

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9433 HOUSE STATE AFFAIRS

69

1 legislature, legislative review of the governor's supplemental appropriation bills and
2 the governor's budget amendments shall be governed by the following time limits:

3 (1) Requests by the governor for supplemental appropriations for state
4 agency operating and capital budgets for the current fiscal year may be introduced by
5 the rules committee only through the 30th legislative day.

6 (2) Requests by the governor for budget amendments to state agency
7 budgets for the budget fiscal year may be received and reviewed by the finance
8 committees only through the ~~45th~~ [60TH] legislative day.

9 * Sec. 11. AS 37.07.090(b) is amended to read:

10 (b) The office shall summarize the performance reports and forward copies to
11 each member of the legislature by January 10 each year.

12 * Sec. 12. AS 47.30.380 is amended to read:

13 **Sec. 47.30.380. Appropriation authorized.** Funds to carry out AS 47.30.350
14 - 47.30.400 shall be set out in the [GENERAL] appropriation bill authorizing the
15 operating and capital expenditures of the state's integrated comprehensive mental
16 health program under AS 37.14.003(a) and submitted to the legislature under
17 AS 37.07.020(a)(1).

Compare
to HB 78

AMENDMENT

This is HB 78,
almost - but
without your
amendment. It
is NOT in SB136

OFFERED IN THE HOUSE
TO: CSSB 136(FIN) am

BY I

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Page 2, following line 16:

Insert a new bill section to read:

"* Sec. 4. AS 37.05.146 is amended to read:

Sec. 37.05.146. Definition of program receipts and non-general fund program receipts. (a) In AS 37.05.142 - 37.05.146 and AS 37.07.080. "program receipts" means fees, charges, income earned on assets, and other state money received by a state agency in connection with the performance of its functions. Unless otherwise provided in this section, program receipts are accounted for within, and appropriated from, the general fund of the state.

(b) The program receipts listed in this subsection are accounted for separately, and appropriations from these program receipts are not made from the unrestricted general fund [; ALL PROGRAM RECEIPTS EXCEPT THE FOLLOWING ARE GENERAL FUND PROGRAM RECEIPTS]:

- (1) federal receipts;
- (2) University of Alaska receipts (AS 14.40.491);
- (3) designated program receipts from a source other than the state that are restricted to a specific use by the terms of a gift, grant, bequest, or contract [INDIVIDUAL, FOUNDATION, OR CORPORATION GIFTS, GRANTS, OR BEQUESTS THAT BY THEIR TERMS ARE RESTRICTED TO A SPECIFIC PURPOSE];
- (4) receipts of the following [FUNDS]:
 - (A) highway working capital fund (AS 44.68.210);
 - (B) correctional industries fund (AS 33.32.020);
 - (C) loan funds;
 - (D) international airport revenue fund (AS 37.15.430);

0-LS0730\BA.3

1 (E) corporate receipts earned or managed by a public
 2 corporation of the state [FUNDS MANAGED BY THE ALASKA
 3 HOUSING FINANCE CORPORATION (AS 18.56.020), THE ALASKA
 4 RAILROAD CORPORATION (AS 42.40.010), THE MUNICIPAL BOND
 5 BANK AUTHORITY (AS 44.85.020), THE ALASKA AEROSPACE
 6 DEVELOPMENT CORPORATION (AS 14.40.821), OR THE ALASKA
 7 INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY
 8 (AS 44.88.020)];

9 (F) fish and game fund (AS 16.05.100);

10 (G) school fund (AS 43.50.140);

11 (H) training and building fund (AS 23.20.130);

12 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,
 13 AS 39.35, and former AS 39.37);

14 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

15 (K) public school trust fund (AS 37.14.110);

16 (L) second injury fund (AS 23.30.040);

17 (M) fishermen's fund (AS 23.35.060);

18 (N) FICA administration fund (AS 39.30.050);

19 (O) receipts of the employee benefits program established
 20 under AS 39.30.150 - 39.30.180;

21 (P) receipts of the deferred compensation program established
 22 under AS 39.45;

23 (Q) clean air protection fund (AS 46.14.260);

24 (R) receipts of the group insurance programs established under
 25 AS 39.30.090;

26 (S) mental health trust fund (AS 37.14.031);

27 (T) Alaska children's trust (AS 37.14.200);

28 (U) commercial fisheries test fishing operations
 29 (AS 16.05.050(15));

30 (V) Alaska Public Utilities Commission under AS 42.05 and
 31 AS 42.06;

32 (5) receipts of or from the trust established by AS 37.14.400 -

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1 37.14.450, except reimbursements described in AS 37.14.410."

2 Renumber the following bill sections accordingly.

CS FOR HOUSE BILL NO. 78()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the definition of certain state receipts; and providing for
2 an effective date."

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

4 * Section 1. AS 37.05.146 is amended to read:

5 Sec. 37.05.146. Definition of program receipts and non-general fund
6 program receipts. (a) In AS 37.05.142 - 37.05.146 and AS 37.07.080, "program
7 receipts" means fees, charges, income earned on assets, and other state money received
8 by a state agency in connection with the performance of its functions. Unless
9 otherwise provided in this section, program receipts are accounted for within, and
10 appropriated from, the general fund of the state.

11 (b) The program receipts listed in this subsection are accounted for
12 separately, and appropriations from these program receipts are not made from
13 the unrestricted general fund [; ALL PROGRAM RECEIPTS EXCEPT THE
14 FOLLOWING ARE GENERAL FUND PROGRAM RECEIPTS]:

- 1 (1) federal receipts;
- 2 (2) University of Alaska receipts (AS 14.40.491);
- 3 (3) designated program receipts [INDIVIDUAL, FOUNDATION, OR
- 4 CORPORATION GIFTS, GRANTS, OR BEQUESTS THAT BY THEIR TERMS ARE
- 5 RESTRICTED TO A SPECIFIC PURPOSE];
- 6 (4) receipts of the following funds:
- 7 (A) highway working capital fund (AS 44.68.210);
- 8 (B) correctional industries fund (AS 33.32.020);
- 9 (C) loan funds;
- 10 (D) international airport revenue fund (AS 37.15.430);
- 11 (E) corporate receipts earned or managed by a public
- 12 corporation or enterprise of the state authorized by law including funds
- 13 managed by the Alaska Housing Finance Corporation (AS 18.56.020), the
- 14 Alaska Railroad Corporation (AS 42.40.010), the Municipal Bond Bank
- 15 Authority (AS 44.85.020), the Alaska Aerospace Development Corporation
- 16 (AS 14.40.821), or the Alaska Industrial Development and Export Authority
- 17 (AS 44.88.020);
- 18 (F) fish and game fund (AS 16.05.100);
- 19 (G) school fund (AS 43.50.140);
- 20 (H) training and building fund (AS 23.20.130);
- 21 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,
- 22 AS 39.35, and former AS 39.37);
- 23 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 24 (K) public school trust fund (AS 37.14.110);
- 25 (L) second injury fund (AS 23.30.040);
- 26 (M) fishermen's fund (AS 23.35.060);
- 27 (N) FICA administration fund (AS 39.30.050);
- 28 (O) receipts of the employee benefits program established under
- 29 AS 39.30.150 - 39.30.180;
- 30 (P) receipts of the deferred compensation program established
- 31 under AS 39.45;

- 1 (Q) clean air protection fund (AS 46.14.260);
2 (R) receipts of the group insurance programs established under
3 AS 39.30.090;
4 (S) mental health trust fund (AS 37.14.031);
5 (T) Alaska children's trust (AS 37.14.200);
6 (5) receipts of or from the trust established by AS 37.14.400 -
7 37.14.450, except reimbursements described in AS 37.14.410;
8 (6) receipts of commercial fisheries test fishing operations
9 (AS 16.05.050(15)).

10 (c) For purposes of this section. "designated program receipts" means
11 money that is received from a source other than the state and that is

12 (1) restricted to a specific use under the terms of a gift, grant,
13 bequest, contract, or federal law if receipt of the money under the gift, grant,
14 bequest, contract, or federal law is expressly approved by the legislature by law;
15 or

16 (2) subject to appropriation for another purpose but is designated
17 by state law as available for a specific use.

18 * Sec. 2. This Act takes effect July 1, 1997.

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 16, 1997

FURTHER REFERRALS: Labor and Commerce
Finance

Date of Committee Action: 4/11/97

The STATE AFFAIRS Committee considered:

HB 78

HOUSE BILL NO. 78

AMEND DEFINITION OF "PROGRAM RECEIPTS"

"An Act relating to the definition of certain state receipts; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 78 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) CMR
 zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jennette James</i>		✓		
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		

CHAIR'S SIGNATURE Jennette James

TONY KNOWLES
GOVERNOR

P O Box 110001
Juneau Alaska 99811 0001
1907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 16, 1997

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

As my Administration and the legislature work to cut the budget, we are faced with an accounting Catch-22: some increases in state spending have absolutely no effect on the fiscal gap. They are actually good for the state economy. Denying increases for economic development permitting, test fisheries or other services that users are willing to entirely pay for might help the "bottom line" for the state budget but they make no sense for the state economy. To avoid an increase in the bottom line, totally unrelated programs are often cut to meet budget caps. This makes no sense from the customer side of the counter.

In other cases, such as professional licensing or the regulation of insurance companies and utilities, the legislature has passed laws requiring the state's responsibilities be fully fee-supported by the users. The fee is to be no more and no less than the cost of protecting the public interest. If an increase in the number of engineers or teachers needing licenses requires an increase in the cost of providing that service, should some other public service be penalized an equivalent amount? Of course not.

Last year I proposed a way to eliminate this Catch-22 without limiting public disclosure of all state expenditures or the legislature's authority to appropriate. A version of my proposal was merged with SB265, a bill which cured the Catch-22 for test fisheries. Reintroduced in the Special Session as SB1009, it passed the House and was expected to pass the Senate when the clock ran out.

I am reintroducing a designated program receipts bill with two updates. As before, it establishes a category of program receipts generated by state government activities and

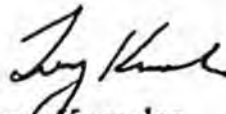
The Honorable Gail Phillips
January 16, 1997
Page 2

treats them the same way we currently handle fund sources such as university tuition, gifts and grants. In reviewing the bill for this year, we realized that two technical additions to the statute would be in order. One adds the term "corporate receipts" to the statutory list of program receipts, codifying the longstanding treatment of receipts generated by our public corporations (such as AHFC and AIDEA). The other adds earnings of the Children's Trust which, I am very pleased to say, now has earnings for you to appropriate.

Designated program receipts would still be appropriated by the legislature, but they would not be included in the tally of unrestricted general funds. For information purposes, both my FY97 and FY98 budgets have shown general fund spending with and without designated program receipts to make it very clear that increases in services paid for entirely with designated program receipts do not widen the budget gap. We would continue that practice.

This bill makes common sense changes to our budget process without sacrificing fiscal information or legislative prerogative. I urge your favorable consideration.

