Murkowski

Frank H. Murkowski
Governor

Enclosure

Cigarette Importations FY 1996 - FY 2002 and Cigarette Stockpiling in FY 1998
Source: Alaska Department of Revenue




Alaska Cigarette Prices vs. Consumption 1990-2003
Source: Alaska Department of Revenue
Millions of Cigarettes
Average Retail Price
1200
1100
1000
900
800
700
600
Millions of Cigarettes
$5.00
$4.50
$4.00
$3.50
$3.00
$2.50
Retail Price
On October 1, 1997 the Alaska tax rate on cigarettes was increased from $.29 to $1.00 a pack .
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
Fiscal Year

AMERICAN LUNG ASSOCIATION.
of Alaska

Testimony- HB 538 and SB 368 – Increasing the State Tobacco Tax

Good morning, my name is Christie Garbe, I'm the CEO for the American Lung Association of Alaska and I am honored to speak to you in support of House Bill 538 and Senate Bill 368 -- Increasing the State Tobacco Tax.

Did you know that high school smoking rates in Alaska have been cut in half since 1995? While we have much to celebrate, it's essential to realize that this success is the result of combined efforts that include mass media advertising to counter tobacco industry messages, community-based programs, enforcement against illegal vendors, smoke-free work place policies, and last but certainly not least it includes tobacco taxes. Studies show that higher cigarette taxes are one of the most effective ways to reduce smoking among youth and adults. Alaska's own experience proves the point.

A Department of Revenue study shows Alaska's tobacco consumption dropped substantially in response to the 1997 tobacco price increase. Among younger children the report estimated a 30 percent reduction in smoking.

Studies estimate increasing Alaska's tobacco tax will:

- decrease youth smoking by 15 percent;
- prevent 9 thousand kids alive today from becoming smokers,
- encourage 45-hundred adults to quit smoking
- and save at least 9 hundred current adult smokers from premature smoking-caused death.

Less addiction. Less disease. Less suffering. Less premature death. Lower health care costs to private businesses and to government programs. There are few, if any, more important measures that could be identified to document success.

There are heroes within this Legislature committed to tobacco control and to investing Alaska's remaining 20 percent share of the Tobacco Settlement in programs to prevent tobacco addiction and death -- they sit among you today -- to them, we owe a great deal of gratitude.

legislature
Together with community partners, Governor Murkowski and th~~e legislato~~r, we've made an amazing difference.

We are heartened by your willingness to consider the tobacco tax increase. This is the next step in the fight against tobacco addiction in our state -- a cause the American Lung Association of Alaska enthusiastically supports.

AARP Alaska

March 23, 2004

The Honorable Mike Hawker, Chair
House Ways and Means Committee
Alaska Capitol, Room 434
Juneau, Alaska 99801-1182

RE: HB 538(Governor Murkowski)—Support

Dear Chair Hawker:

On behalf of the AARP members in Alaska, we ask that you and your colleagues on the House Ways and Means Committee support HB 538, the proposal by Governor Murkowski to increase the tobacco tax for cigarettes and other tobacco products.

As the Governor's transmittal letter clearly points out, the cost of smoking-related illnesses to the Alaska state budget far outweighs the revenue from the current taxes. Indeed, the tax increase proposed in HB 538 will still fall far below government costs.

Tobacco companies will argue that tobacco taxes are regressive because they take a higher percentage of income from low-income people. It is AARP's position that increased tobacco taxes that discourage consumption of harmful commodities serve a useful social purpose. In addition, the funds brought in from tobacco taxes are less regressive if they are used to finance programs such as health care for those with low incomes, ie., Medicaid.

AARP recently sent a copy of a survey of Alaskans over age 18 to you and your colleagues in the Legislature. Although we asked about a 50 cents per pack increase in our survey, admittedly below the Governor's $1.00 per pack increase, 56% strongly supported it and another 15% somewhat supported the tax increase. Other AARP research indicates that the public overall does object less to tobacco taxes because they are a tax that can be avoided.

We encourage an appropriate amount of the new revenue from this tax increase to be applied to smoking-cessation programs. As the Governor points out, Alaska Native adults and high school students are twice as likely to use tobacco than non-Natives. AARP recommends special targeted cessation efforts to our Native citizens and youth.

We are aware that, if the tax partnered with cessation programming is successful, this will be a diminishing revenue stream. Unfortunately tobacco tax increases will not provide a

3601 C Street, Suite 1420 | Anchorage, AK 99503 | 907-341-2277 | 907-341-2270 fax | 1-877-434-7598 TTY
James G. Parkel, President | William D. Novelli, Executive Director and CEO | www.aarp.org

"magic pill" to make the fiscal gap disappear. AARP still encourages you and your colleagues to aggressively pursue a comprehensive solution to our fiscal problems.

HB 538 does provide a part of the solution to our fiscal problems. Even more importantly, it provides a significant solution to at least part of Alaska citizens' health problems.

AARP recommends an "AYE" vote on HB 538.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

Marguerite Stetson

Marguerite Stetson
AARP Alaska
State Coordinator for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

CC: Vice-Chair Weyhrauch
Representative Kohring
Representative Ogg
Representative Rokeberg
Representative Samuels
Representative Wilson
Representative Gruenberg
Representative Moses
Governor Murkowski
Marie Darlin
Patrick Luby

ALASKA COALITION OF SMALL BUSINESS
11800 Nebesna • Anchorage, Alaska 99516 • 907-345-5131

March 23, 2004

To: Members of the House Ways and Means Committee

I am writing to oppose HB 538 for the following reasons:

- *Alaska would have the second highest tax in the country after New Jersey at $2.05; Other western state taxes: Montana, 70 cents; Idaho, 57 cents; Oregon, $1.28; Washington, $1.425; Wyoming, 60 cents; Utah, 69.5 cents*

- *Purchasers would shift to buying cigarettes over the Internet, where no state taxes are collected; Alaskan retail businesses would be harmed*

- *Higher cigarettes taxes would lead to more smuggling of tobacco products to avoid taxation and more illegal trafficking of counterfeit product*

- *Using cigarette taxes to balance the state budget is bad fiscal policy; cigarette taxes are an unstable and inequitable way to raise revenues*

- *Higher taxes would threaten payments to the state under the Master Settlement Agreement; annual payments are tied to the sales volume of the major "participating" manufacturers, and when purchasing shifts to products not covered under that agreement or to illegal products, those payments will fall.*

Please don't take the easy way out by singling out one group of Alaskans for higher taxes. We deserve a more equitable solution to our budget problems.

Sincerely,

Geo Kallas

George Kallas

A L A S K A
TOBACCO CONTROL ALLIANCE

March 21, 2004

Dear Committee Chairs

The Alaska Tobacco Control Alliance (ATCA) is pleased to provide this letter of support for HB 538 and SB 368 which will increase Alaska's tobacco tax by $1.00 per pack.

ATCA was formed in 1992 to encourage, coordinate and support effective methods of controlling and preventing tobacco use for the purpose of increasing the years of healthy life for all Alaskans by reducing disease caused by tobacco use. ATCA'S vision is a tobacco-free Alaska. ATCA has over 200 statewide members consisting of educators, health professionals, government agencies, private businesses, parents and others are committed to this cause.

In January 2004, the ATCA Board met and agreed to support an increase in Alaska's tobacco tax. An increase in the tobacco tax is an important part of overall tobacco control program.

Alaska has had tremendous success in reducing youth smoking; we can continue the trend by raising the cost of cigarettes and maintaining our effective tobacco control programming. An increase in the tobacco tax is a sound public health decision. With an increase in the tax, we will prevent thousands of Alaskan youth from picking up their first cigarette.

Affects on youth consumption are projected to be

- **Percent decrease in youth smoking: approximately 15.0%**
- **Increase in total number of youth alive today who will not become smokers: 9,100**
- **Number of youth alive today saved from premature smoking-caused death: 2,900**

Creating barriers to youth smoking is good for public health. Smoking is a pediatric disease. Adults do not start smoking, children do. Virtually all today's smokers started before they were 19 years old. Effectively run tobacco control programs can help these adult smokers quit, but we need to stem the tide of future smokers. The future smokers of Alaska are our children. This tobacco tax increase will save thousands of lives and aid in the further decline of the number of kids who smoke in Alaska today.

In behalf of the Alaska Tobacco Control Alliance and its 200 members around the state, I urge you to pass these bills and give Alaska a powerful tool in the battle against youth smoking.

Sincerely,

Ruthemae Karr

ATCA Chair

For more information, see the Campaign fact sheets -- including *Raising State Tobacco Taxes Always Reduces Tobacco Use (& Always Increases State Revenues)* – at http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18 and http://tobaccofreekids.org/reports/prices.

American Cancer Society · AMERICAN LUNG ASSOCIATION. of Alaska · American Heart Association. Learn and Live. · Alaska Native Health Board

Alaskans for Tobacco-Free Kids

March 12, 2004

Dear Representative Hawker:

Alaska's voters strongly favor tobacco taxes to prevent kids from smoking and prefer tobacco taxes over other revenue measures to help fill Alaska's fiscal gap. Alaskans for Tobacco Free Kids is pleased to provide the results from our 2004 poll showing the depth of public support for a tobacco tax. There is no longer a question that taxes, along with other tobacco control efforts, are an effective tool to reduce smoking. Alaska's own experience proves the point:

- Analysis of the impact of the 1997 tax increase by the Alaska Department of Revenue and the Alaska Department of Health and Social Services found that, as expected, tobacco consumption dropped substantially in response to the price increase with smoking declines especially pronounced among Alaskan youth (*The Impact of the 1997 Tobacco Tax Rate Increase*, June 2000, ADOR and ADHSS). Among younger children, the report provided a preliminary estimated decline in smoking of 30%.

Combined with tobacco control efforts, tobacco taxes have contributed to Alaska's remarkable progress in reducing tobacco use among Alaska's children. As documented by the 2003 Youth Risk Behavior Survey, **high school tobacco use has been cut in half since 1995.**

The results of the recent poll clearly show that Alaskans support an increase in the state tobacco tax by $1 per pack of cigarettes. Along with tax increases on other tobacco products, this would raise an additional $36 million/year in unrestricted revenue for the state general fund. In addition, the poll shows that Alaskans are just as supportive of a $1.00 tax increase as they are for a lesser amount. The regional breakouts show strong support for an increase in the tax across the state, and notably high support in Ketchikan and Sitka.

Poll highlights include:

- 82% of Alaskans are concerned about youth smoking
- 67% of Alaskans support an increase in the tobacco tax
- Support is strong across party lines
- A majority of voters across party lines would vote for a candidate who supports increasing the tobacco tax over a candidate who opposed increasing the tax

Saving lives using Alaska's Tobacco Settlement
Alaskans for Tobacco-Free Kids • c/o American Cancer Society • 1057 W Fireweed Lane, Suite 204 • Anchorage, Alaska 99503
Phone: 907-277-8696 • Outside Anchorage: 1-800-478-9355 • Fax: 907-263-2073
www.aktobaccofreekids.org

- Public support for the tax remains constant at a $.50 or $1 increase

According to the Centers for Disease Control and Prevention, tobacco use in Alaska costs the general public $6.38 per pack in health care costs and lost productivity, meaning that the general public is subsidizing the cost of tobacco use in Alaska. Increasing the state tobacco tax to $2/pack would still only recoup a small portion of these costs.

We hope that you will favorably embrace the public's call for these critical public health measures; maintain funding for tobacco control with the remaining 20% of the Master Settlement Agreement at 20% of MSA for tobacco control and support a $1 per pack increase in Alaska's tobacco tax. As always, we are happy to provide additional information as the legislative session progresses.

Sincerely,

Annette Marley
Alaska Native Health Board

Jennifer App
American Heart Association

Christie Garbe
American Lung Association of Alaska

Emily Nenon
American Cancer Society

Enclosures

Saving lives using Alaska's Tobacco Settlement
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www.aktobaccofreekids.org

American Cancer Society®

American Heart Association®
Fighting Heart Disease and Stroke

AMERICAN LUNG ASSOCIATION® of Alaska

Alaska Native Health Board

Statewide Survey of Alaska Voters

February 19 - February 24, 2004

QEV ANALYTICS

Executive Summary

Voters are concerned about tobacco use among young people in Alaska.

Two-thirds of Alaska voters support increasing the state tobacco tax by $1 per pack -- increasing the tobacco tax is the most preferred way to address the state budget deficit.

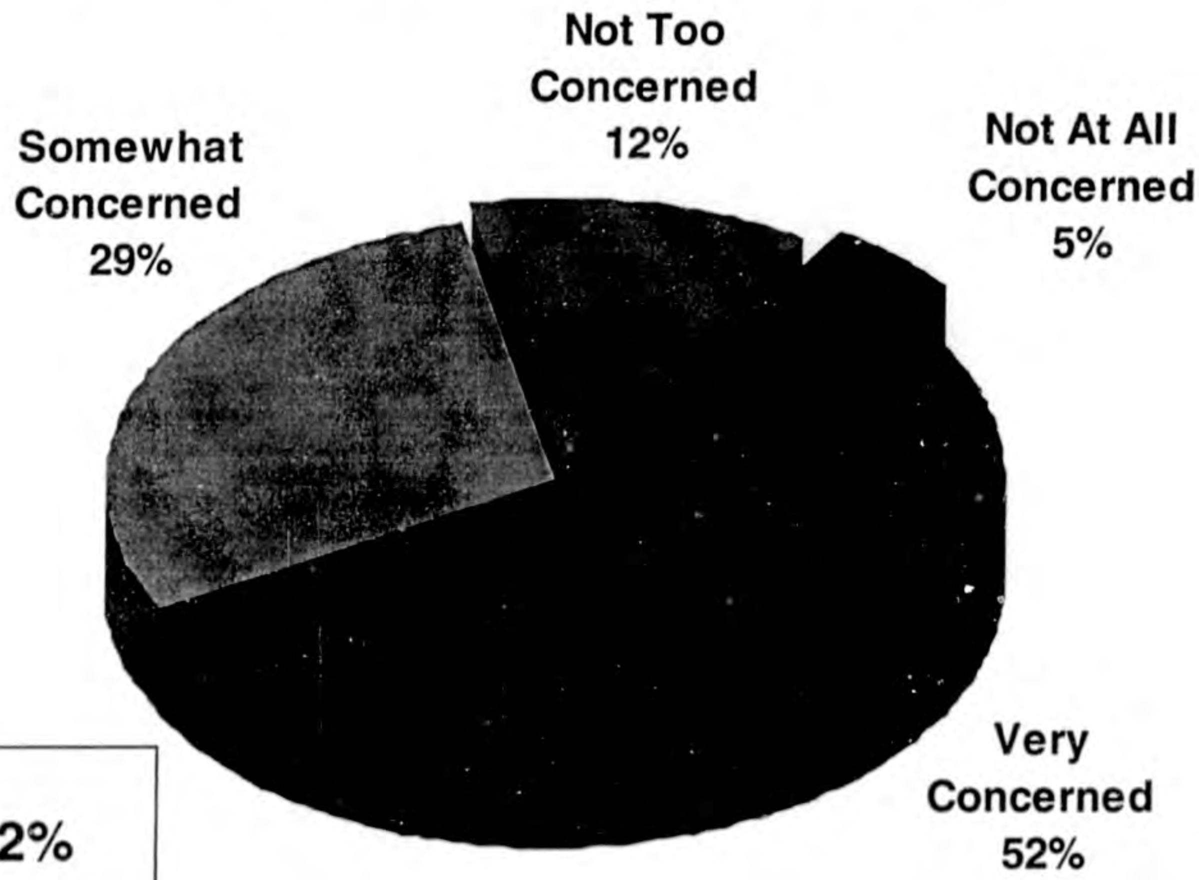
There is broad support across regional and demographic lines for increasing the tobacco tax by $1 per pack.

Voters are just as supportive of a $1 tax increase as they are of 50-cent increase.

A majority of voters across party lines would vote for a candidate who supports increasing the tobacco tax over a candidate who opposed increasing the tax.