Sincerely,



Tony Knowles
Governor

**INDEX OF ESTABLISHED STATE FUNDS AND ACCOUNTS
CH 94 SLA 95 PLUS NEW LEGISLATION**

Sorted in Fund Code Order

FUND CODE	FY96 PROGRAMS/FUNDS	FY96 ENACTED	STATUTE/YEAR AUTHORIZED
1001	Constitutional Budget Reserve	17,691.5	Art. IX Sec. 17 1990
1002	Federal Funds	701,980.3	37.20.020 1959
1003	General Fund Match	228,360.7	Art. IX Sec. 7 1956
1004	General Fund Receipts	1,767,048.3	Art. IX Sec. 7 1956
1005	General Fund/Program Receipts	82,862.4	37.05.142-146 1990
1007	Inter-Agency Receipts	192,302.9	37.10.050(a) 1990
1010	University of Alaska Interest Income	2,801.4	14.40.170(b)(4) 1949
1011	Alaska Advance College Tuition Payment Fund (a.k.a. Alaska Education Trust Fund)	19.7	14.40.803(a) 1990
1013	Alcoholism & Drug Abuse Revolving Fund	2.0	44.29.210(a) 1990
1014	Donated Commodity/Handling Fee	358.6	37.05.146 1990
1015	U/A Dormitory/Food/Auxiliary Service	23,984.8	14.40.491 1986
1016	Federal Incentive Payment	2,917.3	37.05.146 1990
1017	Benefits System Receipts	4,005.8	37.05.146 1990
1021	Agriculture Loan Fund	1,429.0	03.10.040(a) 1953
1022	State Corporation Receipts	60,501.3	37.05.146 1990
1023	FICA Administration Fund Acct.	90.8	39.30.050 1951
1024	Fish and Game Fund	19,293.9	16.05.100 1959
1025	Alaska Science & Technology Endowment	12,408.0	37.17.020(a) 1988
1026	Highway Working Capital Fund	22,605.9	44.68.210 1960
1027	International Airports Revenue Fund	38,397.5	37.15.430(a) 1972
1029	Public Employees Retirement Trust Fund	15,110.8	39.35.100 1960
1030	School Fund (Cigarette Tax)	2,655.0	43.50.140 1955
1031	Second Injury Fund Reserve Account	2,831.7	23.30.040(a) 1959
1032	Disabled Fisherman's Reserve Account	1,290.7	Art. IX Sec. 7 1951
1033	Surplus Property Revolving Fund	274.8	44.68.130(c) 1957
1034	Teachers Retirement System Fund	9,638.0	14.25.170(5) 1960
1035	Veterans Revolving Loan Fund	238.0	26.10.020 1951
1036	Commercial Fishing Loan Program	2,431.1	16.10.340(a) 1972
1037	General Fund/Mental Health	114,726.3	Art. IX Sec. 7 1994
1038	U/A Student Tuition/Fees/Services	53,842.2	14.40.491 1986
1039	U/A Indirect Cost Recovery	16,273.0	14.40.491 1986
1040	Real Estate Surety Fund	175.3	08.88.450 1974
1042	Judicial Retirement Trust Fund	139.9	22.25.048(a) 1982
1043	Public Law 81-874	21,016.5	37.20.020 1955

**INDEX OF ESTABLISHED STATE FUNDS AND ACCOUNTS
CH 94 SLA 95 PLUS NEW LEGISLATION**

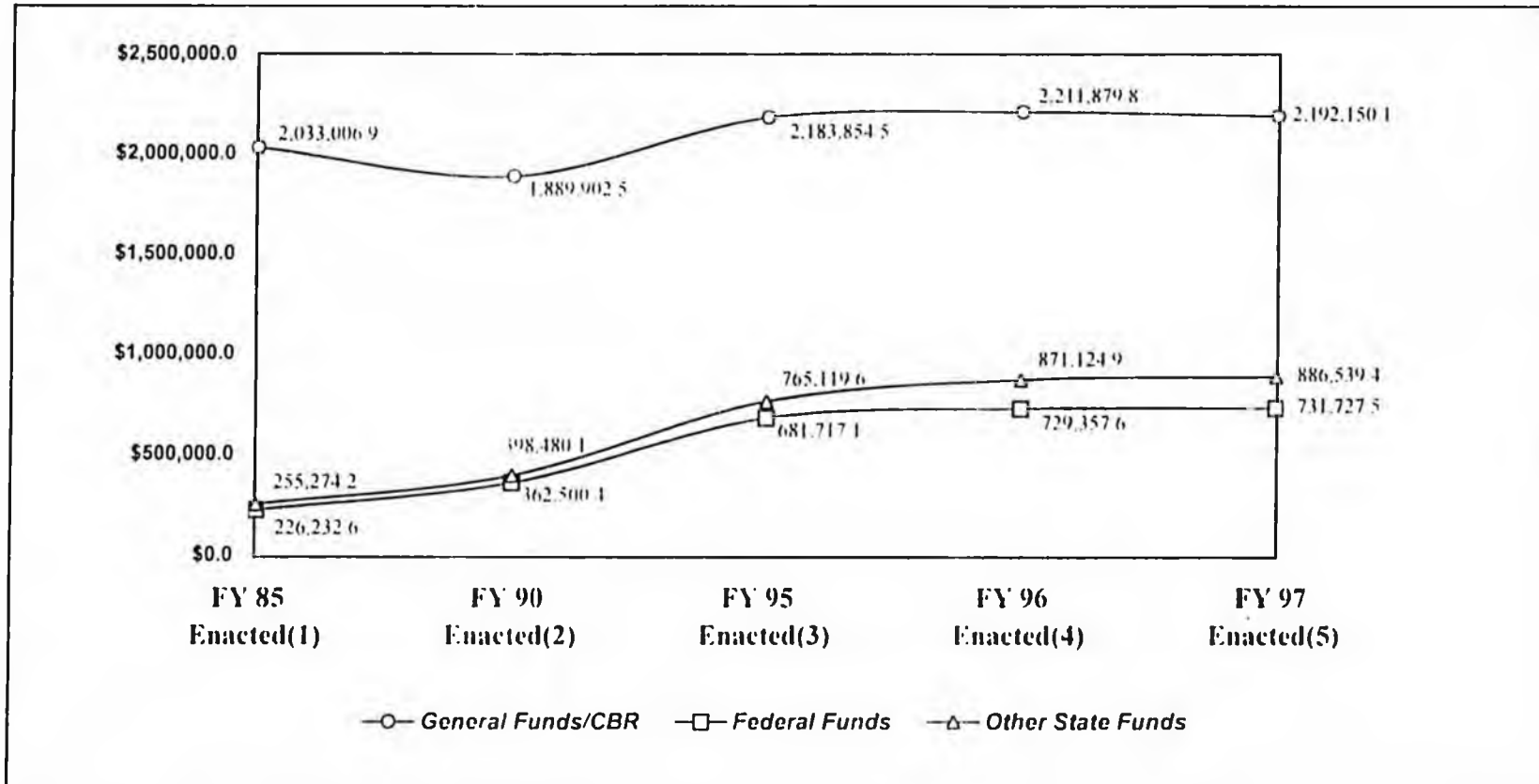
Sorted in Fund Code Order

FUND CODE	FY96 PROGRAMS/FUNDS	FY96 ENACTED	STATUTE/YEAR AUTHORIZED
1044	Debt Retirement	80,322.4	Art. IX Sec. 8 1956
1045	National Guard Retirement System	68.5	39.35.153 1972
1047	Title XX/Block Grant to States for Soc. Svcs.	6,310.8	37.20.020 1955
1048	University Restricted Receipts	46,638.2	14.40.491 1986
1049	Training and Building Fund	634.4	23.20.130(a) 1955
1050	Permanent Fund Dividend Fund	29,081.8	43.23.045 1982
1051	Rural Development Initiative Fund	95.4	44.47.800(a) 1992
1052	Oil/Hazardous Substance Release Prevention & Response Fund	11,981.4	46.08.010(a) 1986
1053	Investment Loss Trust Fund	18.7	37.14.300(a) 1991
1054	State Employment & Training Program	3,781.2	37.05.146 1993
1055	Inter-Agency/Oil & Hazardous	2,016.5	37.05.146 1992
1057	Small Business Loan Fund	8.0	44.88.400 1987
1059	Correctional Industries Fund	2,250.6	33.32.020(a) 1982
1061	Capital Improvement Projects Receipts	79,616.2	44.42.080 1978
1062	Power Project Fund	667.0	42.45.010 1993
1063	National Petroleum Reserve-Alaska	50.0	37.05.530(a) 1984
1066	Public School Trust Fund	5,514.9	37.14.110(a) 1978
1067	Mining Revolving Loan Fund	9.0	27.09.010(a) 1980
1068	Child Care Facility Revolving Loan Fund	6.5	44.33.240(a) 1976
1069	Historical District Revolving Loan Fund	3.0	45.98.010(a) 1977
1070	Fisheries Enhancement Revolving Loan Fund	271.7	16.10.505(a) 1977
1071	Alternative Energy Revolving Loan Fund	276.2	45.88.010(a) 1978
1072	Residential Energy Conservation Loan Fund	11.9	45.89.010(a) 1980
1074	Bulk Fuel Revolving Loan Fund	48.7	42.45.250 1993
1075	Alaska Clean Water Loan Fund	296.5	46.03.032(a) 1987
1076	Marine Highway System Fund	74,347.7	19.65.060(a) 1990
1077	Gifts/Grants/Bequests	1,976.5	37.05.146 1990
1079	Storage Tank Assistance Fund	3,191.3	46.03.410(a) 1990
1081	Information Services Fund	21,586.5	44.21.045(a) 1990
1089	Power Cost Equalization & Rural Electric Capitalization Fund	19,385.6	42.45.100 1993
1092	Mental Health Trust Settlement Income	952.8	37.14.011(a) 1987

Operating Budget Bill Authorization

FY 1985 - FY 1997 Comparison

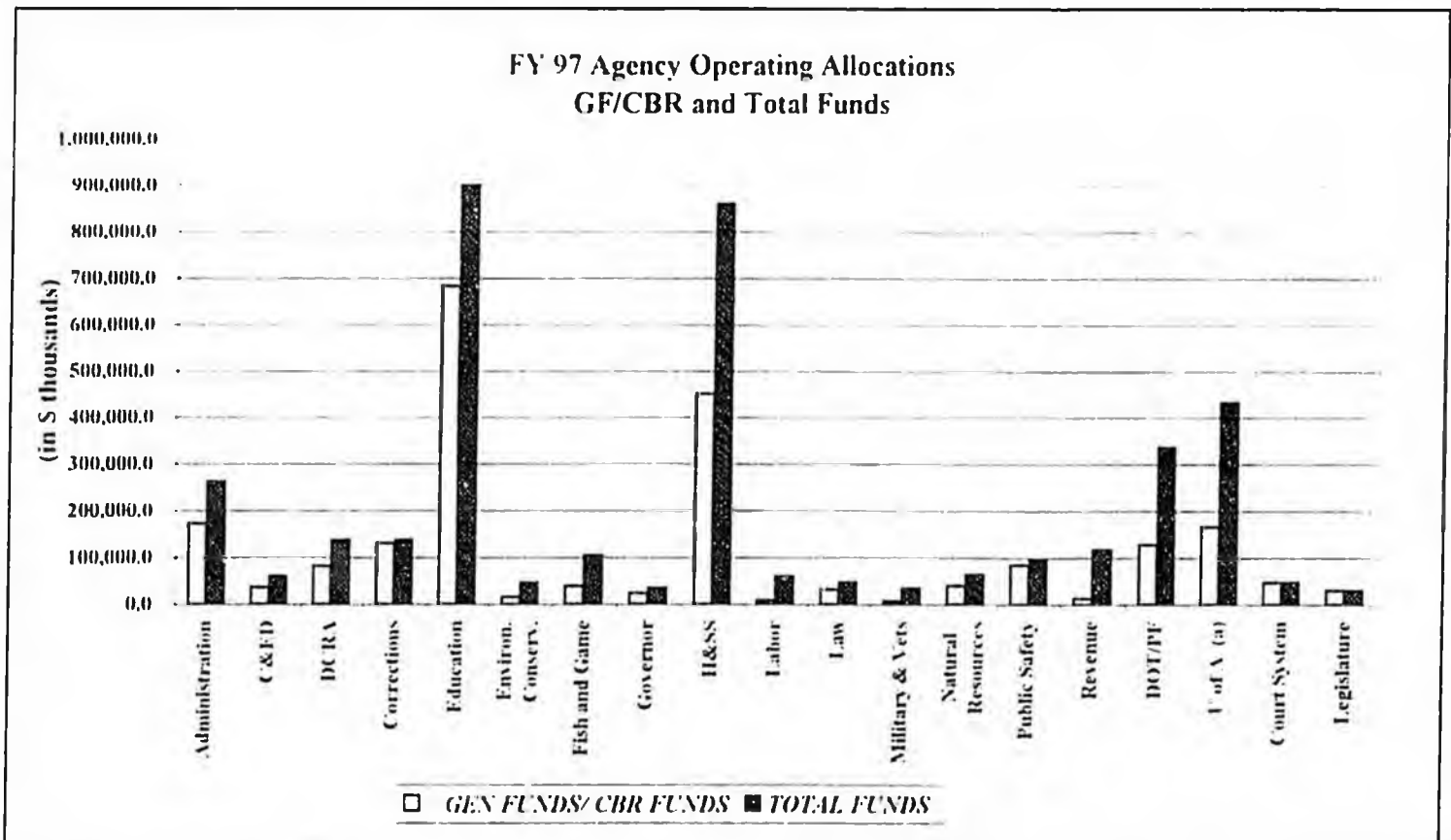
(in \$ millions)



	<i>FY 85 Enacted(1)</i>	<i>FY 90 Enacted(2)</i>	<i>FY 95 Enacted(3)</i>	<i>FY 96 Enacted(4)</i>	<i>FY 97 Enacted(5)</i>	<i>12 Year Change</i>	<i>% Change</i>
General Funds/CBR	2,033,006.9	1,889,902.5	2,183,854.5	2,211,879.8	2,192,150.1	159,143.2	7.8%
Federal Funds	226,232.6	362,500.4	681,717.1	729,357.6	731,727.5	505,494.9	223.4%
Other State Funds	255,274.2	398,480.1	765,119.6	871,124.9	886,539.4	631,265.2	247.3%
TOTAL	\$2,514,513.7	\$2,650,883.0	\$3,630,691.2	\$3,812,362.3	\$3,810,417.0	\$1,295,903.3	51.5%

FY97 OPERATING APPROPRIATIONS
HB 412/CHAPTER 117 SLA 1996 and HB 413/CHAPTER 118 SLA 1996
ENACTED PLUS BILLS
(in thousands of dollars)

AGENCY	GEN FUNDS/ CBR FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
Administration	172,602.5	6,838.7	83,557.8	262,999.0
C&ED	35,638.5	5,275.0	18,932.7	59,846.2
DCRA	81,946.6	29,138.2	27,255.0	138,339.8
Corrections	131,292.0	1,672.3	4,584.8	137,549.1
Education	682,999.3	115,559.1	100,902.0	899,460.4
Environ. Conserv.	15,851.2	11,087.0	18,608.8	45,547.0
Fish and Game	39,538.2	30,826.0	33,762.4	104,126.6
Governor	23,893.8	4,560.7	5,648.6	34,103.1
H&SS	451,112.6	343,500.6	65,978.3	860,591.5
Labor	8,878.0	34,774.1	16,153.2	59,805.3
Law	31,835.7	416.8	15,618.1	47,870.6
Military & Vets	7,069.6	25,546.2	2,624.0	35,239.8
Natural Resources	40,949.0	10,725.6	11,913.2	63,587.8
Public Safety	85,393.0	5,714.3	4,756.8	95,864.1
Revenue	12,121.8	27,698.0	77,331.6	117,151.4
DOT/PF	127,613.9	932.6	208,712.2	337,258.7
U of A (a)	165,510.4	77,462.3	190,065.7	433,038.4
Court System	47,298.6	0.0	0.0	47,298.6
Legislature	30,605.4	0.0	134.2	30,739.6
TOTAL:	2,192,150.1	731,727.5	886,539.4	3,810,417.0
(a) Includes \$20.7 GF for University Alumni Associations [section 28 Ch. 117 SLA 96]				



FY 96 and FY 97 GF/CBR and TOTAL FUNDS, BY AGENCY
ENACTED PLUS BILLS
(in thousands of dollars)

AGENCY	FY 96		FY 97		FY97 TO FY96	
	GF/ CBR FUNDS	TOTAL FUNDS	GF/ CBR FUNDS	TOTAL FUNDS	GF/ CBR FUNDS	TOTAL FUNDS
Administration	170,780.0	256,230.7	172,602.5	262,999.0	1,822.5	6,768.3
Commerce & Economic Development	37,013.5	61,209.6	35,638.5	59,846.2	(1,375.0)	(1,363.4)
Community & Regional Affairs	90,333.6	147,912.7	81,946.6	138,339.8	(8,387.0)	(9,572.9)
Corrections	129,590.8	135,008.0	131,292.0	137,549.1	1,701.2	2,541.1
Education	687,629.2	906,269.8	682,999.3	899,460.4	(4,629.9)	(6,809.4)
Environmental Conservation	17,978.4	46,931.4	15,851.2	45,547.0	(2,127.2)	(1,384.4)
Fish and Game	40,522.0	93,170.7	39,538.2	104,126.6	(983.8)	10,955.9
Governor	14,648.9	17,801.7	23,893.8	34,103.1	9,244.9	16,301.4
Health & Social Services	455,038.0	861,395.3	451,112.6	860,591.5	(3,925.4)	(803.8)
Labor	9,177.2	61,591.5	8,878.0	59,805.3	(299.2)	(1,786.2)
Law	36,728.6	55,432.8	31,835.7	47,870.6	(4,892.9)	(7,562.2)
Military & Veterans Affairs	6,915.8	31,824.8	7,069.6	35,239.8	153.8	3,415.0
Natural Resources	42,763.4	62,626.5	40,949.0	63,587.8	(1,814.4)	961.3
Public Safety	85,156.6	99,114.3	85,393.0	95,864.1	236.4	(3,250.2)
Revenue	12,536.8	119,003.2	12,121.8	117,151.4	(415.0)	(1,851.8)
DOI/PF	129,264.6	335,728.6	127,613.9	337,258.7	(1,650.7)	1,530.1
U of A (a)	167,361.7	442,511.6	165,510.4	433,038.4	(1,851.3)	(9,473.2)
Court System	46,308.2	46,308.2	47,298.6	47,298.6	990.4	990.4
Legislature	30,941.9	31,053.9	30,605.4	30,739.6	(336.5)	(314.3)
TOTAL:	2,210,689.2	3,811,125.3	2,192,150.1	3,810,417.0	(18,539.1)	(708.3)

(a) FY 97 includes \$20.7 GF for University Alumni Associations [section 28 Ch. 117 S.A. 96]

House Bill 78, by the Governor, redefining certain program receipts.

As I understand it, this bill really is needed.

Throughout efforts to cut the "bottom line" of the overall budget, certain program receipts have caused a problem.

For example, when Fort Knox contracted with the state for a person on state payroll to work on their permitting process, they paid the state for a portion of that person's salary.

This actually was a "WASH" in the budget, since it just paid the exact cost of a service provided by the state, but it showed up as increasing the bottom line in the General Fund (more money in, and more money out).

In order to change this, there needs to be a provision for a whole separate accounting system for cases like Ft. Knox. That is what HB 78 is supposed to do.

Currently we use a separate accounting system for federal receipts, U of A receipts, Alaska Railroad receipts, and many others. AB 78 would ADD "designated program receipts" (question - designated BY WHOM??) and some other public corporate receipts.

It is SAVED from being an end run around Dedicated Funds, because page 3, lines 14-15, makes these funds subject to appropriation for another purpose - - although it is highly unlikely it would happen! For example, if Ft. Knox paid the salary for a state person, the legislature could appropriate that money for another purpose - but probably wouldn't!

The bill could also help encourage privatizing or partial outsourcing state services, because this could be accounted for separately without affecting the general fund bottom line.

(Agencies such as D.M.U. which operate at a profit - or a loss - are NOT included in this bill because they are not in the category of paying the state for a direct service received.)

ANALYSIS-HOUSE BILL 78

This bill establishes a category of program receipts generated by state government activities and treats them the same way fund sources are currently handled, such as university tuition. The bill adds corporate receipts to the statutory list of program receipts and the earnings of the Children's Trust Fund is also included.

1. Does this practice violate or circumvent the dedicated funds amendment provided for in the state Constitution?

Fiscal note from OMB.

*(From Tom Wright,
for Joan.)*

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

TONY KNOWLES, GOVERNOR

P.O. BOX 110020
JUNEAU, ALASKA 99811-0020
PHONE: (907) 465-4660
FAX: (907) 465-3008

January 28, 1997

The Honorable Jeannette James
State Capitol, Room 102
Juneau, Alaska 99811-1182

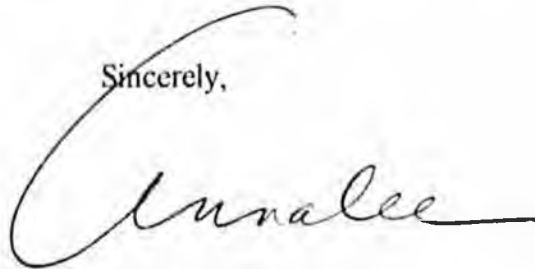
Dear Representative James:

Please schedule a hearing in the Senate Labor and Commerce Committee on HB 78, the bill relating to designated program receipts. This is very similar to the bill which passed the House and would have passed the Senate last session except that time ran out. A copy of the Governor's transmittal letter explaining the purpose of the bill is attached.

If you could schedule the bill for hearing at your earliest convenience, it would facilitate the budget process by clarifying how these program receipts should be treated in FY98.

Thank you.

Sincerely,



Annalee McConnell
Director

*Is this a
way around
Dedicated
Funds??*

RECEIVED BY

JAN 29 1996

Rep. Jeannette James

Alaska State Legislature



State Capitol
Juneau, AK 99801-1182
(907) 465-3720
(907) 465-2689

Official Business
Fax: (907) 465-3472

Speaker of the House of Representatives

Memorandum

To: Representative Jeannette James, Chairman
House State Affairs Committee

Fr: Representative Gail Phillips
SPEAKER OF THE HOUSE

Re: Priority Bill

Date: April 8, 1997

Please schedule a hearing and pass the following legislation in your committee as soon as possible:

HB 78 Amend Definition of Program Receipts

This legislation is important for an orderly adjournment. If you have any questions, please call me or Mike Heatwole of my staff.

Thank you in advance for your assistance in this matter.

RECEIVED BY

APR -08 1997

Rep. Jeannette James

*J. We need to talk
on this ASAP to get it
moved to final -
Thanks -
G*

FISCAL NOTE

No. 1

Bill Version: HB 78

(H) Publish Date: 1/16/97

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

Revision Date _____ Dept. Affected Various Departments
 Title An Act relating to the definition of certain state BRU _____
receipts; and providing for an effective date. Component _____
 Sponsor Rules Committee at the request of the Governor
 Requester _____ Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1005 GF/Program Receipts						
1077 Gifts, Grants & Bequests	(2,512.5)	(2,512.5)	(2,512.5)	(2,512.5)	(2,512.5)	(2,512.5)
1091 Designated Program Receipts	(82.0)	(82.0)	(82.0)	(82.0)	(82.0)	(82.0)
Test Fisheries Receipts	2,594.5	2,594.5	2,594.5	2,594.5	2,594.5	2,594.5
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

This bill addresses six fund sources under AS 37.05.146.

1. Establishes a new fund source titled Designated Program Receipts. These receipts are defined as: money that is received from a source other than the state and that is (A) restricted to a specific use under the terms of a gift, grant, bequest, contract or federal law; or (B) subject to appropriation for another purpose, but, is designated by state law as available for a specific use. NOTE: The Governor's FY98 budget includes \$50,900.1 in Designated Program Receipts.
2. Establishes a new fund source titled Test Fisheries Receipts. These receipts are derived from Department authorized test fish operations under AS 16.05.050 (15). NOTE: The Governor's FY98 budget includes these receipts in the Designated Program Receipts category. Upon passage of this legislation they will be moved to the appropriate fund source.
3. Deletes the separate fund source "Gifts, Grants & Bequests." These funds will be included in the Designated Program Receipts category.
4. Establishes, for the first time, a definition for Corporate Receipts. This is a "house-keeping" provision which codifies current budgetary practices.
5. Amends the language relating to the Public School Trust Fund to comport with statutory language.
6. Establishes a separate fund source reference for the Alaska Children's Trust.