In fact, voters prefer the candidate who supports the tobacco tax increase - *regardless of the candidate's party affiliation.*

Alaska Voters Are Very Concerned About Tobacco Use Among Young People



Concerned 82%

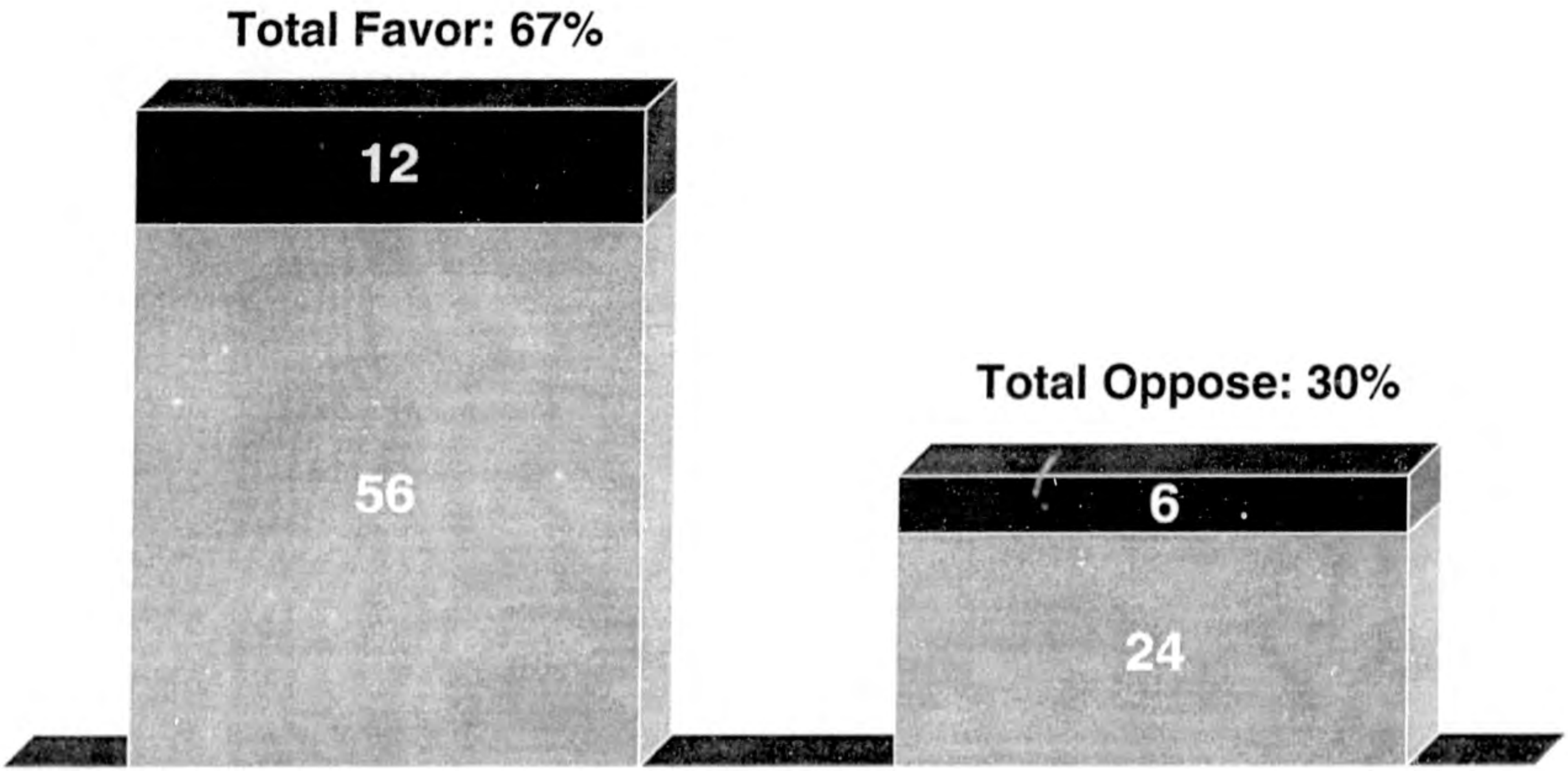
Not Concerned 17%

Total numbers are rounded

Alaska
Statewide survey of registered likely voters - February 2004

Alaska Voters Favor A $1 Increase in the Tobacco Tax

Would you favor or oppose a one dollar per pack increase in the state tobacco tax as part of an effort to reduce tobacco use, particularly among kids, with the revenue available to address the state's budget shortfall?

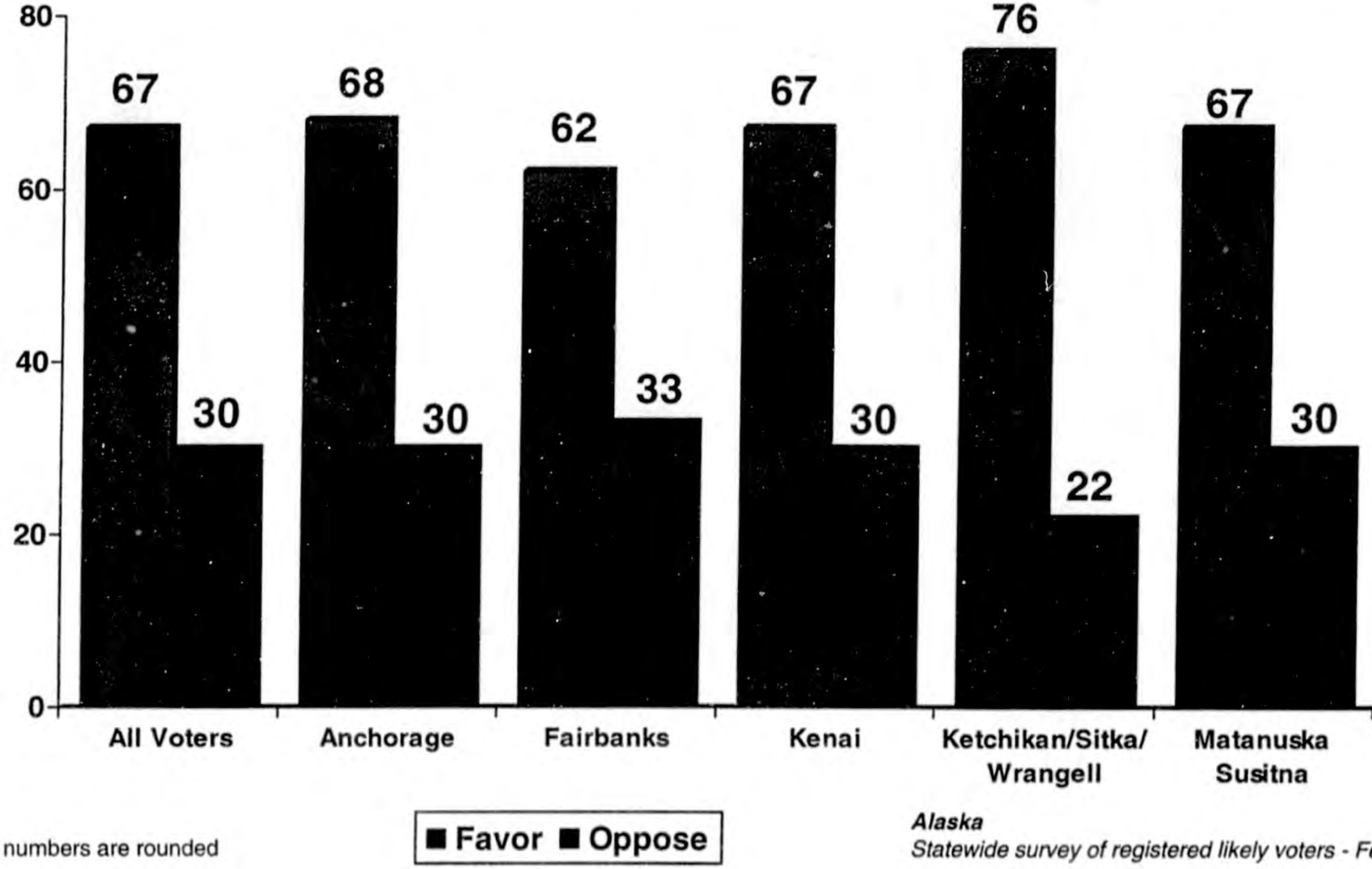


Darker shading equals stronger intensity
Total numbers are rounded

Alaska
Statewide survey of registered likely voters - February 2004

A $1 Tobacco Tax Increase Receives Majority Support Across The State

Would you favor or oppose a one dollar per pack increase in the state tobacco tax as part of an effort to reduce tobacco use, particularly among kids, with the revenue available to address the state's budget shortfall?

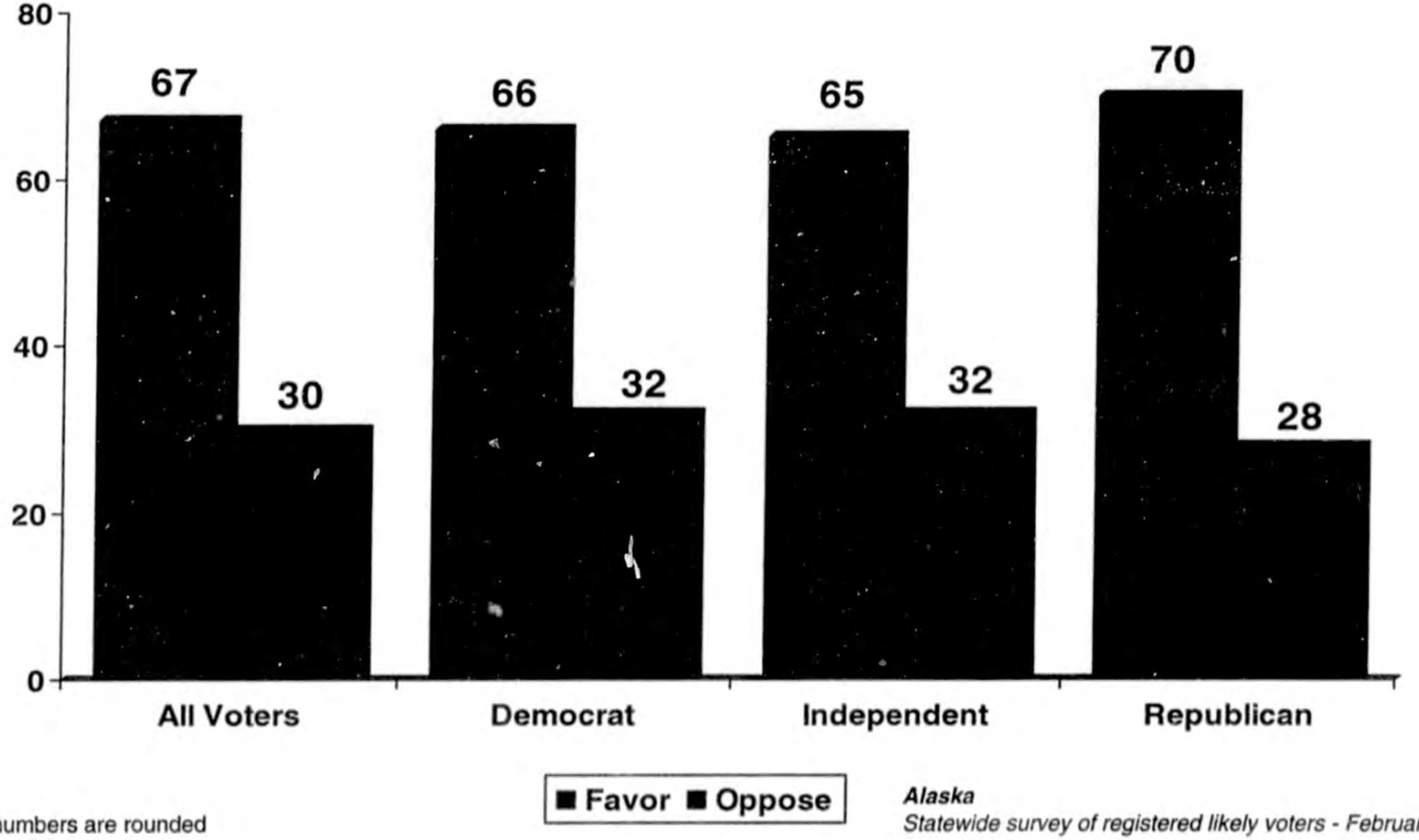


Total numbers are rounded

Alaska
Statewide survey of registered likely voters - February 2004

Support for a $1 Tobacco Tax Increase Remains Strong Across Party Lines

Would you favor or oppose a one dollar per pack increase in the state tobacco tax as part of an effort to reduce tobacco use, particularly among kids, with the revenue available to address the state's budget shortfall?

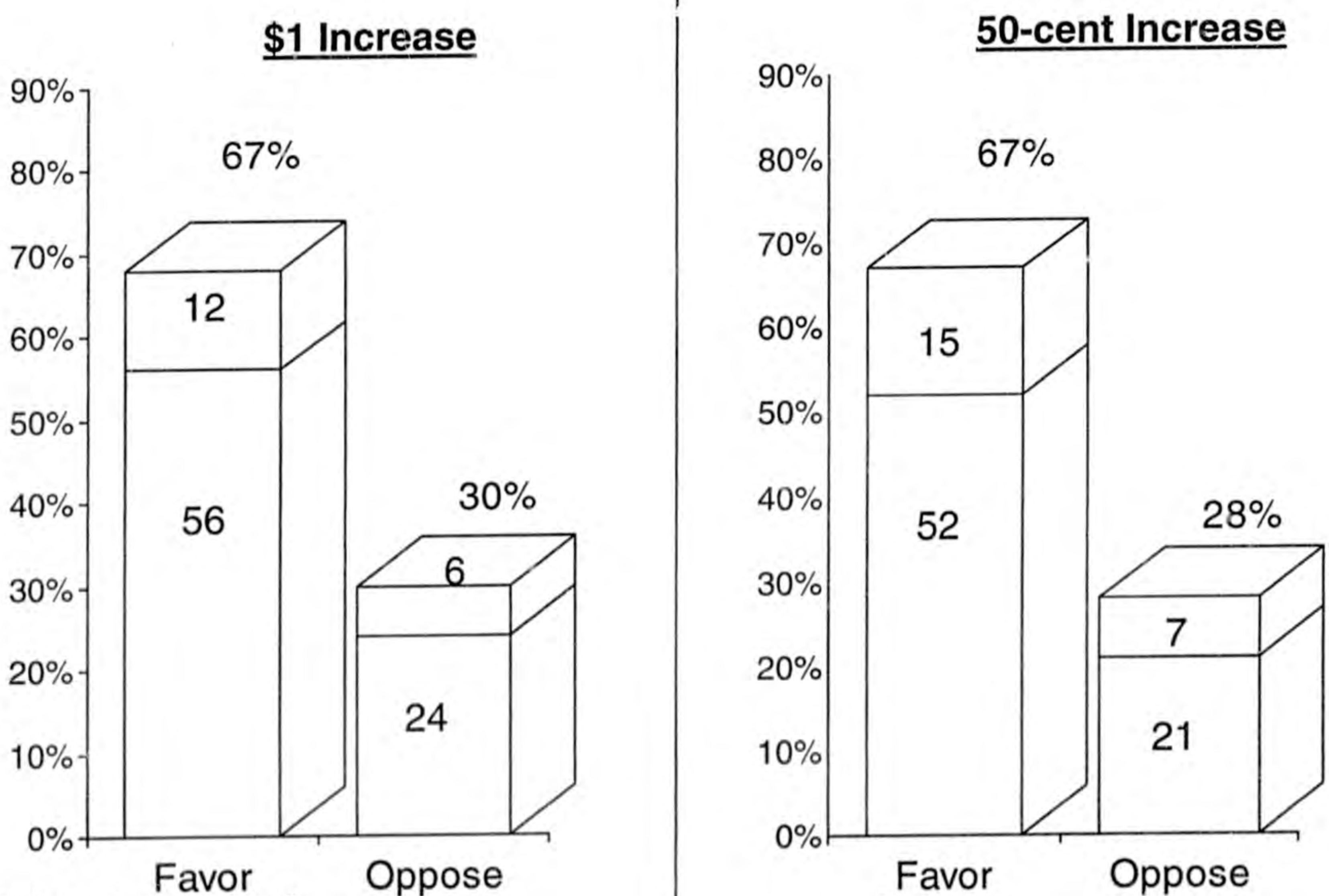


Total numbers are rounded

Alaska
Statewide survey of registered likely voters - February 2004

Alaska Voters Support a Cigarette Tax Increase

There Is No Difference In Support Between A $1 And A 50-Cent Increase



Darker shading equals stronger intensity
Total numbers are rounded

Alaska
Statewide survey of registered likely voters - February 2004

Methodology

QEV Analytics conducted 662 telephone interviews among registered likely voters in Alaska Feb 19 - Feb 24, 2004 (95% confidence level +/- 3.8%). Margin of error for sub-groups is larger.

QEV Analytics is a full service public opinion research firm located in the shadow of the U.S. Capitol in Washington. We conduct both quantitative research (surveys of public opinion) and qualitative research (techniques such as focus groups, one-on-one interviewing, "perception analyzer" video testing, and mall intercept ("rapid reaction" research).