Prepared by Royce Weller Phone 465-4694
 Division OMB Date 1/15/97
 Approved by Annalee McConnell Date 1-15-97
 Agency Director, Office of Management & Budget

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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DESIGNATED PROGRAM RECEIPTS

FY96 -FY98 Comparison

Spreadsheet KEY: A= assessments; C= contracts; F= restricted fees; L= legal; T= third party billings; TF= Test Fisheries				FY96	FY97	FY98
Dept	BRU/Component	Description	Type	Actuals	Auth	Request
Commerce	Alaska Seafood Marketing Institute (ASMI)	Marketing Assesments & Marketing Tax used to market Alaska Seafood	A	10,001.0	7,894.2	7,837.40
H&SS	State Health Services	Food vendor contributions provided under agreement to Maternal Child & Family Health for the purpose of advertising the "Five a Day" Program.	A	0.0	0.0	0.00
Assessment Subtotal				10,001.0	7,894.2	7,887.40
Administration	Information Services	Various contractual services; including repairs to Kenal TV system	C	20.0	55.0	55.00
Administration	Public Communications Ser.	Repair & maintenance agreements with user communities	C	9.9	15.0	763.70
Commerce	Alaska Tourism Marketing Council (ATMC)	Industry portion of contract for co-operative marketing.	C	1,426.9	1,428.8	1,496.50
Education	AK Voc. Tech. Center	Training classes, under contract, for Cominco employees	C	41.3	237.7	239.20
DEC	Spill Prevent. & Response	Industry funds to mitigate/cleanup pollution at APC & KPC facilities.	C	191.9	25.0	455.00
DEC	Air & Water	Reimbursable services agreement for major industrial permit fees	C	240.6	645.1	465.30
Fish & Game	Com. Fish Management & Dev.	Lake fertilization studies funded by private hatcheries (Limnology)	C	0.0	99.7	0.00
Fish & Game	Com. Fish Management & Dev.	Special Projects: funded, under contract, by private entities	C	0.0	1,070.8	1,183.40
Fish & Game	Habitat & Restoration	Projects/studies funded, under contract, with private firms (i.e. ARCO, BP, NSB)	C	273.5	264.7	267.30
Fish & Game	Sport Fish	Fish raising project funded by Southern SE Aquaculture Association (Earl West Cove Project)	C	0.0	200.0	200.00
Fish & Game	Subsistence	Special studies & Shismaref subsistence practices project	C	68.0	121.2	193.20
Fish & Game	Wildlife Conservation	Contracts with non-state entities for wildlife management projects	C	299.0	300.3	304.60
H&SS	Family & Youth Services	Anchorage Muni. funds, provided under contract, for "Making a difference" project	C	92.0	125.0	125.00
Labor	Adminstrative Services	Contractual agreements with private & non-state agencies for specialized reports and on-site assistance	C	1.0	2.0	2.00
Labor	Employment Security	Data/Record services provided under contract with private/municipal entities	C	33.5	53.9	54.30
DNR	Resource Development	Receipts received under contract to implement Municipal land entitlements and various small contracts	C	22.6	15.0	15.00
DNR	Resource Development	User pay agreements for work on Badami Project, TAPS monitoring, and TAGS gas project	C	2,022.7	989.4	1,630.80
DOT	Central Region Design & Const.	Utility Rights-of-Way services under lease or sale provisions, e.g. cable companies, Tourism oriented direction signs (TODS)	C	83.6	128.7	87.70
DOT	North. Region Design & Const.	Utility Rights-of-Way services under lease or sale provisions	C	30.0	21.8	44.60

DESIGNATED P. RAM RECEIPTS
FY96 -FY98 Comparison

Spreadsheet KEY: A= assessments; C= contracts; F= restricted fees; L= legal; T= third party billings; TF= Test Fisheries						
Dept	BRU/Component	Description	Type	FY96 Actuals	FY97 Auth	FY98 Request
DOT	SE Region Highway/Aviation	Road maintenance service contracts with various non-state entities, including: FAA, CBJ, USFS	C	71.7	75.0	76.00
Contract Subtotal				4,928.2	5,874.1	7,658.60
Administration	Ak. Professional Development Institute	Receipts collected from non-state entities (local govts) for state sponsored training sessions.	F	113.7	147.7	147.70
Commerce	Tourism Development	Private party joint participation commitments for advertising; workshops; trade shows; marketing.	F	126.3	160.0	559.80
Education	Teaching & learn. Support	Teacher Certificate fees used by DPS for criminal background checks	F	110.0	110.0	110.00
DEC	Spill Prevent. & Response	Risk assessment fees to fund private toxicology assessments	F	0.0	25.0	26.00
Labor	Labor Standards & Safety	Safety Advisory Council conference activities restricted to participant fees	F	82.9	106.8	107.20
Public Safety	DPS Statewide Support	Fees collected to access criminal records by non-state entities which are restricted to maintenance of the criminal records system.	F	305.6	361.7	381.70
Public Safety	Fire Prevention	Fire Service training activities tied to fees collected from non-state entities	F	51.9	171.5	100.00
DOI	Central Region Design & Const.	Inspection services (utility permits) dependent upon payment of fees	F	195.4	196.8	198.80
DOT	North. Region Design & Const.	Inspection services dependent upon payment of fees	F	33.5	42.7	66.40
DOT	S.E. Region Design & Const.	Inspection services dependent upon payment of fees	F	67.3	80.6	81.80
Labor	Employment Security	Conference for "People with Disabilities" directly related to participant fees	F	0.0	4.9	4.90
Restricted Fee Subtotal				1,096.6	1,407.7	1,761.30
Commerce	APUC	Receipts are restricted by state law; rates required to cover full cost of program	L	3,382.1	3,964.9	4,117.50
Commerce	Insurance	Receipts are restricted by state law; rates required to cover full cost of program	L	3,842.2	4,759.9	4,163.40
Commerce	Occupational Lic. (boards)	Receipts are restricted by state law; rates required to cover full cost of program	L	175.6	240.8	153.30
Commerce	Occupational Lic. (operations)	Receipts are restricted by state law; rates required to cover full cost of program	L	3,901.2	5,273.3	4,371.90

DESIGNATED PROGRAM RECEIPTS
FY96 -FY98 Comparison

Spreadsheet KEY: A= assessments; C= contracts; F= restricted fees; L= legal; T= third party billings; TF= Test Fisheries						
Dept	BRU/Component	Description	Type	FY96 Actuals	FY97 Auth	FY98 Request
Education	Voc. Rehabilitation	Vending machine receipts; restricted for use by Business Enterprise Program	L	165.0	165.0	165.00
DEC	Air & Water	Federal law requires annual fees to cover permitting program	L	0.0	350.0	0.00
H&SS	Family & Youth Services	Federal law restricts SSI (Foster Care) and Old Age Survivor Insurance to named "beneficiary" - funds used to offset cost of care for those in state custody	L	1,150.4	1,140.0	991.50
H&SS	State Health Services	Federal law restricts manufacturer's formula rebates to the WIC program	L	2,029.5	1,950.0	2,700.00
HSS	Alaska Temporary Assistance Program (ATAP). Formerly the AFDC program.	ATAP operations funded by statutorily required deposits of Child Support collections related to ATAP cases - includes fiscal note to SB98	L	5,987.7	9,022.6	10,289.40
DOT	All Regions	Leasing receipts collected at state maintained "rural" airports	L	2,275.4	2,728.1	3,286.20
Labor	Labor Standards & Safety	Hazardous Painting Certificate Program receipts are restricted by state law to carrying out the program	L	43.7	29.0	29.00
Public Safety	Police Standards Council	Fees deposited into the Police Standards Training Fund are restricted by state law as to their use.	L	103.6	613.6	620.00
Legal (State or Federal Law) Subtotal				23,056.4	30,237.2	30,866.20
Commerce	Banking, Sec., & Corp.	Third party billings for travel expenditures	T	16.4	15.0	14.50
Commerce	Measurement Standards	Third party billings for travel expenditures	T	14.4	18.0	24.40
Commerce	Trade & Development	Third party billings for travel expenditures	T	1.8	15.0	14.50
Commerce	Insurance	Third party billings for travel expenditures	T	48.5	52.0	62.00
Commerce	Tourism Development	Third party billings for travel expenditures	T	2.6	5.0	6.00
Commerce	Occupational Lic. (boards)	Third party billings for travel expenditures	T		21.7	21.70
Third party billings Subtotal				83.7	126.7	132.10
DESIGNATED PROGRAM RECEIPT TOTALS				39,165.9	45,539.9	48,305.60
Various Dept.s	Various	Gifts, Grants & Bequests		794.7	2,926.9	2,512.50
DESIGNATED & GIFTS, GRANTS & BEQUESTS TOTALS				39,960.6	48,466.8	50,818.10
Fish & Game	Com. Fish Management & Dev.	Funds restricted for test fisheries projects	TF	2,031.4	2,223.3	2,594.50
DESIGNATED / GIFTS, GRANTS & BEQUESTS/ TEST FISH. TOTALS				41,992.0	50,690.1	53,412.60

ADDENDUM to fiscal note for HB78 and SB55

An Act relating to the definition of certain state receipts

The numbers below reflect the impact of reclassifying certain receipts from General Fund to Non-General Fund fund sources

	<u>FY96 Act.</u>	<u>FY97 Auth.</u>	<u>FY98 Req.</u>
CURRENT LAW			
GF-Desig.	41,197.30	47,763.80	50,900.10
Total	41,197.30	47,763.80	50,900.10 General Funds (includes Test Fish.)
PROPOSED LAW			
Desig. PR	39,165.90	45,539.90	48,305.60
Test Fish.	2,031.40	2,223.90	2,594.50
Total	41,197.30	47,763.80	50,900.10 Non-General Funds
Net change FY to FY		6,566.50	3,136.30

Note: Gifts, Grants & Bequests are not included because they are non-GF under both current law and this bill.

HB

79

O-LS0348P
Chenoweth
4/16/97

CS FOR HOUSE BILL NO. 79()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, James

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sale, possession, purchase, taxation, and regulation of
2 products containing tobacco and to the offense of possession of tobacco by a
3 person under 19 years of age."

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

5 * Section 1. AS 11.76.100(b) is amended to read:

6 (b) Notwithstanding the provisions of (a) of this section,

7 (1) a person holding a business license endorsement issued under
8 AS 43.70.075, or an agent or employee of a person who holds a business license
9 endorsement issued under AS 43.70.075, may not be charged with a violation of
10 (a)(1) of this section if the customer presented proof of age indicating that the
11 owner and possessor of the proof of age was 19 years of age or over;

12 (2) a person who maintains a vending machine is not in violation of
13 (a)(2) of this section if the vending machine is located

14 [(1)] on premises licensed as a beverage dispensary under

1 AS 04.11.090, licensed as a club under AS 04.11.110, or licensed as a package store
2 under AS 04.11.150, [;] and

3 (A) at least 10 feet away from any entrance to the premises
4 that the public may use [AS FAR AS PRACTICABLE FROM THE
5 PRIMARY ENTRANCE]; and

6 (B) in a place that is directly and continually supervised by a
7 person employed on the licensed premises during the hours the vending
8 machine is accessible to the public [; OR

9 (2) IN AN EMPLOYEE BREAK ROOM OR OTHER CONTROLLED
10 AREA OF A PRIVATE WORK PLACE THAT IS NOT GENERALLY
11 CONSIDERED A PUBLIC PLACE].

12 * Sec. 2. AS 11.76 is amended by adding new sections to read:

13 **Sec. 11.76.102. Unlawful sale of products containing tobacco.** (a) A person
14 commits the offense of unlawful sale of products containing tobacco if the person

15 (1) sells cigarettes

16 (A) that are not in their original, unopened package or container
17 obtained from the distributor;

18 (B) in their original, unopened package or container if the
19 cigarette package or container does not display a warning required by 15
20 U.S.C. 1333; or

21 (C) in packs of fewer than 20 cigarettes per pack; or

22 (2) holds a business license endorsement under AS 43.70.075 and sells
23 or offers for sale cigarettes, cigars, tobacco, or products containing tobacco at the
24 person's retail outlet

25 (A) without assuring that the cigarettes, cigars, tobacco, or
26 products containing tobacco are kept in a secure place as required by
27 AS 43.70.075(f)(1);

28 (B) at which the person has failed to post the warning sign
29 required by AS 43.70.075(f)(2);

30 (C) to a person under 19 years of age without complying with
31 AS 43.70.075(f)(3); or

1 (D) without first giving the notice to an employee required by
2 AS 43.70.075(g).

3 (b) The court shall forward a record of each person convicted under this
4 section who holds a business license endorsement under AS 43.70.075, or who is an
5 employee or agent of a person who holds a license endorsement under AS 43.70.075,
6 to the Department of Commerce and Economic Development.

7 (c) A person who violates this section is guilty of a violation. Upon
8 conviction, the court shall impose a fine of \$300.

9 **Sec. 11.76.104. Use of false identification to obtain tobacco by a person**
10 **under 19 years of age.** (a) A person under 19 years of age may not knowingly
11 present false or fraudulent proof of age for the purpose of purchasing a tobacco
12 product.

13 (b) A person who violates this section is, upon conviction, guilty of a
14 violation.

15 * Sec. 3. AS 11.76.105 is amended to read:

16 **Sec. 11.76.105. Possession of tobacco by a person under 19 years of age.**

17 (a) A person under 19 years of age may not knowingly possess a cigarette, a cigar,
18 tobacco, or a product containing tobacco in this state. This subsection does not apply
19 to a person working in cooperation with a peace officer to make a controlled
20 purchase of a product containing tobacco in order to obtain evidence of the
21 commission of a violation of AS 11.76.100. However, if the person is under 18
22 years of age and is a person for whom the disabilities of minority have not been
23 removed under AS 09.55.590 and who has not arrived at the age of majority
24 under AS 25.20.020, the provisions of this subsection do not apply unless the
25 person has first obtained the approval of the person's parent or guardian to
26 participate in the controlled purchase of a product containing tobacco [WHO IS
27 A PRISONER AT AN ADULT CORRECTIONAL FACILITY].

28 (b) Possession of tobacco or a product containing tobacco in violation of
29 (a) of this section by a person under 19 years of age [MINOR] is a violation. Upon
30 conviction, the court shall impose a fine of \$300.

31 * Sec. 4. AS 11.76.107(a) is amended to read:

1 (a) A person commits the offense of failure to supervise a cigarette vending
2 machine if the person owns premises licensed as a beverage dispensary under
3 AS 04.11.090 or licensed as a club under AS 04.11.110 or licensed as a package store
4 under AS 04.11.150 and with criminal negligence fails to have an employee supervise
5 a vending machine on those premises that dispenses cigarettes, cigars, tobacco, or
6 products containing tobacco as required by AS 11.76.100(b)(2)(B)
7 [AS 11.76.100(b)(1)(B)].

8 * Sec. 5. AS 11.76 is amended by adding a new section to read:

9 **Sec. 11.76.109. Definitions for AS 11.76.100 - 11.76.109.** In AS 11.76.100 -
10 11.76.109, unless the context requires otherwise,

11 (1) "person" has the meaning given in AS 11.81.900;

12 (2) "proof of age" means a valid driver's license or valid identification
13 card made of or encased in plastic that contains a photograph of the holder and a
14 statement of age or date of birth of the person;

15 (3) "tobacco product" or "product containing tobacco" means a product
16 that contains tobacco and is intended for human consumption;

17 (4) "vending machine" means a mechanical, electric, or electronic self-
18 service device that, upon insertion of money, tokens, or another form of payment,
19 automatically dispenses a tobacco product.

20 * Sec. 6. AS 29.10 is amended by adding a new section to article 1 to read:

21 **Sec. 29.10.110. Home rule municipality taxing authority not preempted.**

22 The provisions of AS 43.50, relating to taxes on products containing tobacco, and
23 AS 43.70.075, relating to business license endorsements authorizing sales of products
24 containing tobacco, do not preempt a home rule municipality from adopting and
25 enforcing additional requirements for the licensure, sale, and taxation of products
26 containing tobacco or from developing tobacco-related education programs.

27 * Sec. 7. AS 43.50.070 is amended to read:

28 **Sec. 43.50.070. Revocation of licenses.** (a) The department may suspend or
29 revoke a license issued under AS 43.50.010 - 43.50.180

30 (1) for a criminally negligent violation of AS 11.76.100, 11.76.107, or
31 a violation of AS 43.50.010 - 43.50.180 or a regulation of the department adopted

1 under AS 43.50.010 - 43.50.180;

2 (2) if a licensee ceases to act in the capacity for which the license was
3 issued; or

4 (3) if a manufacturer, distributor, or wholesale distributor negligently
5 sells tobacco or products containing tobacco to a nonlicensed retailer or a retailer
6 whose license endorsement under AS 43.70.075 has been suspended or revoked.

7 (b) A person whose license is suspended or revoked may not sell cigarettes or
8 permit cigarettes to be sold during the period of the suspension or revocation on the
9 premises occupied or controlled by that person. A disciplinary proceeding or action
10 is not barred or abated by the expiration, transfer, surrender, renewal, or extension of
11 a license issued under AS 43.50.010 - 43.50.180. The department shall comply with
12 the provisions of AS 44.62 ([THE] Administrative Procedure Act [(AS 44.62)].

13 * Sec. 8. AS 43.70.075 is amended to read:

14 Sec. 43.70.075. License endorsement. (a) A [UNLESS A PERSON HAS A
15 BUSINESS LICENSE ENDORSEMENT ISSUED UNDER THIS SECTION, A]
16 person may not

17 (1) sell cigarettes, cigars, tobacco, or products containing tobacco as
18 a retailer unless, for each retail outlet at which cigarettes, cigars, tobacco, or
19 products containing tobacco are to be sold, the person has obtained a business
20 license endorsement issued under this section; an [. AN] endorsement required
21 under this paragraph [SECTION] is in addition to any other license or endorsement
22 required by law; or

23 (2) renew the business license endorsement required by (1) of this
24 subsection unless the person complies with (i) of this section.

25 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
26 business license endorsement to a person who applies for a business license under this
27 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
28 [\$25]. The endorsement expires at the same time as the business license to which it
29 attaches.

30 (c) The department

31 (1) shall refuse to issue an endorsement under this section to a

1 person who applies for an endorsement while an endorsement issued to the person
2 for another retail outlet is suspended or revoked:

3 (2) may refuse to issue an endorsement under this section if there is
4 reasonable cause to believe that the information submitted in the application is false
5 or misleading and is not made in good faith.

6 (d) Subject to (h) of this section, if [IF] a person who holds an endorsement
7 issued under this section, or an agent or an employee of a person who holds an
8 endorsement issued under this section acting within the scope of the agency or
9 employment, has been convicted of violating AS 11.76.100, 11.76.102, or 11.76.107,
10 or is found by the department to have violated [VIOLATES A PROVISION OF
11 THIS SECTION OR] a regulation implementing this section adopted under
12 AS 43.70.090, the department shall

13 (1) [MAY] suspend the endorsement for a period of

14 (A) 90 [NOT MORE THAN (1) 45] days; [OR]

15 (B) 180 [(2) 90] days [,] if within the past 24 months the
16 person has been previously convicted of violating AS 11.76.100, 11.76.102, or
17 11.76.107, or has been found by the department to have violated a provision
18 of [THIS SECTION OR] a regulation implementing this section adopted under
19 AS 43.70.090;

20 (C) one year if within the past 24 months the person has
21 been previously convicted two times of violating AS 11.76.100, 11.76.102,
22 or 11.76.107 or has been found by the department to have violated a
23 provision of a regulation implementing this section adopted under
24 AS 43.70.090; and

25 (2) permanently revoke the endorsement if within the past 24
26 months the person has been previously convicted three or more times of violating
27 AS 11.76.100, 11.76.102, or 11.76.107 or has been found by the department to
28 have violated a provision of a regulation implementing this section adopted under
29 AS 43.70.090.

30 (e) If a person who receives an endorsement under this section has multiple
31 retail outlets, a suspension or revocation imposed under (d) of this section applies

1 only to the retail outlet in which the violation occurs.

2 (f) A person who holds a business license endorsement issued under this
3 section

4 (1) may not sell or offer for sale cigarettes, cigars, tobacco, or
5 products containing tobacco at the person's retail outlet unless the cigarettes,
6 cigars, tobacco, or products containing tobacco are kept in a secure place; for
7 purposes of this paragraph, "secure place" means

8 (A) a secure room, locked cabinet, or similar repository that
9 is accessible only by the authorized employees of the person; or

10 (B) kept behind the counter accessible only to a salesperson
11 or an employee of the person holding the business license endorsement if
12 retail sales of the products containing tobacco are made at the counter;

13 (2) shall

14 (A) post on the licensed premises a warning sign as described
15 in this paragraph; a [SUBSECTION. A] warning sign required by this
16 paragraph [SUBSECTION] must be at least 6 inches by 18 inches and must
17 read, in lettering at least 1.25 inches high: "The sale of tobacco products to
18 persons under age 19 is illegal [.]";

19 (B) [A PERSON HOLDING AN ENDORSEMENT ISSUED
20 UNDER THIS SECTION SHALL] display the warning sign in a manner
21 conspicuous to a person purchasing or consuming tobacco products on the
22 licensed premises; the [. THE] department shall, without charge, furnish
23 warning signs required under this paragraph [SECTION] to a person who
24 holds an endorsement issued under this section or a person who requests the
25 sign with the intention of displaying it;

26 (3) shall, if the person holding a business license endorsement under
27 this section or an agent or employee of the person holding the business license
28 endorsement questions or has reason to question whether a customer purchasing,
29 attempting to purchase, or otherwise procuring or attempting to procure
30 cigarettes, cigars, tobacco, or a product containing tobacco has attained the age
31 of 27 years, require the customer to furnish proof of age acceptable under this

1 paragraph; for purposes of this paragraph, a valid driver's license or a valid
2 identification card is acceptable as proof of age when used for identification in the
3 purchase of cigarettes, cigars, tobacco, or a product containing tobacco only if the
4 license or identification card is made of or encased in plastic and contains a
5 photograph of the license or card holder and a statement of age or date of birth.

6 * Sec. 9. AS 43.70.075 is amended by adding new subsections to read:

7 (g) A person engaged in the retail business of selling a tobacco product shall
8 notify each individual employed by that person as a retail sales clerk, before or at the
9 time the individual commences work as a retail sales clerk, that state law

10 (1) prohibits the sale or distribution of a tobacco product to any person
11 under 19 years of age and the purchase or receipt of a tobacco product by any person
12 under 19 years of age; and

13 (2) requires that proof of age be demanded from a prospective
14 purchaser or recipient if the person engaged in sale or distribution of the tobacco
15 product has reason to believe that the prospective purchaser or recipient is not at least
16 27 years of age.

17 (h) When the department acts under (d) of this section to suspend or revoke
18 an endorsement issued under this section,

19 (1) if suspension or revocation is based on a conviction under
20 AS 11.76.100, 11.76.102, or 11.76.107, notwithstanding AS 44.62.330 - 44.62.630 or
21 another provision imposing a requirement of a hearing to determine whether the
22 endorsement should be suspended or revoked, the department may act without holding
23 a hearing;

24 (2) except as provided in (1) of this subsection, the department may not
25 act without holding a hearing.

26 (i) The department shall develop and periodically offer a training course to
27 persons engaged in the sale of products containing tobacco. The course must provide
28 information to persons engaged in the sale of products containing tobacco regarding
29 federal and state laws and regulations that apply to sales of products containing
30 tobacco. Attendance at the course at least once in every two-year period is a condition
31 of renewal of a business license endorsement under (a) of this section. The department

1 shall establish a fee to defray the cost of developing and offering the training cost and
2 shall collect the fee from persons attending the training course.

3 * Sec. 10. AS 43.70.080 is amended to read:

4 Sec. 43.70.080. Disposal of money. Except as provided in (b) of this
5 section, [ALL] money collected by the department under this chapter shall be
6 deposited in the general fund.