QEV Analytics was founded in 1996 to fulfill the special needs of a specific niche of public opinion research consumers: those corporate, international, and political clients requiring a more sophisticated level of analysis than is typically available from opinion research firms.

QEV is recognized as a Republican public opinion research firm. It's founder, Steven Wagner has worked for various Republican candidates and organizations since the early 1990's. Early in his career, Mr. Wagner was the Political Director of the National Republican Institute for International Affairs, he later worked on public opinion research related to the development of the Contract with America, and more recently worked with the Bush campaign 2000 on a voter outreach. Mr. Wagner also has assisted several local candidates seeking elected office over the years.

QEV was responsible for producing the single most cited survey analysis in the news media for 1999, the Survey of Teens and their Parents on Attitudes toward Illegal Drugs for the *National Center on Addiction and Substance Abuse* at Columbia University, headed by Joseph Califano.

This poll paid for by Alaska Native Health Board and for Campaign for Tobacco Free Kids.

American Heart Association®

Learn and Live℠

March 21, 2004

Dear Committee Chairs:

The American Heart Association is pleased to provide this letter of support for HB 538 and SB 368, legislation that would increase Alaska's cigarette tax by $1.00 per pack and increase the excise tax levied on other tobacco products by 33%.

The American Heart Association strongly supports significant increases in tobacco taxes because research from around the country has demonstrated time and again that as cigarettes get more expensive, fewer children start to smoke and adults are more likely to quit. As virtually all smokers become addicted before age 19, fewer children starting to smoke will have significant future public health benefits in Alaska. Smoking remains the leading preventable cause of cardiovascular disease, and it is also the leading preventable cause of death in Alaska, responsible for one out of every five deaths in our state. Although Alaska has had tremendous success in reducing youth smoking, we must strive to continue this exciting trend by raising the cost of cigarettes and maintaining our effective tobacco control programming.

Every state that has significantly increased its tobacco tax has enjoyed substantial increases in revenue while also reducing smoking rates. While Alaska will still not have the highest tax in the nation, the proposed increases will go a long way toward saving lives and generating revenue. Not only will the proposed taxes generate over $35 million each year, but as increased prices translate into fewer people smoking, it will also eventually help decrease the more than $130 million that Alaska spends each year on health care expenditures directly related to tobacco.

Very rarely do revenue measures and public health messages overlap so significantly. The American Heart Association asks for your support of this important piece of legislation – your commitment to increase the tobacco tax will help save thousands of Alaskan lives.

Thank you,

Jennifer App
Alaska Advocacy Director
American Heart Association

American Cancer Society®

March 22, 2004

Representative Mike Hawker, Chair
House Ways and Means Committee
State Capitol, Room 434
Juneau, AK 99801-1182

Dear Chairman Hawker:

The American Cancer Society is pleased to support HB 538, which increases the state's tobacco tax. The Society recognizes tobacco taxes as one of the most effective ways to reduce youth smoking and save lives. We have seen evidence of this fact across the nation as well as here in Alaska. There is no longer any doubt that tobacco taxes are a proven means to reduce tobacco use and save lives.

The mission of the American Cancer Society is to eliminate cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer. We also recognize the devastating impact of cancer on Alaskans. Cancer is currently the second leading cause of death for all Alaskans and the leading cause of death for Alaska Natives. Research shows that one-third of all cancers are tobacco-related and almost all tobacco-users first become addicted as children. By increasing the state's tobacco tax, with its known correlation to reducing youth smoking, we are taking a critical step in stemming the tide of rising health care costs to the state and needless death and disability in our communities.

The American Cancer Society urges the legislature to adopt this critical public health measure to save lives and protect the health of our children.

Sincerely,

Emily E. Nenon
Alaska Advocacy Manager

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(907) 277-8696 • (800) 478-9355 • Fax (907) 263-2073

Alaska Native Health Board

3700 Woodland Drive, Suite 500
Anchorage, Alaska 99517

Phone: (907) 562-6006
FAX: (907) 563-2001

March 22, 2004

The Honorable Representative Mike Hawker
House Ways and Means Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Chairman Hawker,

The Alaska Native Health Board supports the Governor's proposal to increase the tobacco tax by $1.00 per pack and urges you to pass HB 538 out of the House Ways and Means Committee.

Health care expenditures directly related to smoking cost Alaskans $132 million dollars per year. Our current tax covers only half of those costs. From an economic perspective the decision is simple – raise the tax. But the issue at hand is not just an economic one, it's about the well being of Alaskans. **It's about protecting kids and saving lives.**

We made great strides toward protecting our youth from the hazards of smoking when we increased the tobacco tax in 1997. Since that time, we have reduced the number of kids who smoke by nearly half. But we still have a lot of work to do. In rural Alaska, for example, we have an excessively high prevalence of both youth and adult smoking rates. The best thing we can do to change this statistic is to help prevent kids from ever picking up that first cigarette – increasing the cost of smoking is an effective tool to prevent youth initiation.

Among all age groups, tobacco consumption is the leading cause of preventable death. Though we have made progress in decreasing tobacco consumption in Alaska, increasing tobacco taxes is a proven way to further reduce tobacco consumption among people who already smoke.

We recognize that a tobacco tax alone won't stop the devastation caused by tobacco use in Alaska. The Alaska Native Health Board is also working on other measures such as local smokefree workplace policies, community education, and prevention strategies to help reduce the destruction caused by tobacco. An increase in Alaska's tobacco tax will go a long way to enhancing our efforts and the efforts of many other health organizations across the state with the goal of reducing death and disease caused by tobacco.

Protect Kids. Save lives. Support a $1.00 a pack tobacco tax increase.

Best regards,

Kattaryna Stiles
Tobacco Policy Coordinator

AMERICAN LUNG ASSOCIATION®
of Alaska

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1-800-LUNGUSA
500 W. Int'l Airport Rd., #A
Anchorage, Alaska 99518-1105
www.aklung.org
Fax: (907) 565-5587

March 22, 2004

Representative Mike Hawker, Chair
Members of the House Ways and Means Committee
State Capitol
Juneau, Alaska 99811

Re: HB 538 and SB 368 -- Increasing the State Tobacco Tax

Dear Chairman Hawker:

The American Lung Association of Alaska is pleased to support the above referenced bills. These measures represent a win, win, win solution for Alaska that reduces smoking, raises much-needed revenue and has strong support from voters. It's no wonder 33 states have increased cigarette taxes since January 1, 2002.

Studies show that higher cigarette taxes are one of the most effective ways to reduce smoking among both youth and adults. A Department of Revenue study shows Alaska's tobacco consumption dropped substantially in response to the 1997 tobacco price increase. Among younger children the report estimated a 30 percent reduction in smoking. The 1997 tax, as part of a comprehensive tobacco control program has contributed to the 50 percent reduction in high school smoking rates since 1995.

At the same time the 1997 tobacco tax increase generated approximately 30 million per year in new state revenue. The 2004 tax would generate approximately 36 million per year in new unrestricted revenue.

There is strong public support for substantially increased state tobacco taxes. A recent poll completed for *Alaskans for Tobacco-Free Kids* by QEV Analyt ICS shows 67 percent support among Alaskan voters for a $1.00 per pack increase in tobacco taxes.

Despite the great progress, tobacco remains the leading cause of preventable death in Alaska while costing the state hundreds of millions of dollars in increased health care costs and lost worker productivity. These are large "hidden costs" presently borne by the general non-smoking public and private businesses.

Tobacco use in Alaska costs the general public approximately $6.38 per pack. Increasing the state tobacco tax to $2 per pack would only recoup a small portion of these costs.

This measure would save thousands of Alaska lives, reduce health care costs and generated much needed revenue. All measures of success the American Lung Association of Alaska can enthusiastically support.

Sincerely,

Christie Garbe, CEO
American Lung Association of Alaska

CAMPAIGN for TOBACCO-FREE Kids®

BENEFITS FROM A CIGARETTE TAX INCREASE IN ALASKA

Current State Cigarette Tax: 1 Dollar Per Pack (12th among all states)

Smoking-caused costs in state per taxed pack sold: $6.38
Average retail price per pack: $4.34 (state share from excise and sales taxes: $1.00)

Total state Medicaid program smoking costs each year: $60 million
State cigarette tax revenue each year: $40.4 million (2002)

Last Alaska Cigarette Tax Increase: 10/01/97

Projected Benefits From Increasing the State Cigarette Tax By 1 Dollar Per Pack

- **New state cigarette tax revenues each year: $30.7 million**
- **New sales tax revenues: State has no sales tax.**
- **Pack sales decline in state: -4.6 million**
- **Percent decrease in youth smoking: 15.0%**
- **Increase in total number of kids alive today who will not become smokers: 9,100**
- **Number of current adult smokers in the state who would quit: 4,500**
- **Number of smoking-affected births avoided over next five years: 1,300**
- **Number of current adult smokers saved from smoking-caused death: 900**
- **Number of kids alive today saved from premature smoking-caused death: 2,900**
- **5-Year healthcare savings from fewer smoking-affected pregnancies & births: $1.6 million**
- **5-year healthcare savings from fewer smoking-caused heart attacks & strokes: $1.8 million**
- **Long-term healthcare savings in state from adult & youth smoking declines: $146.3 million**

These projections provide careful estimates of the new revenues and public health benefits the state would obtain from the cigarette tax increase above and beyond what it would get if it does not raise the tax. These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and tax revenues) from new tax avoidance efforts after the tax increase by continuing in-state smokers. The projections are also based on research findings that a 10% cigarette price increase reduces youth smoking rates by 6.5%, adult rates by 2%, and total consumption by 4%, and assume that the state tax will keep up with inflation. Nevertheless, cigarette tax increases both reduce smoking levels and increase state revenues because the increased tax per pack brings in more new revenue than is lost from the decrease in the number of packs sold. Sales tax rate is 0.0%. Kids stopped from smoking and dying are from all kids alive today. Long-term savings accrue over lifetimes of persons who stop smoking or never smoke because of tax increase.

Sources. Chaloupka, F, "Macro Social Influences: Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine & Tobacco Research*, 1999, and other price studies at http://tigger.uic.edu/~fjc and www.uic.edu/orgs/impacteen. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. USDA Economic Research Service, www.ers.usda.gov/Briefing/tobacco. State tax offices. Farrelly, M. et al., "Cigarette Smuggling Revisited," U.S. Centers for Disease Control & Prevention (CDC), in press. CDC, *State Highlights 2002: Impact and Opportunity, April 2002*, www.cdc.gov/tobacco/StateHighlights.htm. Miller, P., et al., "Birth and First-Year Costs for Mothers and Infants Attributable to Maternal Smoking," *Nicotine & Tobacco Research* 3(1): 25-35, February 2001. Lightwood, J. & S. Glantz, "Short-Term Economic and Health Benefits of Smoking Cessation - Myocardial Infarction and Stroke," *Circulation* 96(4): 1089-1096, August 19, 1997, http://circ.ahajournals.org/cgi/content/full/96/4/1089. Hodgsen, T., "Cigarette Smoking and Lifetime Medical Expenditures," *The Millbank Quarterly* 70(1), 1992. U.S. Census. Nat'l Center for Health Statistics.

For more information, see the Campaign fact sheets -- including *Raising State Tobacco Taxes Always Reduces Tobacco Use (& Always Increases State Revenues)* – at http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18 and http://tobaccofreekids.org/reports/prices.

National Center for Tobacco-Free Kids 10.30.03 / Eric Lindblom, October 30, 2003

1400 I Street NW - Suite 1200 - Washington, DC 20005
Phone (202) 296-5469 - Fax (202) 296-5427 - www.tobaccofreekids.org

CAMPAIGN for TOBACCO-FREE Kids®

2003 STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Overall All States' Average: 73.5 cents per pack
Major Tobacco States' Average: 12.4 cents per pack
Other States' Average: 81.7 cents per pack

State	Tax	Rank
Alabama	16.5	47th
Alaska	100	13th
Arizona	**118**	**12th**
Arkansas	**59**	**27th**
California	87	19th
Colorado	20	43rd
Connecticut	**151**	**3rd**
Delaware	**55**	**30th**
DC	**100**	**13th**
Florida	33.9	41st
Georgia	**37**	**38th**
Hawaii[1]	**130**	**8th**
Idaho[2]	**57**	**28th**
Illinois	**98**	**17th**
Indiana	**55.5**	**29th**
Iowa	36	39th
Kansas	**79**	**21st**
Kentucky	3	50th

State	Tax	Rank
Louisiana	**36**	**39th**
Maine	100	13th
Maryland	**100**	**13th**
Massachusetts	**151**	**3rd**
Michigan	**125**	**10th**
Minnesota[3]	48	35th
Mississippi	18	45th
Missouri	17	46th
Montana	**70**	**23rd**
Nebraska	**64**	**25th**
Nevada	**80**	**20th**
New Hampshire	52	34th
New Jersey	**205**	**1st**
New Mexico	**91**	**18th**
New York	**150**	**5th**
North Carolina	5	49th
North Dakota	44	36th
Ohio	**55**	**30th**

State	Tax	Rank
Oklahoma	23	42nd
Oregon	**128**	**9th**
Pennsylvania	**135**	**7th**
Rhode Island	**171**	**2nd**
South Carolina	7	48th
South Dakota	**53**	**33rd**
Tennessee	**20**	**43rd**
Texas	41	37th
Utah	**69.5**	**24th**
Vermont	**119**	**11th**
Virginia	2.5	51st
Washington	**142.5**	**6th**
West Virginia	**55**	30th
Wisconsin	77	22nd
Wyoming	**60**	**26th**
Puerto Rico	**123**	**NA**
Guam	**100**	**NA**
Northern Marianas	**175**	**NA**

[1] 10-cents added 7/1/04. Reverts to $1 7/1/06.
[2] Reverts to 28 cents 7/1/05.

[3] Has an 83-cents rate that applies only to the brands of small manufacturers that are not part of the state tobacco settlement.

The many states and U.S. territories that have implemented or passed new cigarette increases since January 2002 are in **bold type**. New York City increased its local cigarette tax from eight cents to $1.50 per pack, effective 7/1/02, and several localities in VA and elsewhere have increased their cigarette tax rates, as well. Hawaii has passed an additional 10-cent increase that goes into effect in 2004; and Alabama has sent a 14.5 cents increase, effective October 1st, 2003, to the state's voters to approve or reject. The median tax rate is now 60 cents per pack.

Tobacco States are KY, VA, NC, SC, GA, TN. States' average includes DC, but not U.S. territories Puerto Rico, Guam, or Northern Marianas. Also including Puerto Rico (which has a larger U.S. population than more than 20 states and DC) raises the state average to 74.5 cents per pack and the non-tobacco state average to 82.6 cents. Federal cigarette tax is 39 cents per pack. From the beginning of 1998 through 2002, the major cigarette companies increased the prices they charge by more than $1.25 per pack (but also instituted aggressive retail-level discounting for competitive purposes and to reduce related consumption declines). In January 2003, Philip Morris instituted a "temporary" 65-cent per pack price cut for four of its major brands to replace its retail-level discounting and fight sales losses to deep discount brands. **The U.S. Centers for Disease Control & Prevention estimates that smoking-caused health costs nationwide total $7.18 per pack sold in the United States.**

The average price for a pack of cigarettes nationwide is roughly $3.65 (including statewide sales taxes but not local cigarette or sales taxes, other than NYC's $1.50 per pack cigarette tax), with considerable state-to-state differences because of different state tax rates, and different manufacturer, wholesaler, and retailer pricing and discounting practices. AK, DE, MT, NH & OR have no state sales tax at all; CO has a state sales tax but it does not apply to cigarettes; and AL, GA & MO (unlike the rest of the states) do not apply their state sales tax to that portion of retail cigarette prices that represents the state's cigarette excise tax.

Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2002; media reports; Economic Research Service, U.S. Department of Agriculture, *Tobacco Briefing Room Website*, http://www.ers.usda.gov/Briefing/tobacco.

For additional information see the Campaign's website at http://tobaccofreekids.org/reports/prices.

National Center for Tobacco-Free Kids, January 8, 2004 / Eric Lindblom

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CAMPAIGN for TOBACCO-FREE Kids®

STATE CIGARETTE TAX RATES & RANK, DATE OF LAST INCREASE, ANNUAL PACK SALES & REVENUES, AND RELATED DATA

30 states, DC, and Puerto Rico have implemented or passed higher cigarette tax rates since 1/1/2002, but 14 states have not increased their tax for at least ten years, five of those have not increased their tax since the 1980s, and Kentucky and Virginia have not made any increase for more than 30 years. As time passes, inflation erodes the real value of state tobacco tax rates and revenues, as they account for increasingly small portions of the total retail price of a pack of cigarettes. Cigarette tax increases can quickly restore state tobacco tax revenues to historical levels or higher -- while also reducing state smoking levels and related costs and saving lives.