7 * Sec. 11. AS 43.70.080 is amended by adding a new subsection to read:

8 (b) The money collected by the department under AS 43.70.075(b) shall be
9 deposited in the general fund and separately accounted for under AS 37.05.142. The
10 annual estimated balance in the account maintained by the commissioner of
11 administration under AS 37.05.142 may be used by the legislature to make
12 appropriations to establish and maintain a program that makes grants to support
13 enforcement of AS 11.76.100 - 11.76.109. The appropriations authorized by this
14 subsection are not intended to create a dedication in violation of art. IX, sec. 7,
15 Constitution of the State of Alaska.

16 * Sec. 12. AS 43.70.090 is amended to read:

17 Sec. 43.70.090. Regulations. The department

18 (1) may adopt regulations necessary to determine and collect the fees
19 imposed by this chapter; and

20 (2) shall adopt regulations necessary to implement AS 43.70.075.

21 * Sec. 13. AS 47.12.030(b) is amended to read:

22 (b) When a minor is accused of violating a statute specified in this subsection,
23 other than a statute the violation of which is a felony, this chapter and the Alaska
24 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
25 prosecuted, and sentenced in the district court in the same manner as an adult; if a
26 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
27 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
28 provisions of this subsection apply when a minor is accused of violating

29 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
30 a municipality;

31 (2) AS 11.76.104, relating to use of false identification for the

- 1 purpose of purchasing tobacco, or AS 11.76.105, relating to the possession of
- 2 tobacco by a person under 19 years of age;
- 3 (3) a fish and game statute or regulation under AS 16;
- 4 (4) a parks and recreational facilities statute or regulation under
- 5 AS 41.21; and
- 6 (5) AS 04.16.050, relating to possession, control, or consumption of
- 7 alcohol.

0-LS0348\H
Chenoweth
4/7/97

CS FOR HOUSE BILL NO. 79()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, James

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sale, possession, purchase, taxation, and regulation of
2 products containing tobacco and to the offense of possession of tobacco by a
3 person under 19 years of age."

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

5 * Section 1. AS 11.76.100(b) is amended to read:

6 (b) Notwithstanding the provisions of (a) of this section, a person who
7 maintains a vending machine is not in violation of (a)(2) of this section if the vending
8 machine is located

9 (1) on premises licensed as a beverage dispensary under AS 04.11.090,
10 licensed as a club under AS 04.11.110, or licensed as a package store under
11 AS 04.11.150; and

12 (A) at least 10 feet away from any entrance to the premises
13 that the public may use; however, if compliance with the requirement is
14 not possible, then as far as practicable from the primary entrance; and

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(B) in a place that is directly and continually supervised by a person employed on the licensed premises during the hours the vending machine is accessible to the public; or

(2) in an employee break room or other controlled area of a private work place that is not generally considered a public place, but only if the employee break room or other controlled area is not accessible by employees who are under 19 years of age.

* Sec. 2. AS 11.76 is amended by adding a new section to read:

Sec. 11.76.103. Use of false identification to obtain tobacco by a minor.

(a) A person under 19 years of age may not knowingly present false or fraudulent proof of age for the purpose of purchasing a tobacco product.

(b) A person who violates this section is, upon conviction, guilty of a violation.

* Sec. 3. AS 11.76.105 is amended to read:

Sec. 11.76.105. Possession of tobacco by a minor. (a) A person under 19 years of age may not knowingly possess a cigarette, a cigar, tobacco, or a product containing tobacco in this state. This subsection does not apply to a person

(1) who is a prisoner at an adult correctional facility; or

(2) working in cooperation with a peace officer to make a controlled purchase of a product containing tobacco in order to obtain evidence of the commission of a violation of AS 11.76.100; however, if the person is under 18 years of age and is a person for whom the disabilities of minority have not been removed under AS 09.55.590 and who has not arrived at the age of majority under AS 25.20.020, the provisions of this paragraph do not apply unless the person has first obtained the approval of the person's parent or guardian to participate in the controlled purchase of a product containing tobacco.

(b) Possession of tobacco or a product containing tobacco in violation of (a) of this section by a person under 19 years of age [MINOR] is a violation and upon conviction is punishable by a fine of not less than \$300.

* Sec. 4. AS 11.76 is amended by adding a new section to read:

Sec. 11.76.109. Definitions for AS 11.76.100 - 11.76.109. In AS 11.76.100 -

1 11.76.109, unless the context requires otherwise,

2 (1) "person" has the meaning given in AS 11.81.900;

3 (2) "proof of age" means a valid driver's license or valid identification
4 card made of or encased in plastic that contains a photograph of the holder and a
5 statement of age or date of birth of the person;

6 (3) "tobacco product" or "product containing tobacco" means a product
7 that contains tobacco and is intended for human consumption;

8 (4) "vending machine" means a mechanical, electric, or electronic self-
9 service device that, upon insertion of money, tokens, or another form of payment,
10 automatically dispenses a tobacco product.

11 * Sec. 5. AS 29.10 is amended by adding a new section to article 1 to read:

12 **Sec. 29.10.110. Home rule municipality taxing authority not preempted.**

13 The provisions of AS 43.50, relating to taxes on products containing tobacco, and
14 AS 43.70.075, relating to business license endorsements authorizing sales of products
15 containing tobacco, do not preempt a home rule municipality from adopting and
16 enforcing additional requirements for the licensure, sale, and taxation of products
17 containing tobacco.

18 * Sec. 6. AS 43.50.070 is amended to read:

19 **Sec. 43.50.070. Revocation of licenses.** The department may suspend or
20 revoke a license issued under AS 43.50.010 - 43.50.180 (1) for a criminally negligent
21 violation of AS 11.76.100, 11.76.107, or a violation of AS 43.50.010 - 43.50.180 or
22 a regulation of the department adopted under AS 43.50.010 - 43.50.180; (2) if a
23 licensee ceases to act in the capacity for which the license was issued; or (3) if a
24 manufacturer, distributor, or wholesale distributor negligently sells tobacco or products
25 containing tobacco to a nonlicensed retailer or a retailer whose license endorsement
26 under AS 43.70.075 has been suspended or revoked. A person whose license is
27 suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the
28 period of the suspension or revocation on the premises occupied or controlled by that
29 person. A disciplinary proceeding or action is not barred or abated by the expiration,
30 transfer, surrender, renewal, or extension of a license issued under AS 43.50.010 -
31 43.50.180. The department shall comply with the provisions of AS 44.62 ([THE]

1 Administrative Procedure Act [(AS 44.62)].

2 * Sec. 7. AS 43.70.075(a) is amended to read:

3 (a) A [UNLESS A PERSON HAS A BUSINESS LICENSE ENDORSEMENT
4 ISSUED UNDER THIS SECTION, A] person may not

5 (1) sell cigarettes, cigars, tobacco, or products containing tobacco as
6 a retailer unless the person has obtained a business license endorsement issued
7 under this section; an [. AN] endorsement required under this paragraph [SECTION]
8 is in addition to any other license or endorsement required by law;

9 (2) renew the business license endorsement required by (1) of this
10 subsection unless the person complies with (i) of this section;

11 (3) sell cigarettes that are not in their original, unopened package
12 or container obtained from the distributor, and the cigarettes in their original,
13 unopened package may not be sold unless the cigarette package or container
14 displays a warning required by 15 U.S.C. 1333.

15 * Sec. 8. AS 43.70.075(b) is amended to read:

16 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
17 business license endorsement to a person who applies for a business license under this
18 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
19 [\$25]. The endorsement expires at the same time as the license to which it attaches.

20 * Sec. 9. AS 43.70.075(d) is amended to read:

21 (d) If a person who holds an endorsement issued under this section, or an
22 agent or an employee of a person who holds an endorsement issued under this section
23 acting within the scope of the agency or employment, has been convicted of violating
24 AS 11.76.100 or 11.76.107, or violates a provision of this section or a regulation
25 implementing this section adopted under AS 43.70.090, the department

26 (1) may suspend the endorsement for a period of not more than

27 (A) 90 [(1) 45] days; [OR]

28 (B) 180 [(2) 90] days [,] if within the past 24 months the
29 person has been previously convicted of violating AS 11.76.100 or 11.76.107
30 [,] or a provision of this section or a regulation implementing this section
31 adopted under AS 43.70.090;

1 (C) one year if within the past 24 months the person has
2 been previously convicted two or more times of violating AS 11.76.100 or
3 11.76.107 or a provision of this section or a regulation implementing this
4 section adopted under AS 43.70.090; and

5 (2) shall, if within the past 24 months the person has been
6 previously convicted three or more times of violating AS 11.76.100 or 11.76.107
7 or a provision of this section or a regulation implementing this section adopted
8 under AS 43.70.090, permanently revoke the endorsement.

9 * Sec. 10. AS 43.70.075(e) is amended to read:

10 (e) If a person who receives an endorsement under this section has multiple
11 retail outlets, a suspension or revocation imposed under (d) of this section applies
12 only to the retail outlet in which the violation occurs.

13 * Sec. 11. AS 43.70.075(f) is amended to read:

14 (f) A person who holds a business license endorsement issued under this
15 section

16 (1) may not sell or offer for sale cigarettes, cigars, tobacco, or
17 products containing tobacco at the person's retail outlet unless the cigarettes,
18 cigars, tobacco, or products containing tobacco are kept in a secure place; for
19 purposes of this paragraph. "secure place" means

20 (A) a secure room, locked cabinet, or similar repository that
21 is accessible only by the authorized employees of the person; or

22 (B) kept behind the counter accessible only to a salesperson
23 or an employee of the person holding the business license endorsement if
24 retail sales of the products containing tobacco are made at the counter;

25 (2) shall

26 (A) post on the licensed premises a warning sign as described
27 in this paragraph; a [SUBSECTION. A] warning sign required by this
28 paragraph [SUBSECTION] must be at least 6 inches by 18 inches and must
29 read, in lettering at least 1.25 inches high: "The sale of tobacco products to
30 persons under age 19 is illegal [.]";

31 (B) [A PERSON HOLDING AN ENDORSEMENT ISSUED

1 UNDER THIS SECTION SHALL] display the warning sign in a manner
2 conspicuous to a person purchasing or consuming tobacco products on the
3 licensed premises; the [. THE] department shall, without charge, furnish
4 warning signs required under this paragraph [SECTION] to a person who
5 holds an endorsement issued under this section or a person who requests the
6 sign with the intention of displaying it;

7 (3) shall, if the person holding a business license endorsement under
8 this section or an agent or employee of the person holding the business license
9 endorsement questions or has reason to question whether a customer purchasing,
10 attempting to purchase, or otherwise procuring or attempting to procure
11 cigarettes, cigars, tobacco, or a product containing tobacco has attained the age
12 of 27 years, require the customer to furnish proof of age acceptable under this
13 paragraph; if the customer questioned does not furnish proof of age acceptable
14 under this paragraph, or if a licensee, agent, or employee questions or has reason
15 to question the validity of the proof of age furnished, the licensee, agent, or
16 employee shall require the customer to sign a statement that the customer is 19
17 years of age or older; for purposes of this paragraph, a valid driver's license or
18 a valid identification card is acceptable as proof of age when used for
19 identification in the purchase of cigarettes, cigars, tobacco, or a product
20 containing tobacco if the license or identification card is made of or encased in
21 plastic and contains a photograph of the license or card holder and a statement
22 of age or date of birth.

23 * Sec. 12. AS 43.70.075 is amended by adding new subsections to read:

24 (g) A person engaged in the retail business of selling a tobacco product shall
25 notify each individual employed by that person as a retail sales clerk, before or at the
26 time the individual commences work as a retail sales clerk, that state law

27 (1) prohibits the sale or distribution of a tobacco product to any person
28 under 19 years of age and the purchase or receipt of a tobacco product by any person
29 under 19 years of age; and

30 (2) requires that proof of age be demanded from a prospective purchaser
31 or recipient if the person engaged in sale or distribution of the tobacco product has

1 reason to believe that the prospective purchaser or recipient is not at least 27 years of
2 age.

3 (h) A person holding a business license endorsement under this section, or an
4 agent or employee of the licensee, may not be charged under (d) of this section for a
5 violation of AS 11.76.100(a)(1) if the person, agent, or employee secured in good faith
6 a signed statement as provided in (f)(3) of this section, or the customer presented a
7 valid driver's license or identification card indicating that the owner and possessor of
8 the presented driver's license or identification card was 19 years of age or over.

9 (i) The Department of Commerce and Economic Development shall develop
10 and periodically offer a training course to persons engaged in the sale of products
11 containing tobacco. The course must provide information to persons engaged in the
12 sale of products containing tobacco regarding federal and state laws and regulations
13 that apply to sales of products containing tobacco. Attendance at the course at least
14 once in every two-year period is a condition of renewal of a business license
15 endorsement under (a) of this section.

16 (j) The department shall, by regulation, establish and maintain a procedure for
17 processing reports of violations by persons selling products containing tobacco at retail
18 of conduct described in (d) of this section.

19 * Sec. 13. AS 43.70.080 is amended to read:

20 Sec. 43.70.080. Disposal of money. Except as provided in (b) of this
21 section, [ALL] money collected by the department under this chapter shall be
22 deposited in the general fund.

23 * Sec. 14. AS 43.70.080 is amended by adding a new subsection to read:

24 (b) The money collected by the department under AS 43.70.075(b) shall be
25 deposited in the general fund and separately accounted for under AS 37.05.142. The
26 annual estimated balance in the account maintained by the commissioner of
27 administration under AS 37.05.142 may be used by the legislature to make
28 appropriations to establish and maintain a program that makes matching grants of not
29 more than half the cost of the program to support the training courses described in
30 AS 43.70.075(i). The appropriations authorized by this subsection are not intended to
31 create a dedication in violation of art. IX, sec. 7, Constitution of the State of Alaska.

1 * Sec. 15. AS 47.12.030(b) is amended to read:

2 (b) When a minor is accused of violating a statute specified in this subsection,
3 other than a statute the violation of which is a felony, this chapter and the Alaska
4 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
5 prosecuted, and sentenced in the district court in the same manner as an adult; if a
6 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
7 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
8 provisions of this subsection apply when a minor is accused of violating

9 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
10 a municipality;

11 (2) AS 11.76.103, relating to use of false identification for the
12 purpose of purchasing tobacco, or AS 11.76.105, relating to the possession of
13 tobacco by a person under 19 years of age;

14 (3) a fish and game statute or regulation under AS 16;

15 (4) a parks and recreational facilities statute or regulation under
16 AS 41.21; and

17 (5) AS 04.16.050, relating to possession, control, or consumption of
18 alcohol.

0-LS0348VF
Chenoweth
3/7/97
Rep. Bunde

CS FOR HOUSE BILL NO. 79()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE BUNDE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sale, possession, and purchase of products containing tobacco
2 and to the offense of possession of tobacco by a person under 19 years of age."

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

4 * Section 1. AS 11.76.100(b) is amended to read:

5 (b) Notwithstanding the provisions of (a) of this section, a person who
6 maintains a vending machine is not in violation of (a)(2) of this section if the vending
7 machine is located

8 (1) on premises licensed as a beverage dispensary under AS 04.11.090,
9 licensed as a club under AS 04.11.110, or licensed as a package store under
10 AS 04.11.150 [;] and

11 (A) as far as practicable from the primary entrance; and

12 (B) in a place that is directly and continually supervised by a
13 person employed on the licensed premises during the hours the vending
14 machine is accessible to the public; or

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(2) in an employee break room or other controlled area of a private work place that is not generally considered a public place, but only if the employee break room or other controlled area is not accessible by employees who are under 19 years of age.

* Sec. 2. AS 11.76 is amended by adding a new section to read:

Sec. 11.76.103. Use of false identification to obtain tobacco by a minor.

(a) A person under 19 years of age may not knowingly present false or fraudulent proof of age for the purpose of purchasing a tobacco product.

(b) A person who violates this section is, upon conviction, guilty of a violation.

* Sec. 3. AS 11.76.105(a) is amended to read:

Sec. 11.76.105. Possession of tobacco by a minor. (a) A person under 19 years of age may not knowingly possess a cigarette, a cigar, tobacco, or a product containing tobacco in this state. This subsection does not apply to a person

(1) who is a prisoner at an adult correctional facility; or

(2) working in cooperation with a peace officer to make a controlled purchase of a product containing tobacco in order to obtain evidence of the commission of a violation of AS 11.76.100; however, if the person is under 18 years of age and is a person for whom the disabilities of minority have not been removed under AS 09.55.590 and who has not arrived at the age of majority under AS 25.20.020, the provisions of this paragraph do not apply unless the person has first obtained the approval of the person's parent or guardian to participate in the controlled purchase of a product containing tobacco.

(b) Possession of tobacco or a product containing tobacco in violation of (a) of this section by a person under 19 years of age [MINOR] is a violation and upon conviction is punishable by a fine of not less than \$300.

* Sec. 4. AS 11.76 is amended by adding a new section to read:

Sec. 11.76.109. Definitions for AS 11.76.100 - 11.76.109. In AS 11.76.100 - 11.76.109, unless the context requires otherwise,

(1) "person" has the meaning given in AS 11.81.900;

(2) "proof of age" means a valid driver's license or valid identification

1 card made of or encased in plastic that contains a photograph of the holder and a
2 statement of age or date of birth of the person;

3 (3) "tobacco product" or "product containing tobacco" means a product
4 that contains tobacco and is intended for human consumption;

5 (4) "vending machine" means a mechanical, electric, or electronic self-
6 service device that, upon insertion of money, tokens, or another form of payment,
7 automatically dispenses a tobacco product.

8 * Sec. 5. AS 43.70.075(b) is amended to read:

9 (b) The department, upon payment of a fee of \$100 [\$25], shall issue a
10 business license endorsement to a person who applies for a business license under this
11 chapter, and may renew the endorsement issued under this subsection for a fee of \$100
12 [\$25]. The endorsement expires at the same time as the license to which it attaches.

13 * Sec. 6. AS 43.70.075(d) is amended to read:

14 (d) If a person who holds an endorsement issued under this section, or an
15 agent or an employee of a person who holds an endorsement issued under this section
16 acting within the scope of the agency or employment, has been convicted of violating
17 AS 11.76.100 or 11.76.107, or violates a provision of this section or a regulation
18 implementing this section adopted under AS 43.70.090, the department may

19 (1) suspend the endorsement for a period of not more than

20 (A) [(1)] 45 days; [OR]

21 (B) [(2)] 90 days, if within the past 24 months the person has
22 been previously convicted of violating AS 11.76.100 or 11.76.107, or a
23 provision of this section or a regulation implementing this section adopted
24 under AS 43.70.090; or

25 (2) suspend or revoke the endorsement for a period of one year if
26 within the past 24 months the person has been previously convicted two or more
27 times of violating AS 11.76.100 or 11.76.107 or a provision of this section or a
28 regulation implementing this section adopted under AS 43.70.090.

29 * Sec. 7. AS 43.70.075(f) is amended to read:

30 (f) A person who holds a business license endorsement issued under this
31 section

1 (1) may not sell or offer for sale cigarettes, cigars, tobacco, or
2 products containing tobacco at the person's retail outlet unless the cigarettes,
3 cigars, tobacco, or products containing tobacco are kept in a secure place: for
4 purposes of this paragraph, "secure place" means

5 (A) a secure room, locked cabinet, or similar repository that
6 is accessible only by the authorized employees of the person: or

7 (B) kept behind the counter accessible only to a salesperson
8 or an employee of the person holding the business license endorsement if
9 retail sales of the products containing tobacco are made at the counter;

10 (2) shall

11 (A) post on the licensed premises a warning sign as described
12 in this paragraph; a [SUBSECTION. A] warning sign required by this
13 paragraph [SUBSECTION] must be at least 6 inches by 18 inches and must
14 read, in lettering at least 1.25 inches high: "The sale of tobacco products to
15 persons under age 19 is illegal.";

16 (B) [A PERSON HOLDING AN ENDORSEMENT ISSUED
17 UNDER THIS SECTION SHALL] display the warning sign in a manner
18 conspicuous to a person purchasing or consuming tobacco products on the
19 licensed premises; the [. THE] department shall, without charge, furnish
20 warning signs required under this paragraph [SECTION] to a person who
21 holds an endorsement issued under this section or a person who requests the
22 sign with the intention of displaying it;

23 (3) shall. if the person holding a business license endorsement under
24 this section or an agent or employee of the person holding the business license
25 endorsement questions or has reason to question whether a customer purchasing,
26 attempting to purchase, or otherwise procuring or attempting to procure
27 cigarettes, cigars, tobacco, or a product containing tobacco has attained the age
28 of 19 years, require the customer to furnish proof of age acceptable under this
29 paragraph; if the customer questioned does not furnish proof of age acceptable
30 under this paragraph, or if a licensee, agent, or employee questions or has reason
31 to question the validity of the proof of age furnished, the licensee, agent, or

1 employee shall require the customer to sign a statement that the customer is 19
2 years of age or older; for purposes of this paragraph, a valid driver's license or
3 a valid identification card is acceptable as proof of age when used for
4 identification in the purchase of cigarettes, cigars, tobacco, or a product
5 containing tobacco if the license or identification card is made of or encased in
6 plastic and contains a photograph of the license or card holder and a statement
7 of age or date of birth.

8 * Sec. 8. AS 43.70.075 is amended by adding new subsections to read:

9 (g) A person engaged in the retail business of selling a tobacco product shall
10 notify each individual employed by that person as a retail sales clerk, before or at the
11 time the individual commences work as a retail sales clerk, that state law

12 (1) prohibits the sale or distribution of a tobacco product to any person
13 under 19 years of age and the purchase or receipt of a tobacco product by any person
14 under 19 years of age; and

15 (2) requires that proof of age be demanded from a prospective purchaser
16 or recipient if the person engaged in sale or distribution of the tobacco product has
17 reason to believe that the prospective purchaser or recipient is not 19 years of age.

18 (h) A person holding a business license endorsement under this section, or an
19 agent or employee of the licensee, may not be charged under (d) of this section for a
20 violation of AS 11.76.100(a)(1) if the person, agent, or employee secured in good faith
21 a signed statement as provided in (f)(3) of this section, or the customer presented a
22 valid driver's license or identification card indicating that the owner and possessor of
23 the presented driver's license or identification card was 19 years of age or over.

24 * Sec. 9. AS 47.12.030(b) is amended to read:

25 (b) When a minor is accused of violating a statute specified in this subsection,
26 other than a statute the violation of which is a felony, this chapter and the Alaska
27 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
28 prosecuted, and sentenced in the district court in the same manner as an adult; if a
29 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
30 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
31 provisions of this subsection apply when a minor is accused of violating

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(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;

(2) AS 11.76.103. relating to use of false identification for the purpose of purchasing tobacco or AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21; and

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol.

(7)

Date Referred to Committee: January 16, 1997

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/17/97

The STATE AFFAIRS Committee considered:

HB 79

HOUSE BILL NO. 79

MINOR IN POSSESSION OF TOBACCO

"An Act relating to the offense of possession of tobacco by a person under 19 years of age."

recommends it be replaced with the following committee substitute CS HB 79 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gannette James</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>		✓		
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *Gannette James*

Alaska State Legislature

CHAIR
HOUSE HEALTH, EDUCATION
& SOCIAL SERVICES COMMITTEE

VICE-CHAIR
HOUSE JUDICIARY COMMITTEE

MEMBER
LEGISLATIVE BUDGET & AUDIT COMMITTEE
HOUSE SPECIAL COMMITTEE ON OIL & GAS
SELECT COMMITTEE ON LEGISLATIVE ETHICS



REPRESENTATIVE CON BUNDE

District 18

DURING SESSION
STATE CAPITOL, ROOM 104
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 258-8168

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

SPONSOR STATEMENT HB 79

“An Act relating to the offense of possession of tobacco by a minor.”