Overall State Average: 70.5 cents per pack. Major Tobacco State Average: 12.4 cents per pack. Other State Average: 78.2 cents per pack.

State	Cigarette Tax Per Pack	National Rank (1 = high)	Date of Last State Tax Increase	FY 2002 Cigarette Pack Sales (millions)	FY 2002 Cigarette Tax Revenue (millions)	Retail Price Per Pack With All Taxes*	CDC State Smoking Costs Per Pack Sold	Adult Smokers	Youth Smoking Rate	Adult Smoking Rate	Adult Smoking Rank (1=low)
All States	$0.70.5 avg.	///	///	20.4 billion	$8.4 billion	$3.72	$7.18	48 million	**28.1%**	22.8%	///
Alabama	$0.16.5	47th	7/1/84	378.5	$61.7	$3.15	$7.33	794,359	23.7%	23.9%	30
Alaska	$1.00	12th	10/1/97	40.4	$40.4	$4.34	$6.38	113,852	33.9%	26.1%	44
Arizona	**$1.18**	**11th**	**11/26/02**	276.1	$158.6	$4.44	$8.35	809,192	*19.0%*	21.5%	12
Arkansas	**$0.59**	**26th**	**6/1/03**	234.8	$76.8	$3.70	$6.46	510,216	34.7%	25.6%	40
California	$0.87	19th	1/1/99	1,234.90	$1,065.2	$4.11	$11.38	4,234,953	**21.6%**	17.2%	2
Colorado	$0.20	43rd	7/1/86	292.6	$56.2	$3.01	$6.21	716,904	**25.3%**	22.4%	19
Connecticut	**$1.51**	**1st**	**3/15/03**	227.4	$149.8	$4.74	$9.16	533,286	**25.6%**	20.8%	8
Delaware	**$0.55**	**29th**	**7/31/03**	113.4	$27.0	$2.98	$4.32	147,842	24.2%	25.1%	38
Washington, DC	**$1.00**	**12th**	**1/1/03**	25.4	$16.3	$4.14	$16.02	95,070	**14.7%**	20.8%	9
Florida	$0.33.9	41st	7/1/90	1,277.30	$426.3	$3.33	$8.26	2,775,609	**19.0%**	22.5%	22
Georgia	**$0.37**	**37th**	**4/1/71**	666.2	$76.5	$3.01	$6.38	1,426,081	**23.7%**	23.7%	29
Hawaii	**$1.30**	**7th**	**7/1/03**	62.6	$62.6	$4.57	$10.15	188,649	**24.5%**	20.6%	7
Idaho	**$0.57**	**27th**	**6/1/03**	83.6	$23.4	$3.38	$6.03	182,210	*19.1%*	19.7%	3
Illinois	**$0.98**	**17th**	**7/1/02**	885.2	$464.3	$4.02	$8.53	2,165,027	34.0%	23.6%	27
Indiana	**$0.55.5**	**28th**	**7/1/02**	742.1	$110.3	$3.52	$5.14	1,239,174	**31.6%**	27.5%	47
Iowa	$0.36	38th	6/1/91	249.7	$88.0	$3.22	$6.40	486,776	**32.7%**	22.2%	15
Kansas	**$0.79**	**20th**	**1/1/03**	208.8	$47.9	$3.75	$6.98	438,544	**26.1%**	22.2%	16
Kentucky	$0.03	50th	7/1/70	572.5	$16.0	$2.89	$4.88	941,508	40.0%	30.9%	51
Louisiana	**$0.36**	**38th**	**7/1/02**	433.3	$98.1	$3.21	$7.57	805,796	33.3%	24.8%	37
Maine	$1.00	12th	10/1/01	102.4	$94.1	$4.12	$8.46	233,684	24.8%	24.0%	32
Maryland	**$1.00**	**12th**	**6/1/02**	301	$202.7	$3.95	$10.03	839,287	**23.7%**	21.3%	10
Massachusetts	**$1.51**	**1st**	**7/24/02**	354	$269.0	$4.82	$12.52	955,260	26.0%	19.7%	4
Michigan	**$1.25**	**9th**	**8/1/02**	780.1	$577.3	$4.34	$7.70	1,887,068	*27.6%*	25.7%	41
Minnesota	$0.48	34th	7/1/92	352.8	$166.1	$3.49	$7.22	806,434	**28.9%**	22.2%	17
Mississippi	$0.18	45th	6/1/85	261.5	$44.0	$3.15	$6.96	525,646	23.6%	25.4%	39
Missouri	$0.17	46th	10/1/93	558.3	$92.0	$2.94	$6.37	1,079,387	30.3%	25.9%	42
Montana	**$0.70**	**22nd**	**5/1/03**	67.3	$11.7	$3.49	$6.86	147,197	28.5%	21.9%	13

* Pack prices reflect the temporary 65-cent reduction in Marlboro and three other brands initiated in January 2003 by Philip Morris, but they do not fully reflect retail-based discounting and promotions by the major cigarette companies.

State	Cigarette Tax Per Pack	National Rank (1 = high)	Date of Last State Tax Increase	FY 2002 Cigarette Pack Sales (millions)	FY 2002 Cigarette Tax Revenue (millions)	Retail Price Per Pack With All Taxes	CDC State Smoking Costs Per Pack Sold	Adult Smokers	Youth Smoking Rate	Adult Smoking Rate	Adult Smoking Rank (1=low)
Nebraska	**$0.64**	**24th**	**10/1/02**	132.4	$43.5	$3.82	$7.19	257,248	**29.0%**	20.4%	5
Nevada	$0.35	40th	7/1/89	173.1	$58.8	$3.26	$6.64	401,344	25.2%	27.0%	46
New Hampshire	$0.52	33rd	7/1/99	166.7	$84.1	$3.33	$4.63	223,220	25.3%	24.1%	34
New Jersey	**$1.50**	**3rd**	**7/1/02**	495.2	$391.5	$4.64	$9.69	1,347,607	**24.5%**	21.3%	11
New Mexico	**$0.91**	**18th**	**7/1/03**	95.4	$19.5	$3.98	$7.75	313,203	36.2%	23.9%	31
New York	**$1.50**	**3rd**	**4/3/02**	884.4	$1,052.8	$5.65	$12.83	3,343,006	**26.8%**	23.4%	26
North Carolina	$0.05	49th	8/1/91	806.6	$38.8	$3.02	$5.90	1,576,084	27.8%	25.9%	43
North Dakota	$0.44	35th	7/1/93	43.4	$19.1	$3.52	$7.82	106,379	35.3%	22.1%	14
Ohio	**$0.55**	**29th**	**7/1/02**	1,101.00	$257.3	$3.51	$6.66	2,344,750	**33.4%**	27.7%	48
Oklahoma	$0.23	42nd	6/1/87	352.8	$57.1	$3.09	$6.01	736,789	**24.0%**	28.8%	50
Oregon	**$1.28**	**8th**	**11/1/02**	231.3	$155.0	$3.80	$7.58	527,849	22.0%	20.5%	6
Pennsylvania	**$1.00**	**12th**	**7/15/02**	1,067.40	$320.1	$3.95	$7.50	2,221,373	*27.6%*	24.6%	36
Rhode Island	**$1.50**	**3rd**	**7/1/03**	79.1	$78.1	$4.65	$8.15	192,119	24.8%	24.0%	33
South Carolina	$0.07	48th	7/1/77	396.2	$25.4	$3.00	$6.52	786,621	36.0%	26.2%	45
South Dakota	$0.53	**32nd**	**4/1/03**	57.1	$17.5	$3.49	$6.84	123,692	33.0%	22.4%	20
Tennessee	$0.20	**43rd**	**7/15/02**	593.6	$75.3	$3.26	$7.01	1,046,946	**32.4%**	24.4%	35
Texas	$0.41	36th	7/1/90	1,244.30	$497.5	$3.49	$7.79	3,367,139	24.7%	22.5%	23
Utah	**$0.69.5**	**23rd**	**5/6/02**	91	$47.1	$3.73	$5.99	201,425	8.3%	13.3%	1
Vermont	**$1.19**	**10th**	**7/1/03**	57	$24.5	$4.11	$6.18	103,332	23.7%	22.4%	21
Virginia	$0.02.5	51st	9/1/66	662.1	$15.0	$2.95	$5.57	1,201,557	NA	22.5%	24
Washington	**$1.42.5**	**6th**	**1/1/02**	269.5	$306.6	$4.82	$10.25	989,943	*28.0%*	22.6%	25
West Virginia	**$0.55**	**29th**	**5/1/03**	199.5	$32.6	$3.37	$7.02	396,478	*39.2%*	28.2%	49
Wisconsin	$0.77	21st	10/1/01	408.3	$288.8	$3.89	$7.14	942,801	27.1%	23.6%	28
Wyoming	**$0.60**	**25th**	**7/1/03**	46.1	$5.1	$3.50	$5.27	81,010	28.4%	22.2%	18
USA/U.S. Gov't	39	///	*1/1/02*	21.25 billion	$7.0 billion	$3.72	$7.18	49 million	28.5%	**22.8%**	**NA**

Sources: CDC, *State Highlights 2002: Impact and Opportunity*, April 2002, www.cdc.gov/tobacco/StateHighlights.htm. Orzechowski & Walker, *Tax Burden on Tobacco*, 2002. Smoking costs per pack sold = CDC estimates of state smoking-caused health costs and lost productivity per taxed packs sold in each state in 2001. Youth smoking rates most recent available; in bold type from the Youth Tobacco Surveillance (YTS); in italics from state-specific surveys; and in regular type from Youth Risk Behavioral Surveillance (YRBS). Because of different surveys and years, youth-smoking rankings cannot be done. From the start of 1998 to the end of 2001, the major cigarette companies increased their prices by more than $1.25 per pack. Major tobacco states are KY, VA, NC, SC, GA, TN. State averages do not include Puerto Rico (which is larger than more than 20 states & DC, based on population). Taxed Pack Sales include all cigarette sales on which cigarette taxes were collected. Total USA pack sales include sales of cigarettes on which federal but not state taxes are collected (e.g., sales to Indian Tribes and military bases) and includes sales in Puerto Rico and other U.S. territories not listed above. Cigarette prices include federal and state cigarette taxes and state sales taxes but not local cigarette or sales taxes (unless they are uniform throughout the state), except for New York City, which contains roughly half the population of NY State and increased its local tax from 8 cents to $1.50 per pack 7/1/02. AK, DE, MT, NH & OR have no state sales tax; CO has a sales tax but it does not apply to cigarettes; and AL, GA & MO do not apply their sales tax to the portion of retail cigarette prices that is the state's cigarette excise tax.

For more information on state cigarette taxes and the benefits from increasing them, see the Campaign's website at http://tobaccofreekids.org/reports/prices.
***For more state-specific data, see the Campaign website at:* http://tobaccofreekids.org/reports/settlements *and* http://tobaccofreekids.org/research/factsheets.**

National Center for Tobacco-Free Kids, June 26, 2003 / Eric Lindblom

CAMPAIGN for TOBACCO-FREE Kids®

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.

- RJ Reynolds: *If prices were 10% higher, 12-17 incidence [the percentage of kids who smoke] would be 11.9% lower.*[1]
- 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.*[2]
- 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.*[3]
- 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.*[4]

The 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: *[I]ncreases in excise and similar taxes have had an adverse impact on sales of cigarettes. Any future increases, the extent of which cannot be predicted, could result in volume declines for the cigarette industry.* [10-Q Report, May 11, 2001.]
- Loews/Lorillard Tobacco: *Significant increases in federal and state excise taxes on cigarettes . . .have, and are likely to continue to have, an adverse effect on cigarette sales.* [Loews (parent corporation of the Lorillard cigarette company) 10-K Report, March 31, 1999.]
- R.J. Reynolds: *[S]ubstantial increases in state and federal excise taxes on cigarettes. . . have had and will likely continue to have an adverse effect on cigarette sales.* [10-Q Report, August 1, 2001.

Economic Research On Cigarette Tax Increases Reducing 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 will reduce overall cigarette consumption by approximately three to five percent and reduce the number of kids who smoke by about six or seven percent.[5] Research studies have also made the following related findings:

- Among all adults or all youths, cigarette price increases work even more effectively to prevent and reduce smoking among males, Blacks, Hispanics, and lower-income persons.[6]
- Higher taxes on spit tobacco reduce its use, particularly among young males.[7]

- Kids do not smoke more marijuana if they reduce their cigarette smoking. In fact, 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 regular users.[8]

Expert Conclusions on Cigarette Prices and Smoking Levels

- The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that increasing the price of tobacco products would decrease the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases would lead to "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.[9]

- The 1999 World Bank report *Curbing The Tobacco Epidemic: Governments and the Economics of Tobacco Control* carefully evaluated existing research and data, worldwide, and concluded that "the most effective way to deter children from taking up smoking is to increase taxes on tobacco. High prices prevent some children and adolescents from starting and encourage those who already smoke to reduce their consumption."[10]

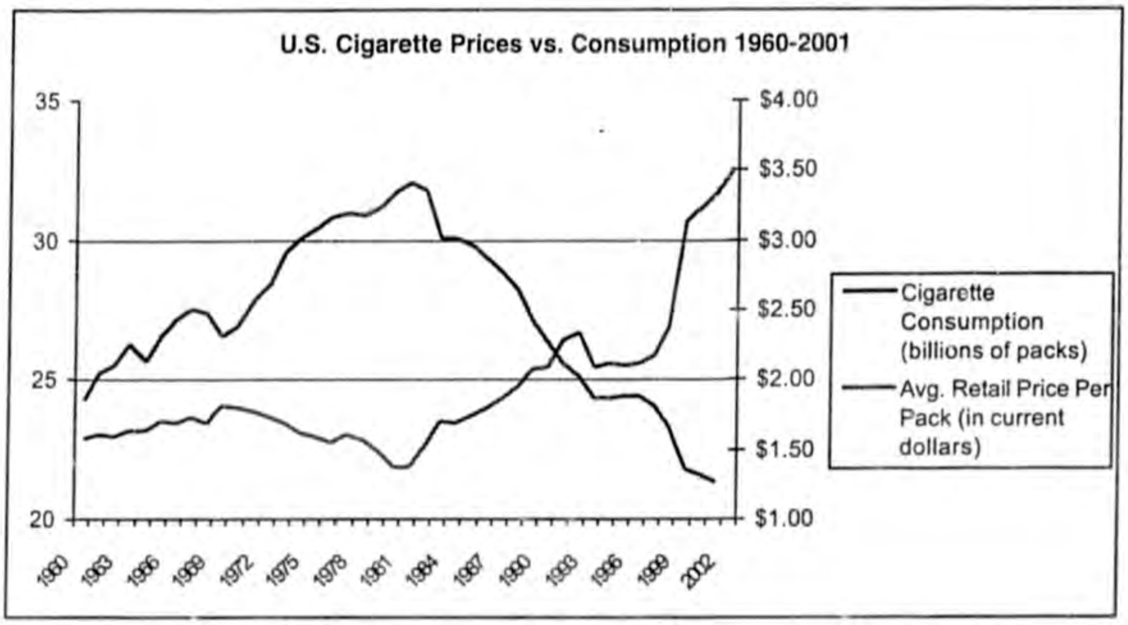
- Wall Street tobacco industry analysts have long recognized the powerful role increased cigarette taxes and rising cigarette prices play in reducing U.S. smoking levels. For example, a December 1998 "Sensitivity Analysis on Cigarette Price Elasticity" by Credit Suisse First Boston Corporation settled 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."[11]

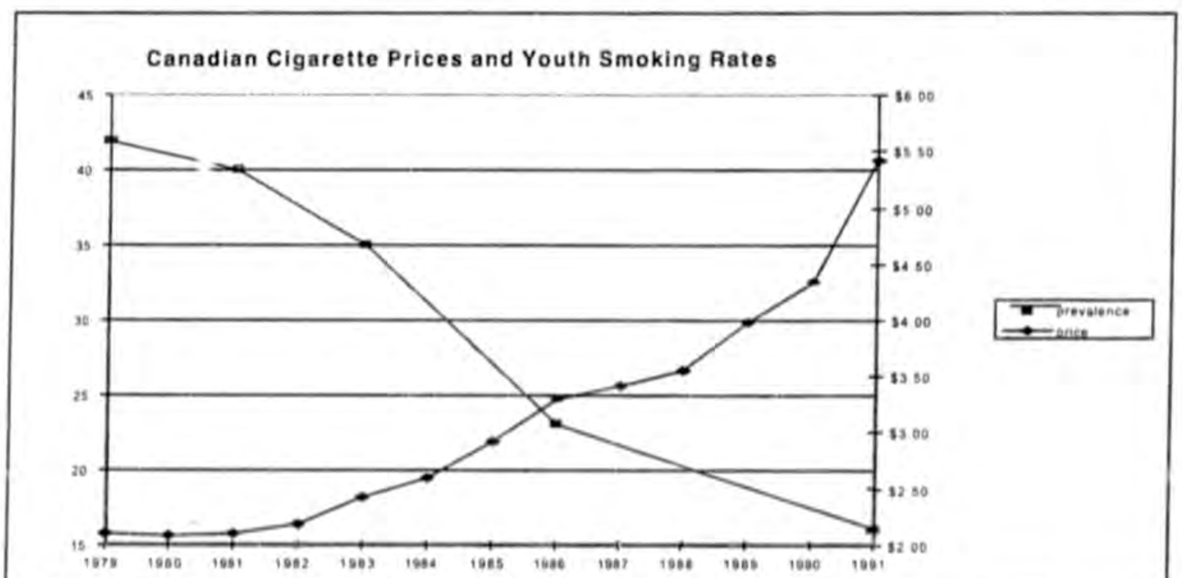
- A National Cancer Institute Expert Panel reported in 1993 that "a substantial increase in tobacco excise taxes may be the single most effective measure for decreasing tobacco consumption," and "an excise tax reduces consumption by children and teenagers at least as much as it reduces consumption by adults."

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 2001 shows that there is a strong correlation between increasing prices and decreasing consumption (see chart below). While U.S. cigarette prices are largely controlled by the cigarette companies' price-setting decisions, from 1970 to 2002, the federal tax on cigarettes also increased from eight cents to 39 cents per pack and the average state cigarette tax increased from 11 to 44 cents per pack. Without these federal and state tax increases, U.S. cigarette prices would be much lower and U.S. smoking levels would be much higher.



The Canadian Experience. From 1979 to 1991 real prices in Canada increased from $2.09 to $5.42 and smoking among 15 to 19 year olds fell from 42 to 16 percent. As the President of the Canadian Tobacco Manufacturers Council then admitted to a legislative committee, "there is no question that consumption is down measurably over the last five years, and there is no question in our minds that taxes have been a significant factor."[12] But when Canada subsequently reduced its cigarette taxes (to reduce tax-avoidance smuggling supported by the cigarette companies), youth smoking immediately increased for the first time in nearly fifteen years.[13]



For more information, please go to the Campaign's special website page on tobacco taxes at
http://tobaccofreekids.org/reports/prices

National Center for Tobacco-Free Kids, January 3, 2002, Eric Lindblom

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[1] 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, www.rjrtdocs.com.
[2] Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes," PM Document No. 2001255224, September 17, 1981, www.pmdocs.com.
[3] Philip Morris Executive Jon Zoler, "Handling An Excise Tax Increase," PM Document No. 2022216179, September 3, 1987, www.pmdocs.com.
[4] Philip Morris Executive Claude Schwab, "Cigarette Attributes and Quitting," PM Doc. 2045447810, March 4, 1993, www.pmdocs.com.
[5] See, e.g., 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 other price studies at www.uic.edu/orgs/impacteen. Chaloupka, F., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research*, 1999, and other price studies at http://tigger.uic.edu/~fjc; Chaloupka, F. & R. Pacula , *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/~fjc. Emery, S., et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001. Evans, W. & L.. Huang, *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. & S. Chan, "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.
[6] 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* (*MMWR*) 47(29): 605-609 July 31, 1998, www.cdc.gov/mmwr; Chaloupka & Pacula, April 1998.
[7] Chaloupka, F. , J. Tauras & M. Grossman, "Public Policy and Youth Smokeless Tobacco Use," *Southern Economic Journal* 64(2): 503-16, October 1997, http://tigger.uic.edu/~fjc.
[8] Chaloupka, F. , et al., *Do Higher Cigarette Prices Encourage Youth to Use Marijuana?*, National Bureau of Economic Research, Working Paper No. 6939, February 1999, http://tigger.uic.edu/~fjc. Farrelly, M., et al., "The Joint Demand for Cigarettes and Marijuana: Evidence from the National Household Surveys on Drug Abuse," *Journal of Health Economics* 20: 51-68, 2001. See, also, Campaign for Tobacco Free Kids fact sheet, *Smoking and Other Drug Use* http://tobaccofreekids.org/research/factsheets/pdf/0106.pdf.
[9] Available at www.cdc.gov/tobacco/sgrpage.htm.
[10] Available at http://www1.worldbank.org/tobacco/reports.htm.
[11] Available at www.nap.edu/books/0309060389/html/index.html.
[12] Bill Neville, President, Canadian Tobacco Manufacturers Council, testifying before Legislative Committee F on Bill C-10, *An Act to Amend the Excise Tax Act and the Excise Act*, September 26, 1991.
[13] Canadian Cancer Society, et al., Surveying the Damage: Cut Rate Tobacco Products and Public Health in the 1990s, October 1999, www.nsra-adnf.ca/english/oct99taxrep.html.

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REFERENCE: HB 538 Tobacco Excise Tax	CC:

Rep Hawker:

Attached is a letter I sent to Representative Wilson asking for assistance in working on HB 538. We are not opposed to an increase in the excise tax on cigarettes. However, it is confusing to me how this measure could be classified by the Governor as a revenue measure when the stated intent of the bill is to reduce smoking which would thereby reduce tax revenue collected from the tobacco excise tax.

We also have problems with some of the language in the bill that would impose a floor stock tax and I have outlined this in my letter to Representative Wilson.

Another issue, which is not addressed in my letter to Representative Wilson, is the proposed OTP (other tobacco products) tax increase. At present Alaska tobacco distributors doing business within the state pay a 75% excise tax on OTP and mail order businesses shipping product into Alaska pay NO excise tax to the state. It is impossible for an Alaska based distributors to compete when the state taxes instate distributors, but allows mail order and Internet companies to ship OTP into the state and avoid any and all taxes. Lets level the playing field and charge everyone the same tax.

Again, we are not opposed to a tax increase in the tobacco excise tax we just want to make sure that we will be able to live with the consequences and we would like to see the state level the playing field with regard to OTP excise taxes.

Thank you for your consideration.

Sincerely yours,

Mike Elerding (907-225-5040 ext 302)

NORTHERN SALES CO., INC.
Corporate
P.O. Box 8112, Ketchikan, AK 99901
(907) 225-5040 (907) 225-2231 fax

March 22, 2004

Representative Peggy Wilson
House of Representatives
State Capitol, Room 104
Juneau, AK 99801-1182

RE: HB 538 Cigarette Excise Tax Increase

Dear Representative Wilson

The purpose of this letter is to express my concern regarding the above referenced bill. While we are a state licensed wholesale tobacco distributor we neither promote nor encourage tobacco use. We do however; offer cigarettes and tobacco products for sale to our customers who choose to sell these products. We also collect and remit tobacco excise tax to the State. Last year we collected and paid the state in excess of $4,000,000 in tobacco excise tax.

We agree with the Governor's assertion expressed in his 3/16/2004 transmittal letter that doubling the state excise tax on cigarettes will reduce cigarette consumption. However, the fiscal note attached to this bill indicates that raising the tobacco tax from $10.00/carton to $20.00/carton will increase tobacco excise tax by $35.5 million each year for five years. If the assumption is that the tax increase will reduce tobacco purchases why does the fiscal note forecast tax revenue gains at $35.5 million per year?

The 3/18/2004 press release introducing this bill indicates that the state currently collects $47 million annually in tobacco taxes. By doubling the tobacco tax the state should expect to collect $94 million in taxes. However, if you add the current excise tax of $47 million to the $35.5 projected increase in tobacco tax from the fiscal note the net effect is $82.5 million in tobacco tax. Contrast the expected revenue gain of $94 million created by doubling the excise tax to the DOR's first year projection of $82.5 million. The result is a decline in expected revenues by 12.23% in the first year. As more people quit smoking and the number of "replacement" smokers decreases due to the higher cost of cigarettes as a result of the increased excise tax the state will continue to experience a decline in tobacco tax revenues.

In year one the net effect of doubling the excise tax will result in increased revenue to the state, however, if the state continues to experience a 12.23% annual decline in revenue collections then by year six the state will be collecting less revenue then they receive today as the table below indicates.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Beg Revenue	$94,000	$82,504	$72,414	$63,558	$55,785	$48,962
Less 12.23%	$11,496	$10,090	$ 8,856	$ 7,773	$ 6,823	$ 5,988
End Revenue	$82,504	$72,414	$63,558	$55,785	$48,962	$42,974

NORTHERN SALES COMPANY, INC.
Corporate
P.O. Box 8112, Ketchikan, AK 99901
(907) 225-5040 (907) 225-2231 fax

To enforce the collection of the increased tobacco excise tax the state is going to have to hire six (6) full time employees at a projected cost of $466,100 per year. In addition to the salaries of the enforcement staff the state is going to have recurring operating expenses of $312,800 per year. The proposed increase in annual state expenditures to collect the tobacco excise tax will be $778,900. The cost to the state for the enforcement effort will not go down over time. So now we have decreasing excise tax revenues and on-going state expenses, which will only exacerbate the revenue shortfall created by this proposal.

I think HB 538 should be portrayed as a tobacco cessation program and not as a revenue measure.

As a tobacco distributor I have a specific problem with the language of HB 538. As of today's date we have 37,238 cartons of cigarettes in inventory. If HB 538 passed today we would have a floor stock tax due the state in the amount of $372,380 (37,238 cartons X $10.00 increase in excise tax per carton). The payment of the floor stock tax would be due in 30 days and would be in addition to our regular monthly excise tax payment for the purchase of cigarette stamps. We would certainly do everything in our power to reduce our cigarette inventory thereby reducing our tax liability. However, based on the volatility of customer buying patterns when there is significant pricing event like the doubling of the excise tax it would be next to impossible to predict our required level of inventory to support our sales demand.

While it is true that we would be able to eventually sell the cigarettes upon which we were assessed the floor stock tax charge the real problem is cash flow. If the price of the excise tax doubles from June 30, 2004 to July 1, 2004 there will be an immediate decline in cigarette sales. This will mean that we would not be able to sell our inventory of cigarettes with the new $20.00 per carton excise tax in time to pay the floor stock tax. By doubling the state excise tax and implementing a floor stock tax the state is dramatically changing the rules of how excise taxes are collected and paid and the resulting tax liability would be something that would imperial the very survival of our business.

We are not opposed to a tax increase in the tobacco excise tax; we just want to make sure that we are going to be able to live with the changes. I am going to be out of town and will not be able to testify on this measure before the House Ways and Means committee meets on 3/24/04. My hope is that you can express our concerns to the committee regarding this measure and that we can work together to amend this bill.

Thank you for your consideration.

Sincerely yours

Michael J. Elerding

Michael J. Elerding
President

Cc: Chairman Hawker

Chairman Hawker and Members of the House Ways and Means Committee

Gentlemen,

I would like to speak against HB 538.

I have a small cigar Humidor in my restaurant for those few individuals that wish to smoke a cigar in the Saloon after dinner. This is not a revenue source for us but a service to our customers. Most customers that are serious cigar smokers purchase their products over the internet and smoke them in our Saloon.

I pay about $2000.00 a year in tobacco tax plus the various license fees involved. An increase in the cigar tax will further reduce sales and that, with the paperwork hassle that filing requires, make it not worth the trouble to sell cigars.

If your intent is to generate revenue, this measure is counter productive in my case because you will not be receiving further income from this small vendor. You will also see diminished returns because individuals will purchase more of their product over the internet, of which you have no control. Your cost of enforcement and administration will continue to rise in order to prevent stamp counterfeiting and illegal importing.

I believe you have reached the threshold of taxing tobacco in the short run. I urge you to give it a couple of more years to gestitate the last increase before you raise the tax again.

Sincerely,
Bill Bubbel
The Pumphouse Restaurant & Saloon

Brown Jug

Memorandum

DATE: March 23, 2004

TO: House Ways and Means – Senate Labor and Commerce

FROM: Timothy J. Schrage, *Operations Manager*

SUBJECT: *Opposed to HB 538 – SB 368*

The proposed increased excise tax on tobacco products is unfounded and just another band aid approach to increasing revenues. The current tax is among the highest when compared to other Western states such as Montana (70 cents per pack), Idaho (57 cents per pack) and Wyoming (60 cents per pack).

Adding another $1.00 per pack will jeopardize future revenues to the State through a reduction in annual payments from the Master Settlement Agreement, and loss of tax revenues from illegal internet and counterfeit tobacco purchases. In addition it will increase the competitive disadvantage of local retailers who legally compete with large national chains and tax exempt Military installations.

It is time for Alaska to realize that it is "the richest poor State in the Union". We have billions of dollars in the bank, no limits on spending, declining oil revenues, all while focusing on pennies and letting dollars fall through the cracks of government. ***Our Legislature and Governor need to wake up and realize that targeting Alaskans with head taxes, sin taxes, and user fees is like a millionaire not purchasing cup of coffee in the morning to save for retirement!*** We need real fiscal solutions that include spending limits, utilization of Permanent Fund earnings, and the elimination of entitlement programs before imposing more taxes on average Alaskans who least afford it.

Alaska's Retailer of Fine Wines, Spirits, and Beer
PO Box 190027 Anchorage, Alaska 99519-0027
Phone (907) 563-3815 Fax (907) 562-3130

The New York Times

6 Are Charged With Selling Millions of Counterfeit Marlboros
By William Glaberson
February 21, 2003

Federal prosecutors in Brooklyn charged six men yesterday with importing millions of counterfeit Marlboro cigarettes from China and selling them through tax-free businesses on the upstate Seneca Indian reservation.

But while prosecutors described an ambitious plot, they portrayed the suspects as luckless. According to documents filed in court, Customs Service agents infiltrated the group, turned two of its members into informants, and then bugged, wiretapped, videotaped and followed the men during almost every phase of their operation. In at least one instance, the agents used a helicopter.

The Customs Service said the men imported 35 million counterfeit cigarettes, with an estimated retail value of about $10 million. The service's special agent in charge, John C. Varrone, said criminals had been drawn by the huge profits that could be made from such cigarettes, imitations of name brands packaged to look authentic.

According to the prosecutors, the men brought five shipments of cigarettes into New Jersey ports during a two-year period that ended in 2002. The prosecutors said cases of the ersatz Marlboro and Marlboro Light cigarettes were hidden in shipping containers behind boxes of plastic kitchen pots.

The prosecutors said three of the men sold the cigarettes through two smoke shops on the Seneca's Cattaraugus Reservation, south of Buffalo, and on a Web site, Smokemcheap.com. The three were identified as Scott Snyder, 40, who lives on the reservation, and Donald Deland, 42, and Timothy Farnham, 37, who live near it.

The prosecutors said two brothers from Queens, Simon Moshel, 52, and Michael Moshel, 47, arranged to import the cigarettes, assisted by a Brooklyn man, Robert Berardelli, 51. The Moshel brothers were also charged with importing counterfeit Duracell batteries.

Mr. Farnham was the only one of the six men not arrested yesterday.

A sworn statement by the customs agent who infiltrated the group, Rod Khattabi, described the undercover operation, which appeared to leave suspects with very little privacy. He said he posed as a trucker who would transport the cigarettes. He also said a house in Nassau County belonging to two informants and a Brooklyn warehouse used by the group to store the cigarettes were outfitted with surveillance equipment.

The agents taped at least 200 meetings and telephone calls, the court documents said, adding that one videotape captured Mr. Berardelli taking a cigarette out of a shipment and smoking it.

CRAIN'S NEW YORK BUSINESS

High tax fuels black market in cigarettes

Agencies crack down on smugglers

By Anne Michaud
Published on March 08, 2004

Like the prohibition on alcohol in 1920s America, the high tax on cigarettes in New York City is giving rise to a vast network of illegal sales, complete with gangland-style violence.

Cigarettes are not banned here, of course, but at $7.50-plus for a pack, they are prohibitively expensive for many smokers. To feed smokers' habits, bootleggers--from petty criminals to organized gangs and even terrorist organizations such as Hezbollah--are bringing cigarettes into the state and successfully evading the tax penalties.

"We're paying a lot of attention to this," says Garry McCarthy, deputy commissioner with the New York Police Department. "It's a black market people are moving into, and we have to squeeze it as hard as we can."

If there's any doubt about cigarette sales going underground, tax collection figures tell the tale. Legitimate vendors sold only 11.1 million packs in New York City last January, compared with 30.4 million packs in January 2002. Because the city collects $1.50 on each pack sold, versus 8 cents prior to the July 2002 tax hike, monthly tax revenue increased to $16.7 million this past January from $2.4 million in January 2002. However, state tax revenue declined so much that the state and city together lost $5.6 million in monthly revenue during the same period.

Much of that decline is probably not due to smuggling--studies show that 4% of smokers will quit for every 10% rise in the cost of cigarettes. But there is plenty of evidence that people who haven't quit are getting their nicotine fix illegally.

Mike Patel says cigarette sales are down by half at his newsstand at Broadway and Chambers Street. "If they increase the tax again, we're out of business," says Mr. Patel, who watches teenagers sell cigarettes from plastic grocery bags near his stand. "They come with two bags full and sell them for $5."

Some criminal sales are more blatant than others. People may not know that Internet cigarette purchases are illegal if buyers don't pay the appropriate taxes. Or that loading up on a few cartons at tax-free Indian reservations upstate or on Long Island is illegal for non-Indians, even though the governor is refusing to enforce the law.

Gang rivalry

At a much higher criminal level, bootleggers drive to Virginia and North Carolina, where they load up car trunks and trailers with cheap cigarettes that can net them $7,000 to $140,000 a trip. Police believe the smuggling may be fueling street gang rivalries. The NYPD attributes two Brooklyn homicides and two shootings late last year to cigarette turf battles.

The lucrative trade is attracting organized crime and terrorism groups. Two years ago, 10 members of Hezbollah were arrested in Charlotte, N.C., and convicted of using proceeds from cigarette smuggling to aid the organization.

"Since then, we have stepped up our enforcement quite a bit," says Joseph Green, senior special agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in New York.

The ATF seized 12,000 cases in New York--more than 2 million cigarettes--in a sting operation in the city last fall. Many were run up from Virginia; others were manufactured for export from the United States but were diverted back here. Counterfeit cigarettes are also being flown in from China, where they are packaged to look like well-known brands, such as Marlboro and Newport.

"Either the black market gets stopped, or we are going to have no legitimate distribution in the city of New York," says Leonard Schwartz, owner of Global Wholesale Co. in Brooklyn, which distributes cigarettes to stores. Mr. Schwartz, who also serves as chairman of the Wholesale Marketers Association, says he has had to lay off 15% of his workforce since the new city tax was enacted.

Small businesses are under so much pressure to make up for the losses that they are turning to illegal purchasing themselves. Sen. Frank Padavan, R-Bellerose, and Assemblyman Jeff Klein, D-Bronx, have introduced twin bills in the state Legislature that would reward wholesalers for turning in businesspeople who make suspicious cutbacks in their cigarette orders. Mayor Michael Bloomberg is pressing for the earliest possible passage of the bills.

Sting operations

The city's Department of Finance has hired a new head of enforcement, Carlton Butler, to run sting operations to nab illegal sellers. He is formalizing relationships with agencies such as the ATF, the NYPD, the state police and the sheriff's office.

But some people aren't thrilled with the stepped-up enforcement. "I'm outraged that they're creating new task forces," says E.J. McMahon, a senior fellow at the Manhattan Institute, a conservative think tank. "I don't want them keeping an eye out for illegal cigarette sellers; I want them watching the guys with suitcases with nuclear bombs."

All signs point to the bootlegging problem growing worse. City Finance Commissioner Martha Stark says that sellers are becoming more sophisticated, especially in the use of the Internet. Illegal distributors are said to be setting up home delivery routes.

Police, who are charging first-time offenders with a misdemeanor, expect that once criminals are caught for the second time and face felony charges, others will be deterred. "Over the course of time, we anticipate getting more bang out of the buck for these arrests," the NYPD's Mr. McCarthy says.

Mr. Green of the ATF predicts more violence as well. "The black market has continued to thrive and expand," he says. "Anywhere the criminal organizations have a potential to make a lot of money, the potential for violence increases."

Updated 8/20/2003

INCREASED TAX = INCREASED CRIME & SMUGGLING

Firm sees red over knockoff smokes – *New York Times, March 4, 2003*

As cigarette taxes increase, U.S. Customs officials see more smuggling of counterfeit products...

Seizures by U.S. Customs Inspectors confirm that the problem is getting worse. Last year, Customs intercepted about 13 million packs of contraband smokes - mostly counterfeits - a fourfold increase over 2000. Most were seized at Los Angeles-Long Beach harbor, the gateway for Asian trade.

As the top-selling cigarette in the U.S., with ~ 37% market share, Marlboro naturally has been the favorite target of counterfeiters. **According to a Southern California tobacco dealer who did not want to be identified, a recent joke within the cigarette trade was that "there was probably more Chinese product in California than there was Philip Morris product."**

Because **sales of counterfeits also mean lost taxes,** the problem has aligned the interests of tobacco firms and federal and state revenue agencies. In California, the knockoffs typically carry phony tax stamps. Each counterfeit pack represents a loss of $1.26, comprising California's cigarette tax of 87 cents and the federal excise tax of 39 cents. **According to the state Legislative Analyst's Office, California is losing $130 million to $270 million a year to various tobacco tax-evasion schemes.**

Lawmakers discuss raising tobacco taxes – *Associated Press, February 5, 2003*

When North Dakota was considering a tax increase of 35 cents per pack...

Opponents say raising tobacco taxes could result in people bringing in cigarettes from states with cheaper taxes, buying them on American Indian reservations or buying them on the Internet without paying any taxes.

"It will make very honest people become little crooks," said Vicki Wagner, a spokeswoman for the North Dakota Council of Clubs.

Two suspected cigarette smugglers funded Hezbollah, U.S. says – *Associated Press, February 5, 2003*

Smugglers find profitable market in Michigan...

Two men accused in a cigarette trafficking ring have been charged with funneling contraband profits to the Islamic-militant group Hezbollah, federal authorities say. The two were among 11 people charged in an indictment with buying cigarettes in North Carolina and an Indian reservation in New York, then bringing them back to Michigan to be resold.

The government linked the conspiracy to Mohamed Hammoud, the suspected leader of a Hezbollah cell who was convicted in North Carolina last June of helping run a ring that sent cigarette-smuggling profits to the Lebanese group.

Eleven indicted on cigarette racketeering charges – *Associated Press, February 4, 2003*

High cigarette taxes in Michigan lead to cigarette smuggling...

Eleven people accused of buying and selling contraband cigarettes in order to evade Michigan taxes have been indicted on racketeering charges, federal authorities announced Tuesday.

In separate documents, prosecutors **allege some of those charged donated profits from the cigarette trafficking to the militant group Hezbollah, a U.S.-designated terrorist organization in Lebanon.**

The indictment unsealed Tuesday charges each of the 11 with conspiracy to commit a pattern of racketeering activity, including contraband cigarette trafficking, possession of counterfeit cigarette tax stamps, credit card fraud, money laundering, arson and witness tampering.

The defendants are accused of buying cigarettes in North Carolina and the Cattaraugus Indian Reservation in New York, then bringing them to Michigan to be resold, according to U.S. Attorney Jeffrey Collins and the Bureau of Alcohol, Tobacco and Firearms. Cigarette taxes are $12.50 per carton in Michigan and 50 cents per carton in North Carolina. Cigarettes are not taxed on the reservation.

Smokers shouldn't make up shortfall – *Atlanta Journal & Constitution, January 19, 2003*

As Georgia considers a 46-cent tax hike...

What happens to the majority of smokers who don't kick the habit or cut their smoking in half in response to the tax increases? They either pay higher prices, turn to the black market or cross the border to buy cheaper cigarettes, as Canadian smokers did.

More than a decade ago, Canada introduced a $5-per-pack ($3.72 in U.S. dollars) tax on cigarettes. In response, an estimated 30 percent of cigarettes smoked in Canada were smuggled in and sold for about half the price of legal cigarettes! Cigarette smuggling created a hardship for the owners of small stores who relied on cigarette revenue and it became an additional burden for law enforcement. Consequently, Canada eventually cut its cigarette tax in order to collect revenues.

If Georgia's proposed 58-cents-per-pack tax takes effect, a one-pack-per-day smoker could save some $168 annually by purchasing cigarettes north of the border, or better yet, over the Internet. If just 10 percent of Georgia's 1.34 million adult smokers decided to cross the border or order cigarettes online, the state would actually bring in millions of dollars less than it is proposing under the cigarette "sin tax" hike.

Psst! Wanna cheap smoke? – *Wall Street Journal, December 13, 2002*

Cigarettes become hot item on New York's black market as excise taxes increase...

"...cigarettes, cigarettes," he chants under his breath to passersby. Customers slip him $5 bills and he gives each a green-and-white pack of smokes.

Ave's business is untaxed cigarettes smuggled in from other states, and he boasts he can sell 50 packs a night. "I go for shopping areas, wherever there's a large crowd," the 28-year-old says. "I make a good profit, enough to pay my bills."

The black market has spread across the city. In Brooklyn, a landlord, fearing drug pushers were in the neighborhood, called police. The "pushers" turned out to be (black market) cigarette vendors.

"There are a lot of entrepreneurs and opportunists out there," says Michael Brooks, the deputy inspector who commands the New York Police Department's vice-enforcement division. "There's more activity because of all the money that can be made."

[Edgar] Domenech [head of the ATF's New York field office] predicts an increase in competition among criminal groups to control the trade in untaxed cigarettes. "And competition in any illegal activity results in some shape or form of criminal violence," he says.

Up in smoke: Cigarettes no cash cow for N.Y.; Higher tax has smokers buying tobacco elsewhere – *Binghamton, NY Press & Sun-Bulletin, November 25, 2002*

New York's cigarette smuggling increases as cigarette taxes are increased...

In the last two months, New York's Tax Department has announced four arrests for bootlegging or possessing illegal cigarettes. A Schenectady YMCA worker, charged with selling illegal cigarettes on the job, was caught with 208 cartons. Two Dutchess County men were caught with three times as many cartons, selling them from gas stations. A Rockland County man, who authorities say had been dealing illegal tobacco to retailers, was arrested outside a Spring Valley convenience store with 2,440 cigars in the back of his car.

"Smuggling has existed for some time, but it's gotten more lucrative," [Jim] Calvin [director of the New York Association of Convenience Stores] said.

Tobacco is gold on black market – *Baltimore Sun, November 24, 2002*

Crime and smuggling result from increased value of cigarettes on the black market...

A court case filed in New York last month tells a gripping story involving terrorists and drug traffickers, Swiss banks and the Russian mob, the Italian Mafia and money launderers.

Prosecutors said they confiscated more than 1,285 cartons of mock Marlboros that were smuggled from China to Queens to avoid city and state taxes of $3 per pack.

Scam up in smoke; officials bust cigarette smuggling ring – *Newsday, September 28, 2002*

After officials broke up a $5-million-per-year smuggling and counterfeit cigarette ring...

"In the wake of the increase in New York's cigarette tax, a torrent of untaxed cigarettes – including fakes purporting to be popular brands such as Marlboro and Marlboro Lights – has been pouring into New York City," said Queens District Attorney Richard Brown.

$200M lost to smokes smugglers yearly; city, state tax shortfall from gang & internet sales – *New York Daily News, September 23, 2002*

Smugglers' profits rise, and state, city tax revenues fall...

Freelance smugglers, organized crime and Internet sources are flooding New York's neighborhoods with cheap cigarettes that would bring the city and state upward of $200 million a year in taxes on the legitimate market.

The boom in underground cigarettes was touched off by the July increase in city taxes...according to government officials and tobacco wholesalers.

"When it comes to smuggling and counterfeit stamps, traditional organized crime is involved, terrorist groups are involved and street gangs are involved," said John Dugan, the ATF's area supervisor for industry operations. "Now the profit margin is tremendous," he said.

One morning last week, three stores in a four-block area in Bedford-Stuyvesant, Brooklyn were busted by agents of the Finance Department's tax enforcement division for selling untaxed cigarettes.

Illegal tobacco transport targeted; arrest rate rises with tax increase – *The Washington Times, September 23, 2002*

Law enforcement sees rise in arrests due to smuggling...

Maryland is setting a record pace for tobacco-smuggling arrests, having charged 42 persons with the crime since the fiscal year began July 1.

The increased pace of arrests coincides with an increase in Maryland's tobacco tax.

[Maryland's] comptroller [William Donald Schaefer] has linked tobacco to terrorist groups. "We know that some of the money used by smugglers is directly passed on to terrorist organizations," Mr. Schaefer said last month.

Three weeks after the September 11 terrorist attacks on the World Trade Center and the Pentagon, Mr. Schaefer said he believed there was some connection between cigarette smugglers and terrorist groups.

He said the terrorists who bombed the World Trade Center in 1993 had sold cigarettes illegal to partially finance that attack.

Revenue-craving governments have long been addicted to nicotine, drawing in tax revenue while breathing out moral platitudes about liberating the community from lethal addiction – *The Business, September 22, 2002*

New York's high cigarette tax leads to smuggling from neighboring states...

Another unforeseen consequence of the tax has been a sharp increase in bootleggers who have been making a nice living out of transporting cigarettes from low-tax states in the south to high-tax states in the northeast.

Authorities recently arrested 17 people accused of smuggling cigarettes to raise money for the terrorist Hezbollah by earning as much as $10,000 with each vanload.

At its base is not cocaine or heroin or guns or explosives, but cigarettes.

Cigarette smuggler helps federal agents follow money trail to Islamic group Hezbollah – *Port St. Lucie/Fort Pierce (Florida) Tribune, November 18, 2002*

Counterfeit cigarette tax stamps lead to arrests at airports ...

The trap that snared Haissam Nashar as he changed planes at Lambert Field was intended to stop drug runners. As it turned out, the nervous, sweating traveler who attracted police attention three years ago had no narcotics; the contraband in his luggage was instead almost $700,000 worth of cigarette tax stamps that police presumed were counterfeit.

St. Louis bust leads police to Charlotte Hezbollah ring – *Associated Press, November 18, 2002*

Terrorists find easy funding source in smuggled cigarettes and counterfeit tax stamps...

Haissam Nashar, 38, a native of Lebanon who lives in North Carolina, was running fraudulent cigarette tax stamps, rather than drugs. After authorities started questioning him, he gave them the names of other people of Lebanese heritage who he said were smuggling cigarette stamps to raise money for Hezbollah.

This June, Nashar appeared in a heavily guarded courtroom in Charlotte to testify against two men he implicated, brothers Mohamad and Chawki Hammoud.

[Kenneth] Bell [the assistant U.S. attorney who prosecuted the case] said the Hammoud brothers and eight defendants who pleaded guilty had at times sent as many as three vans of cigarettes a week to Michigan, making a profit of up to $12,000 per van.

Counterfeit Terror: Feds track sales of counterfeit goods, money to terror groups – *Associated Press, October 24, 2002*

Counterfeit products, including contraband cigarettes, fund terror organizations...

Officials said the schemes span the globe, but there is direct evidence that some counterfeit products are being imported from overseas and sold directly in the United Sates, with the proceeds from Americans going back to terror groups. Counterfeit sales are believed to have reached into the millions of dollars, officials said.

[Tim] Trainer [a former Customs Service official who now heads the International Anti-counterfeiting Coalition in Washington] said current estimates are that sales of counterfeit goods account for 5 percent to 7 percent of worldwide trade, possibly as much as a half-trillion dollars a year.

Thieves apparently drive through door, take smokes – *Toledo Blade, October 21, 2002*

Cigarette thefts cause expensive damages for retailers...

Toledo police are investigating a burglary...in which a vehicle apparently slammed through the front door and thieves stole 250 cartons of cigarettes.

Mr. Jamal [store manager and co-owner] said suspects took a large case that contained the cigarette cartons and drove off...he estimated the damage to the store at about $20,000.

Bogus butts pinched in Queens – *New York Daily News, September 28, 2002*

After prices exceed $7 per pack, fake cigarette markets emerge...

Already under siege from sky-high prices, smokers got another dose of bad news yesterday – some of the brand-name cigarettes they are buying are actually fakes.

"I never believed in my wildest dreams that I'd be standing before you with hundreds of cartons of counterfeit cigarettes," said Queens District Attorney Richard Brown as he posed before a large table covered with fake Marlboros.

Hiking tobacco tax won't solve budget deficit – *Cape Cod Times, September 18, 2002*

When California officials proposed a cigarette tax increase...

With California facing a Grand-Canyonesque budget deficit of $24 billion, Gov. Gray Davis and his Democratic allies in the State Legislature have fallen back on a brain-dead litany of tax increases. **The flat-liner of the year award, however, has got to be the proposed massive hike in the state tobacco tax, which should be labeled the "Tax Avoidance and Smuggling Promotion Act."**

Before they bank on all those additional tax revenues, Davis and Wesson should look at the huge problems currently being experienced by states and countries with high tobacco taxes.

New York smokers have gone to great lengths to avoid the high tobacco taxes. For instance, many tobacco consumers travel to Indian reservations in the state where, because of Indian sovereignty rights, cigarettes can be sold minus state and local taxes.

In a delicious irony, then, much of the revenues that Davis and Wesson expect from their tobacco tax increase may go up in smoke.

Cigarette smugglers find Virginia's low tax tempting – *Virginian-Pilot, September 16, 2002*

Maryland officials catch a smuggling ring – running cigarettes from Virginia to New York...

The U.S. Customs Service says profits from cigarette smuggling now rival those from trafficking in illegal drugs. And no state is a more tempting target for the traffickers than Virginia

The operation was profitable at every step of the process, said Dale Irwin, assistant director of field enforcement in the Maryland comptroller's office, which investigated the case. "The retailer was making money in Virginia. They guy taking them into Maryland was making money. The guy who was taking them to New York was making money. And the person who eventually sold them over the counter was making money," Irwin said.

Irwin estimates that 90 percent of the seized cigarettes came from Virginia. New York City authorities estimate that 80 percent of cigarettes smuggled into the city originate in Virginia. **"This is organized crime," Irwin said. "We've had some information come back to us from reliable sources that there have been warehouses where people had semi-automatic machine guns guarding their product."**

State gets tough on cigarette tax, threatens smokers dodging $1 charge – *Pittsburgh Post-Gazette, August 30, 2002*

Youth access cigarettes via the Internet...

Pennsylvania officials are learning what their counterparts in other states have known for years: People will buy cheaper cigarettes over the Internet, from neighboring states, or from Indian reservations that sell tax-free cigarettes to avoid paying high taxes.

"The Internet is a great resource, but some individuals are using it to thwart Pennsylvania tax law," said State Revenue Secretary Larry P. Williams.

"Our main goal in increasing Pennsylvania's tax on cigarettes was to discourage our children from smoking," Williams said. "If children have access to purchasing tobacco products over the Internet, it defeats the purpose."

Smoke 'em if you can afford 'em – *Daily Texan, August 27, 2002*

As increased excise taxes cause the price of cigarettes to rise...

Where there is a will to procure a desired product at a lower cost, there is always a way. Luckily for smokers, the free market and legal loopholes have allowed them to circumvent suffocating government legislation and find cigarettes for very low prices.

In addition to the Texas tradition of hopping the border to grab some cheap smokes in Matamoros or Ciudad Acuna, smoke shops on Indian reservations have become more popular with smokers as word gets out that one can buy cartons for less than $20.

It is estimated that $1.5 billion in federal and state cigarette taxes goes collected every year [due to smuggling].

Cracking down on cigarette smuggling could also be seen as corollary to the terror war. In July, 17 men were arrested on charges of cigarette smuggling. Authorities also alleged that proceeds from the smuggling ring were being funneled to the terror organization Hezbollah.

Cigarettes top burglars' list at city stores – *Toledo Blade, August 20, 2002*

As taxes on cigarettes rise, crime against retailers who sell cigarettes increases...

Dan Ridi is tired of the hassles. Two of his Toledo convenience stores have been broken into this month. The object of the burglars' desires isn't money, but cartons of cigarettes.

"They're taking out garbage bags and laundry baskets full of them," Toledo police Detective Felix Parra said.

New Yorkers finding ways to circumvent high cigarette taxes – *CBS News, August 20, 2002*

When officials claim that cigarette taxes help curb smoking and improve public health...

The city [New York] claims sales have been cut in half, but have they? Just because they're reporting selling half as many cigarettes doesn't mean people are smoking half as many cigarettes. Perhaps all it means is that smokers have become more enterprising in their efforts to beat the tax. Which brings us to those agents, raiding markets across the city that are selling illegal cigarettes lacking the proper New York tax stamp.

Is taxing tobacco good public policy? No; Snuff-out cigarette tax hike – *The San Diego Union-Tribune, August 18, 2002*

Crime and youth access to tobacco may increase with cigarette tax increase...

California lawmakers should reject as fools gold the proposed huge increase in cigarette taxes. I [Robert Shepherd, New York] spent 25 years in New York State government as a cop, a prosecutor and the top enforcement official for tobacco taxes, and I know first-hand what such a high tax will bring: crime, cheap cigarettes easily available to youth and unemployment.

Perhaps the most egregious problem with a tax increase of this magnitude is that it will end up making cheap cigarettes available to kids – the direct opposite of what the proponents claim. With an overwhelming proliferation of smuggling, cheap cigarettes will be available...on many street corners. Smugglers never ask for ID.

The lesson is clear from New York to California: when governments try to tax behavior in order to change behavior, they wind up losing revenue and hurting the innocent.

Burning issues steam The Apple – butt-leggers sell illicit cigs under cops' noses – *New York Post, August 18, 2002*

Smuggled cigarettes hurt local businesses ...

Mayor Bloomberg may have helped raise the price of a pack of cigarettes to $7.50 and the City Council may be trying to ban smoking everywhere, but The Post found that it is easy to buy cheap cigarettes from illegal vendors at numerous locations across the city.

Popular brands can be bought on the streets for as little as $5 a pack - $2 to $3 less than tax-stamped packets being offered by stores and bodegas complying with the city and state's 6-week-old tax slug, which went from 8 cents a pack to $1.50.

"An increase in bootlegging is just what we predicted," [Richard Lipsky, a spokesman for a city coalition of small-store owners] said. **"What you're seeing is only the tip of the iceberg, but this iceberg is going to sink scores of neighborhood stores because tobacco is a traffic-builder for them."**

The NYPD said many illegal cigarette sellers are small-time operators who are hard to catch. Police sources say their hands are tied in dealing with repeat offenders...because current laws don't really address street sellers flogging low-tax cigarettes.

"There's no real punishment," one source said. "Mostly, they pay a fine and go right back out there."

Cigarette thefts increase as taxes rise – *Associated Press, July 24, 2002*

Cigarette tax increases lead to increased theft and smuggling in New Jersey...

New Jersey police say the kind of smash-and-grab robberies that usually take place at jewelry stores are happening where cigarettes are sold. And federal law enforcement officials report that hijackings of tractor-trailers transporting cartons of smokes around the country are on the rise.

"Where we've seen an increase in taxes, we've seen an increase in diversion," said Special Agent Joseph Green of the Bureau of Alcohol, Tobacco and Firearms.

The ATF only deals with cases involving the theft or smuggling of more than 60,000 cigarettes and **investigations conducted by the agency nationally have swelled from six in 1998 to 97 so far this year.**

Cigarette tax impacting smuggling, online sales – *Associated Press, July 21, 2002*

After Ohio raises cigarette tax, officials prepare for smuggling...

"It's not unusual for someone to buy $100,000 in cigarettes and turn that into $150,000 or $160,000," said Chris Tardio, a Bureau of Alcohol, Tobacco and Firearms agent in Cincinnati. **"It's mind-staggering how profitable it is."**

"Obviously it creates opportunities to make some money illegally," said Gary Gudmundson, spokesman for the Department of Taxation. "There will undoubtedly be people who see it as an opportunity they can't pass up."

States brace for cigarette backlash – *Associated Press, July 14, 2002*

After several states increase cigarette taxes, authorities begin bracing for more aggressive smuggling...

Those unwilling or unable to kick the habit are left with several options – legal, quasi-legal or illegal – for getting a nicotine hit without a tax hit.

Those who choose the illegal route are often successful. The Bureau of Alcohol, Tobacco and Firearms estimates state and federal authorities lose more than $1.5 billion annually in evaded cigarette taxes.

The ATF concentrates on major interstate smuggling – operations involving at least 60,000 cigarettes. The workload has increased steadily in recent years; ATF now has about 150 active cigarette-smuggling cases.

"There's no question some large-scale organized crime gangs are involved," said ATF spokesman John D'Angelo. "Not only are these criminals depriving state and federal governments of tax revenue, they're using their profits for other criminal activity."

The state of cigarette taxation - *Chicago Tribune, May 9, 2002*

Nearly 30 states have raised or may raise cigarette taxes; revenue-generating efforts may backfire...

Higher tobacco taxes are expected to create problems for many states because of increased cigarette smuggling and the proliferation of more than 100 Internet cigarette sales operations such as Mybutts.com and Smokemcheap.com, where smokers can buy their favorite brands without paying state taxes. The result, according to tax and budget analysts, **is that many states likely won't collect the amount of money they have forecast to balance their budgets.** The amount of uncollected revenue could run into the billions of dollars.

Cigarette smuggling has long been a revenue drain for some states and cities. In Oregon, the cigarette tax is 68 cents, offering an attractive alternative to Washington. New York Mayor Michael Bloomberg said smuggling costs his city $40 million a year in lost tax revenues. The lure of buying cigarettes in Virginia, where the tax is 2.5 cents, will almost certainly increase because Maryland raised the tax to $1 per pack, from 66 cents.

A report from Forrester Research Inc. said Internet retailers that operate on Indian reservations "are not compelled to collect state sales or excise taxes; 67 percent of the top online tobacco retailers are located on Indian reservations."

In wake of state cigarette tax hike, officials brace for more bootlegging - *Albany Times Union, April 29, 2002*

After the first month of a NY state cigarette tax increase to $1.50 per pack (implemented 4/1/02)...

Smugglers can make more than $20 a carton by purchasing cigarettes from distributors in states like Virginia and North Carolina and reselling them in this (NY) state.

New Yorkers have been driving across state lines in large numbers to buy cigarettes since the new tax took effect April 1, officials said. **Store owners in New York border states that have lower cigarette taxes are reporting brisk sales.**

For those not making the trip, smugglers can be the answer. Often, corrupt vendors will bring back untaxed cigarettes and sell them in their own stores in New York for full price, pocketing the profit and the sales tax.

A pack of profits from tobacco - *NorthJersey.com, April 14, 2002*

Tax increases lead to smuggling...

In 1999, a year after the last cigarette tax increase went into effect in New Jersey, law enforcement authorities seized 15,435 cartons of illegal cigarettes worth $504,051, the largest haul over the last five years.

300G cigarette heist foiled - *New York Daily News, February 23, 2002*

Detectives caught suspects who allegedly stole $300,000 worth of cigarettes...

Investigators got a tip that the suspects planned to sell the cigarettes yesterday outside a storage facility on W. 230th St. for about $15 a carton – **a steep discount from the estimated retail price of about $40.**

Some New Yorkers fume, others see merit in cigarette tax hike - *Bloomberg News, February 15, 2002*

New York tax hike won't prevent people from smoking – people will go elsewhere to purchase cigarettes...

Prudential Securities analyst Robert Campagnino, who follows the tobacco industry, says he sees Bloomberg's tax increase "having no impact" on cigarette sales, if enacted. "With all due respect to the mayor, it's a pretty silly idea," he said. "In New York, where everyone is 10 minutes away from a place outside the city, anyone can leave the city, buy their cigarettes and come back in. **It creates a powerful incentive to smuggle cigarettes.**"

Campagnino said a tax increase "would create a huge business for those who sell cigarettes by mail order or over the Internet. They would be major beneficiaries of a tax like this."

Cigarette taxes yield 2nd-hand hit: crime - *Portland Oregonian, January 22, 2002*

Black market sales generated by high cigarette taxes in Washington...

A van stuffed with 5,000 untaxed cartons is worth up to $57,000 more in Washington than it is in Idaho. Illegal cigarette sales were already costing Washington an estimated $100 million in lost annual revenues before the 60-cent tax hike on Jan. 1.

M. Carter Mitchell, who oversees Washington's 14-agent tobacco tax-evasion unit, looks like a man bracing for a hurricane. His agents tell him there are already signs of increased smuggling... "The day that thing [the cigarette tax] passed, we said 'Oh boy, this is going to be a real mess.'"

Cigarette smuggling exploded in Maryland after the state's cigarette tax climbed to 66 cents a pack in 1999. Vans and trucks full of illegal cigarettes suddenly started rolling into the state from neighboring Virginia, which has the lowest tax in the country – 2.5 cents a pack.

Similar market upheavals rocked California after it doubled its cigarette tax to 87.5 cents a pack on Jan. 1, 1999. Taxable sales fell by more than 25 percent. State officials now estimate California loses $300 million a year to the black market.

Cigarette scam uncovered- *Newsday, January 19, 2002*

New York cigarette smuggling operation busted due to heightened airport security...

Authorities say it is increasingly common for criminals to buy cigarettes in states or countries where they are cheaper, and have less or no taxes, and sell them to New York merchants. Friday at the ranch home, authorities recovered 3,469 cartons of Chinese cigarettes destined for delivery to numerous merchants, Brown said.

State of Alaska Epidemiology **Bulletin** Recommendations and Reports

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Youth Tobacco Use Falls

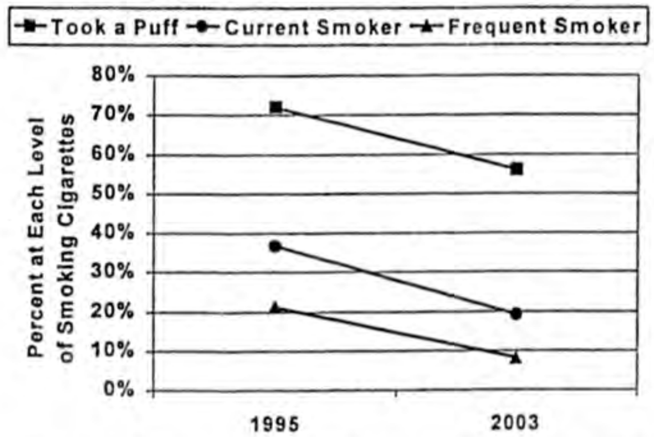
Results From the 2003 Youth Risk Behavior Survey

Smoking among Alaskan high school students has been cut in half since 1995, according to results of the 2003 Youth Risk Behavior Survey (YRBS).

Only 19 percent of the state's high school students say they have smoked at least one cigarette in the past month, down from 37 percent in 1995 (Figure 1). Frequent smoking, in which students report using cigarettes on at least 20 days in the previous month, fell from 21 percent in 1995 to just 8 percent. Just 56 percent of high school youth say they have even taken a single puff on a cigarette, down from 72 percent in 1995.

	1995	2003
Took a Puff	72%	56%
Current Smoker	37%	19%
Frequent Smoker	21%	8%

Figure 1. Percentage of High School Youth Who Ever Took a Puff or Are Current or Frequent Smokers By Year, Alaska YRBS, 2003



"Took a Puff" = took at least a puff of a cigarette in lifetime; "Current Smoker" = smoked on at least 1 out of the last 30 days; "Frequent Smoker" = smoked on at least 20 out of the last 30 days

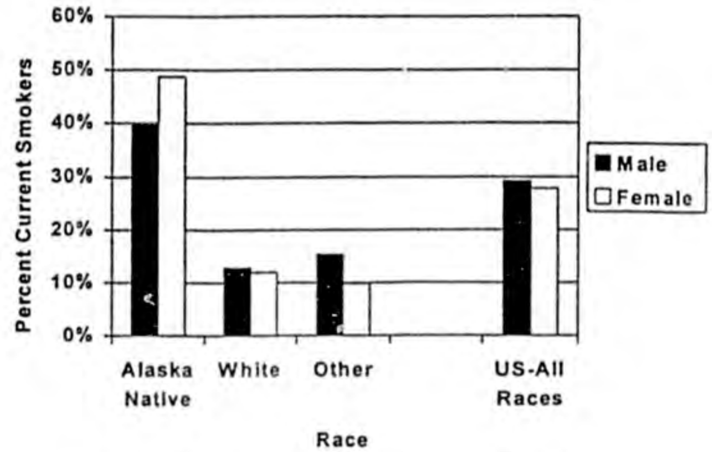
The YRBS, conducted jointly in Alaska by the Department of Health and Social Services and the Department of Education and Early Development, was administered to 1,500 Alaskan high school students who were randomly chosen from nearly every school district in the state. The 2003 YRBS is the first statistically valid statewide health survey of Alaskan youth since 1995.

While smoking rates have declined overall, the YRBS shows that smoking among Alaska Native youth far exceeds that seen in all other races. Approximately 49 percent of Alaska Native females and 40 percent of Alaska Native males say they have smoked at least once during the previous month (Figure 2). About one in five Alaska Native students of both sexes report smoking at least 20 days per month.

Figure 2. Percentage of High School Youth Who Are Current Smokers, By Sex and Race Alaska YRBS (2003), US YRBS (2001)

	Alaska Native	White	Other Race
Male	40%	13%	15%
Female	49%	12%	10%

US YRBS, 2001 (all races)
males = 29%, females = 28%

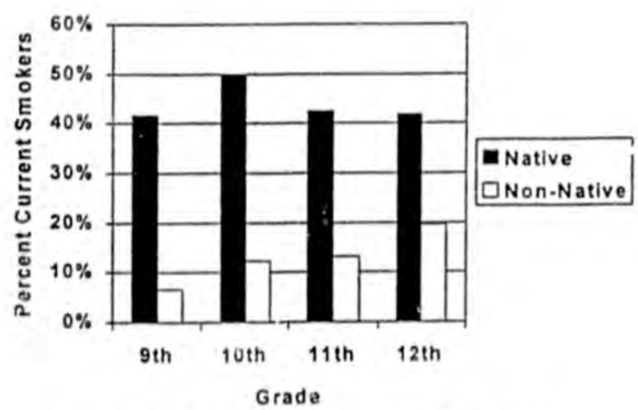


"Current Smoker" = smoked on at least 1 out of the last 30 days

Smoking among Alaska Native youth surpasses that of non-native youth at every grade level (Figure 3). While the likelihood of smoking increases among non-native youths as they progress through high school, it is already near maximum levels by the 9th grade among Alaska Natives.

Figure 3. Percentage of High School Youth Who Are Current Smokers By Race and Grade Alaska YRBS, 2003

	9th	10th	11th	12th
Native	42%	50%	42%	42%
Non-Native	7%	12%	13%	20%



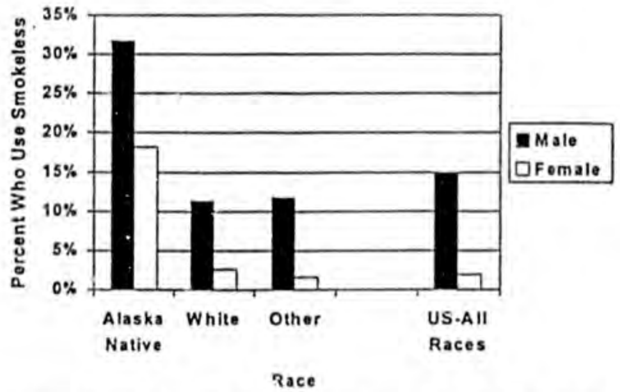
"Current Smoker" = smoked on at least 1 out of the last 30 days

The YRBS also shows that about 11 percent of Alaskan youth have used smokeless tobacco in the previous month. Smokeless tobacco use is especially high among Alaska Natives, where rates among boys are double the national average and rates among girls are nine times higher than the national norm (Figure 4).

	Alaska Native	White	Other Race
Male	32%	11%	12%
Female	18%	3%	2%

US YRBS, 2001 (all races)
males = 15%, females = 2%

Figure 4. Percentage of High School Youth Who Use Smokeless Tobacco, By Sex and Race Alaska YRBS (2003), US YRBS (2001)

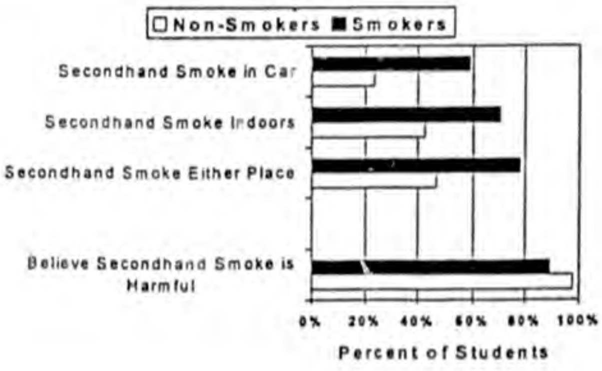


"Use Smokeless Tobacco" = used any smokeless tobacco product on at least 1 of the last 30 days

The YRBS confirms that youth exposure to environmental tobacco smoke in Alaska remains high, despite increased restrictions on smoking in public places. Nearly 50 percent of Alaskan youth who do not smoke say they have been exposed in the past week to secondhand smoke inside of buildings or cars (Figure 5). More than 95 percent of youth say they believe that secondhand smoke is harmful. This view was even expressed by 89 percent of those who smoke.

	Non-Smokers	Smokers
Secondhand Smoke in Car	24%	59%
Secondhand Smoke Indoors	43%	70%
Secondhand Smoke Either Place	47%	78%
Believe Secondhand Smoke is Harmful	98%	89%

Figure 5. Percentage of High School Smokers and Non-Smokers Exposed to Secondhand Smoke in Past Week Alaska YRBS, 2003



Other findings from the 2003 YRBS bring to light important social and behavioral risk factors associated with youth smoking:

- Students who report that their parents never talk to them about school are almost twice as likely to smoke as students whose parents do talk with them about school (32 percent vs. 18 percent).

- Students who get mostly C's or worse in school are four times as likely to smoke as those who get mostly A's (32 percent vs. 8 percent).

- Students who do not participate in after-school activities are almost twice as likely to smoke as students who participate in one or more such activities per week (26 percent vs. 14 percent).

- Students older than 16 years of age who smoke are twice as likely to have used alcohol in the past month, and are four times as likely to have used marijuana during that time, compared to those who do not smoke (70 percent vs. 36 percent, and 62 percent vs. 16 percent, respectively.)

- Students older than 16 years of age who smoke are three times as likely to have ever used inhalants, and four times as likely to have ever tried cocaine, heroin, methamphetamine or ecstasy, compared to those who do not smoke (24 percent vs. 8 percent, and 43 percent vs. 11 percent, respectively.)

- Students older than 16 years of age who smoke are almost twice as likely to have had sex in the previous three months, compared to those who do not smoke (55 percent vs. 29 percent).

- Students who smoke are twice as likely to have been in a physical fight in the past year, and four times as likely to have been driving while intoxicated during the past 30 days, compared to those who do not smoke (46 percent vs. 22 percent, and 28 percent vs. 7 percent, respectively).

The steep drop in youth smoking was achieved after Alaska invested heavily in a comprehensive tobacco prevention and control program. This program thrives on the strong partnership between state government and the Alaska Tobacco Control Alliance, whose members include the Alaska Native Health Board, the American Cancer Society, the American Heart Association, and the American Lung Association of Alaska.

Components of the state tobacco program include:

- An aggressive anti-tobacco media campaign aimed especially at curbing tobacco use by youth.
- A statewide excise tax designed to put tobacco products out of the reach of kids by boosting the price of cigarettes by $1 per pack.
- Community-based advocacy programs that discourage the initiation of tobacco use by youth and promote the enactment of local ordinances that reduce environmental tobacco smoke exposure.
- Renewed efforts to reduce illegal sales of tobacco to youth through improved vendor training and increased enforcement actions across Alaska.

Last year, undercover sting operations found that more than 30 percent of Alaskan tobacco outlets were unlawfully selling cigarettes and other tobacco products to minors. During 2003, illegal sales to youth fell to 10 percent (Figure 6). Clean indoor air ordinances are now in force in Anchorage, Juneau, Bethel, Barrow, Dillingham, Kenai and Soldotna. Many other smaller communities have adopted informal non-smoking policies.

Percent of Tobacco Vendors in Non-Compliance	
1996	34%
1997	29%
1998	24%
1999	34%
2000	36%
2001	27%
2002	30%
2003	10%

Figure 6. Illegal Tobacco Sales to Youth and Age of Confidential Informants Alaska 1996-2003

Tobacco-attributable disease in Alaska accounts for approximately 600 deaths per year, more than five times as many deaths as those caused by motor vehicle crashes, and nearly 100 times as many deaths as those caused by AIDS. Of the death toll due to tobacco, 120 lives are lost each year because of secondhand smoke. Beyond this, tobacco use accounts for more than $260 million in direct and indirect medical costs in Alaska each year.

The persistently high levels of smoking among Alaska Native youth do not bode well for reducing racial disparities in the burden of chronic disease in Alaska. Lung cancer mortality among Alaska Natives, once rare, now exceeds that of non-natives (Figures 7 and 8). The high levels of smokeless tobacco use among Alaska Native youth are also worrisome, as continued use into adulthood will increase the likelihood of developing oral cancers, periodontal disease and other disorders.

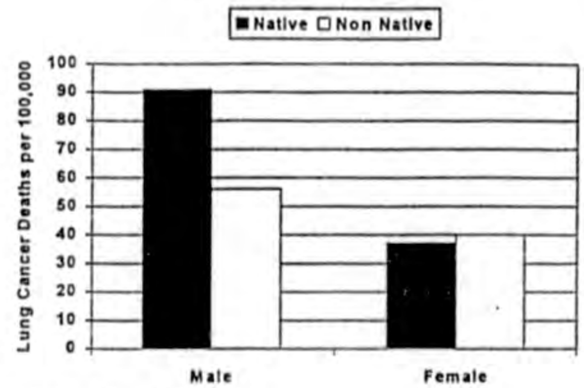
Reductions in youth smoking are critical in decreasing the long-term burden of heart disease, stroke, cancer and other chronic diseases in Alaska. Approximately three-quarters of smokers initiate tobacco use as adolescents.[1] Young people who are refusing to use tobacco today are unlikely to start smoking later in life.

Investments in tobacco prevention and control programs have a strong effect on reducing tobacco use, as long as programs can continue to dedicate significant and sustained resources to prevention activities.[2] Alaska currently spends approximately $5.2 million per year on tobacco prevention and control, including $3.1 million provided by the 1998 Master Settlement Agreement between states and the tobacco industry. This total falls short of the $8.1 million minimum budget recommended by the federal Centers for Disease Control and Prevention for Alaska, and is well below the CDC's recommended spending level of $16.5 million.

Figure 7. Lung Cancer Mortality Rates (per 100,000)
by Race and Sex
Alaska 1996-1999

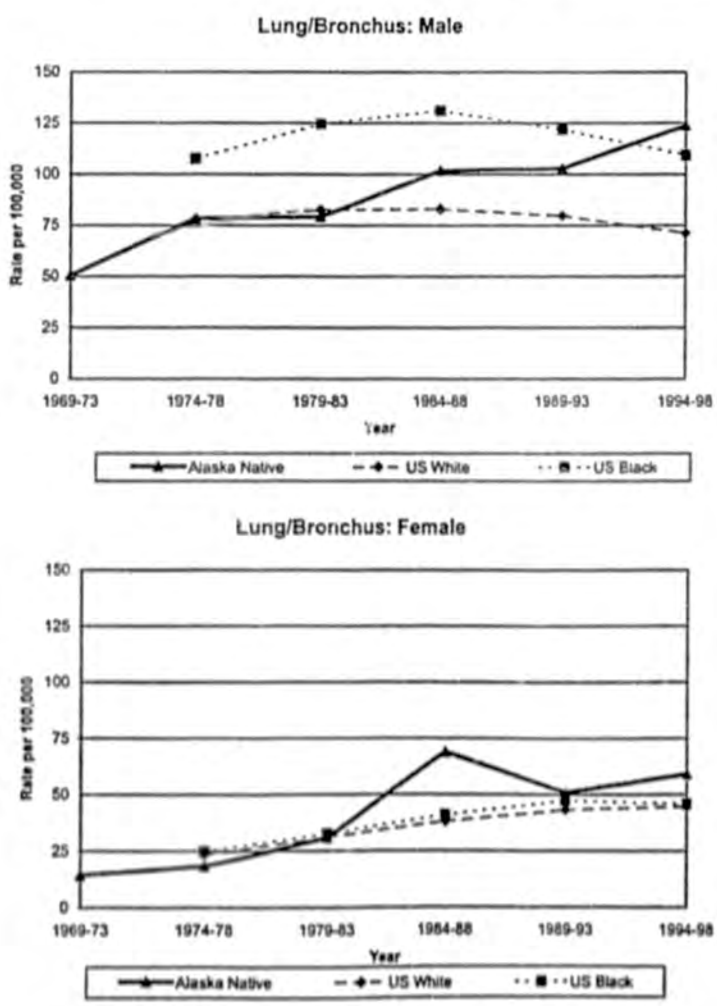
	Male	Female
Native	91.0	37.2
Non-Native	56.1	39.9

Data Source: Alaska Cancer Registry



Data Source: Alaska Cancer Registry

Figure 8. Cancer of Lung/Bronchus
Average Annual Age-Adjusted Cancer Incidence Rates
Alaska Natives 1969-1998 and US 1974-1997



(This figure provided by the Alaska Native Tribal Health Consortium Alaska Native Tumor Registry.)

[1] Substance Abuse and Mental Health Services Administration. (2003). *Results from the 2002 National Survey on Drug Use and Health: National Findings* (Office of Applied Studies, NHSDA Series H-22, DHHS Publication No. SMA 03-3836). Rockville, MD.

[2] Farrelly MC, Pechacek TF, Chaloupka FJ. The impact of tobacco control program expenditures on aggregate cigarette sales: 1981-2000. *J Health Economics*. 2003;22:843-859.

State of Alaska Epidemiology **Bulletin** Recommendations and Reports

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March 26, 2004

Testimony: HB538, Tobacco Tax/Licensing

Much testimony has already been given that the primary purpose of an increased tobacco tax is to prevent children from starting to smoke. The next best reason is to help those who want to quit, to stop smoking, and I agree in both cases. Dr. Urata told you Wednesday that if tobacco went before the FDA today, it would never be allowed on the shelves. It is a poisonous product, a Type A carcinogen. Since that has been established I will focus on other aspects of the issue.

There has been much interest in the State of Alaska having a balanced budget and a pay-as-you-go way of doing business. That's not the current status in regards to tobacco. In 1998, Alaska's cost for Medicaid expenditure for tobacco-caused illnesses was $60 million. That's the latest information I could find, as it takes awhile to gather such statistics. I think we should increase the tobacco tax to more closely cover the cost of tobacco to this state. Call it a pre-insurance charge for when smokers have exhausted their own funds and must go on Medicaid to manage those last painful weeks prior to death. Advertising the charge in that way might send a message to smokers who are now enabled by our permissive handling of nicotine addiction, which requires smokers to accept no responsibility for the results of their smoking. The "Center For Social Gerontology" at www.tcsg.org speaks of smokers as making it to retirement, only to learn the serious consequences of their behavior catches up at about the same time and shortens or terminates their plans for a wonderful retirement.

From the National Center for Chronic Disease Prevention and Health Promotion:

> "Chronic Diseases are generally not prevented by vaccines or cured by medication, nor do they just disappear. To a large degree, the major chronic disease killers — heart disease, cancer, stroke, and diabetes — are an extension of what people do, or not do, as they go about their daily lives. Eighty-eight percent of those over 65 years of age have at least one chronic health condition. Health damaging behaviors — particularly tobacco use, lack of physical activity, and poor eating habits — are major contributors to the nation's leading chronic diseases. Clearly, promoting healthy behavior choices, through education and through community policies and practices, is essential to reducing the burden of chronic diseases."

Testimony: HB 538 March 26, 2004

When there is no protection from smoke in HUD housing/Alaska Housing, preventable secondhand smoke frequently causes the elderly to need medication or hospitalization that could have been prevented. It is one thing to post "No Smoking" signs in all the public areas, when the air does not obey the rule and slips right out of a smoker's room and under the door of the nonsmoker, and ineffective to really give protection to non-smokers. The State then gets the Medicaid bill. I know this from an experience with a local complex here in Juneau. There are HUD models for grand fathering in smokers already there, and allowing no new smokers. People get to choose whether they can afford other housing or to smoke outside or quit. When Alaska is footing the bill this should be encouraged.

Tobacco keeps on costing Alaska:

80 to 150 deaths each year from secondhand smoke.

440 adult deaths each year from smokers' own smoke.

19,500 kids under 18 and alive in Alaska today will die prematurely from smoking.

Smoking kills more people than the <u>combined total</u> of: alcohol, AIDS, car crashes, illegal drugs, murders, and suicides.

The above facts are available from Tobacco Free Kids, H&SS or the CDC.

I'm unaware of the total that are ill and under care (but not dead) but it is extensive and expensive. I'm one of them. My secondhand smoke caused chronic illness has helped State employee insurance costs rise, and is now helping to deplete the PERS/TERS insurance fund, not to mention loss of productivity. My maintenance meds from the results of secondhand smoke, which just keep me from getting sick and losing additional lung function, cost $1,200 for 90 days, or $4,800 per year. Tobacco must begin to accept responsibility for its cost.

Thank you for this opportunity.

Sincerely,

Doris Robbins

Doris Robbins
member of Juneau Clean Air
Vol. member of Akns for Tobacco Free Kids