The problem of youth in possession of tobacco is pervasive in Alaska and throughout the United States. In 1992, the problem was addressed on a federal level by the passage of the Synar Amendment. This amendment requires states to conduct random, unannounced inspections of locations which sell tobacco and to show a reduction in illegal sales. States which do not conduct the inspections and reduce rates of illegal sales will lose some portion of their federal substance abuse block grants.

In order to reduce rates of nicotine addiction in youth and to ensure compliance with the Synar Amendment, members of the Alaska Tobacco Control Alliance (ATCA) have been seeking to undertake “compliance checks” to determine which merchants are selling tobacco to children. Compliance checks that involve having undercover youth attempt to buy tobacco, are equivalent to the “random unannounced inspections” specified by the Synar Amendment. However, because state law prohibits the possession of tobacco by youth, the youth who participate in compliance checks could conceivably be charged with breaking the law, and the adults who work with them could be charged with contributing to the delinquency of a minor.

HB 79 will ensure our state’s ability to conduct compliance checks consistent with the mandate of the Synar Amendment. This legislation adds a section to existing statute that will allow youth to work in tandem with law enforcement agencies to complete compliance checks relating to the sale of tobacco to youth.

If there are no compliance checks, there is no way to know which stores are selling tobacco to children. If police don’t know who is selling, they obviously cannot enforce the law. Youth will continue to purchase tobacco and become addicted to nicotine, and we will continue to see high rates of tobacco related death and disease in Alaska. In addition, many other substance abuse prevention and treatment efforts will suffer if federal substance abuse block grants are reduced.

I urge your positive support of this legislation. This legislation will eliminate current obstacles to carrying out compliance checks and will reduce illegal sales of tobacco.

LEGAL SERVICES

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

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


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 1, 1997

SUBJECT: Draft CSHB 79 (), relating to sale, possession, and purchase of products containing tobacco, and related purposes -- sectional analysis (Work Order No. 0-LS0348\F)

TO: Representative Con Bunde
ATTN: Patti Swenson

FROM: Jack Chenoweth
Legislative Counsel 

The draft committee substitute makes amendments in two general areas:

Amendments principally relating to criminal provisions addressing the possession of tobacco by a person under 19 years of age:

Bill section 2 adds a new codified section, AS 11.76.103, setting out the definition of the offense of "use of false identification by a minor." The offense applies to persons under 19 years of age. The provision sets the punishment of the offense as a "violation," that is, by payment of a fine of not more than \$300. AS 12.55.035(b)(5).

Bill section 3 amends and extends the definition of the offense of "possession of tobacco by a minor," AS 11.76.105. Again, the offense applies to persons under 19 years of age. The new material following subsection (a)(2) exempts from the operation of the statute minors who assist law enforcement officers in making controlled purchases of products containing tobacco. The amendment to subsection (b) conforms reference to the actual definition of the offense in subsection (a) and requires, upon conviction, payment of a fine of \$300.

Bill section 4 adds a new section to AS 11.76 supplying definitions for terms used in the sections defining offenses involving possession or use of products containing tobacco by persons under 19 years of age.

Bill section 9: AS 47.12.030(b) enumerates criminal offenses for which a minor--a person under 18 years of age--may be directly prosecuted in the district court. The amendment made to this bill section adds "use of false identification for the purpose of purchasing tobacco" under AS 11.76.103 as an offense for which a minor is subject to prosecution.

Representative Con Bunde

April 1, 1997

Page 2

Amendments relating to sale, possession, and purchase of products containing tobacco:

Bill section 1: AS 11.76.100(b) allows sales of tobacco products from vending machines under limited circumstances. One of those circumstances is if the vending machine is located in an "employee break room" or other controlled area of a private work place. The amendment at the top of page 2 further requires that the "employee break room" or other controlled area of a private work place is not accessible by a person under 19 years of age.

Bill section 5: AS 43.70 is the Alaska Business License Act. AS 43.70.075 concerns the endorsement to business licenses that permits the sale of cigarettes and other products containing tobacco. The amendments made to AS 43.70.075(b) increase the annual fee for the issuance or renewal of a business license endorsement permitting sale of products containing tobacco from \$25 to \$100.

Bill section 6: The amendment proposed to AS 43.70.075(d) increases the period of time during which an endorsement to a business license permitting sale of products containing tobacco may be suspended or revoked. For a third conviction under AS 11.76.100 (selling or giving tobacco to a person under 19 years of age), AS 11.76.107 (failure to supervise a cigarette vending machine), a provision applicable to endorsements to business licenses permitting the sale of products containing tobacco under AS 43.70.075, or a regulation of the Department of Revenue implementing AS 43.70.075, that occurs within a two-year period, the Department of Revenue may suspend or revoke the endorsement for up to one year.

Bill section 7: A duty is imposed under AS 43.70.075(f) on the holder of a business license endorsement that permits the sale of products containing tobacco. The amendment proposed in this bill section adds two additional duties: a duty, under paragraph (1), to keep those products in a secure place pending sale, and a duty, under paragraph (3), to question a person who may appear not to be 19 years of age and to require the person to furnish proof of age or sign a statement affirming that the person is at least 19 years of age.

Bill section 8: Two new subsections are proposed to be added to AS 43.70.075. Under proposed subsection (g), retailers are required to inform new employees of certain requirements under state law relating to prohibition on sales of products containing tobacco to a person under 19 years of age and the enforcement of the prohibition. Under proposed subsection (h), a retailer holding an endorsement allowing sale of a tobacco product, or an agent or employee of a retailer, may not be prosecuted under the statute defining the offense of sales to persons under 19 years of age if, in conjunction with the sale, the retailer, agent, or employee was shown sufficient identification attesting to the person's age, or the person signed the statement affirming that the person was at least 19 years of age.

JBC:pl:jdr
97-082.plm

Enclosure

**BREAK THE RULES,
PAY THE PRICE!**

*Retailers
who sell to minors
risk penalties of
— \$250 —
or even more.*

*To make sure retailers
follow the rules, State and
local officials will work
with FDA to monitor
retailers across the
country.*

*Also, customers
witnessing the sale of
tobacco products to a
youngster or another
violation, can report it to
FDA by calling toll-free:*

1-888-FDA-4KIDS

**RETAILERS AND EMPLOYEES,
THESE RULES AFFECT YOU**

Starting February 28, 1997

- ◆ Do not sell cigarettes or smokeless tobacco to anyone under 18.*
- ◆ Check photo ID for anyone under 27.

Starting August 28, 1997

- ◆ Sell products only in a direct, face-to-face exchange. (No vending machines or self-service displays permitted except in places that never have anyone under 18 present.)
- ◆ Do not sell single cigarettes ("loosies") or packs with fewer than 20 cigarettes ("kiddie packs").
- ◆ Only accept coupons for redemption from adults at the store, not through the mail.
- ◆ Do not give out any free samples of cigarettes or smokeless tobacco.
- ◆ *Inside* your store: Have all tobacco ads and promotional material that have any pictures or colors removed. Use only ads or material with black text on a white background. (Exception: Inside places that never have anyone under 18 present, pictures or colors are permitted if the ads are not visible from the outside and cannot be removed.)
- ◆ *Outside* your store: Have all outdoor tobacco ads and promotional material (including on store windows) that are within 1,000 feet of a school or public playground removed. Beyond 1,000 feet, use only ads or material with black text on a white background.
- ◆ Do not give hats, t-shirts, or any other gift or item to anyone in exchange for a tobacco proof-of-purchase or as part of a sale of cigarettes or smokeless tobacco.

* The age may be higher in your state.



Official Business
Penalty for Private Use \$300

DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service
Food and Drug Administration HF-23
Rockville MD 20857

**CHILDREN
&
TOBACCO**
**A Retailer's Guide
To the New
Federal Regulations**

RETAILER, IT'S UP TO YOU

- ◆ *Each day, nearly 3,000 American youngsters become regular smokers. Of these, 1,000 will die early from tobacco-related diseases.*
- ◆ *As a retailer, you can help protect kids from the dangers of tobacco and nicotine addiction.*
- ◆ *President Clinton recently announced new FDA rules to make it much harder for kids to get cigarettes and smokeless ("spit") tobacco. The rules also will help make these products less appealing to youngsters.*

**BUT IT'S UP TO
YOU TO MAKE THESE
RULES WORK.**



FOOD AND DRUG ADMINISTRATION

WHICH ONE IS 16?



Melissa

Amy

*Can you tell?
If they walked into your
store, would you know
which one was under 18?
To eliminate the guesswork,
FDA requires you to card
anyone who is
under 27.*

Melissa is 16. Amy is 25.

RETAILERS, YOU MAY BE WONDERING...

Q: Who is responsible if one of my clerks sells to someone under 18?

A: If one of your employees sells to a minor, you are responsible. That is why it is important for you to make sure your employees know the rules.

Q: How will anyone know if I'm selling tobacco to youngsters?

A: Adolescents, accompanied by State or local officials, will visit stores across the country to try to buy cigarettes and smokeless tobacco. Also, people who observe an illegal sale can report the violation using FDA's toll-free hotline.

Q: Aren't the FDA rules just the first step toward stopping me from selling tobacco to anyone?

A: No. FDA's only purpose is to reduce young people's use of tobacco. Cigarettes and smokeless tobacco are and will remain legal products for sale to adults. The FDA rules do not change that in any way.

GAIN THE RESPECT OF YOUR COMMUNITY

Parents, teachers, doctors, and others who live in your neighborhood and shop in your store want store owners and their employees to take the FDA rules seriously. Show them you put kids first. Follow the rules.



If you or your employees want more information, call FDA toll-free (1-888-FDA-4KIDS) or visit FDA's website (www.fda.gov/).

ENFORCING THE TOBACCO RULES

*Retailers
who sell to minors
risk penalties of
—\$250—
or even more.*

*To make sure retailers
follow the rules, State and
local officials will work
with FDA to monitor
retailers across the
country.*

*Also, customers
witnessing the sale of
tobacco products to a
youngster, or another
violation, can report it to
FDA by calling toll-free:*

1-888-FDA-4KIDS

KNOW THE RULES

Starting February 28, 1997

- ◆ No sales of cigarettes or smokeless tobacco to anyone under 18.*
- ◆ Photo ID check required for anyone under 27.

Starting August 28, 1997

- ◆ No vending machines or self-service displays except in places that never have anyone under 18 present. (Products sold only in a direct, face-to-face exchange.)
- ◆ No sales of single cigarettes ("loosies") or packs with fewer than 20 cigarettes ("kiddie packs").
- ◆ Coupons for cigarettes and smokeless tobacco redeemable only by adults in a store, not through the mail.
- ◆ No free samples of cigarettes or smokeless tobacco.
- ◆ No outdoor ads for cigarettes or smokeless tobacco (including on store windows) within 1,000 feet of a school or public playground.
- ◆ Tobacco ads generally must be in black text on a white background without pictures or colors. Color or picture ads are permitted only:
 - In any publication with a youth readership of 15% or less and fewer than 2 million youth readers; or
 - In places that never have anyone under 18 present.
- ◆ No give-away of any gift or item to anyone in exchange for a tobacco proof-of-purchase or as part of a sale of cigarettes or smokeless tobacco.
- ◆ No sale or give-away of hats, t-shirts, or other items identified with a tobacco brand.

Starting August 28, 1998

- ◆ No sponsorship of any sporting or other event, team, or entry identified with a tobacco brand. But, sponsorship in the corporate name is permitted.

* The age may be higher in your state.



DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service
Food and Drug Administration HF-23
Rockville MD 20857
Official Business
Penalty for Private Use \$300

CHILDREN & TOBACCO

A Guide To the New

Federal Regulations

NICOTINE ADDICTION: A CRISIS IN CHILDREN'S HEALTH

◆ *Each day, nearly 3,000 American youngsters become regular smokers. Of these, 1,000 will die early from tobacco-related diseases.*

◆ *You can help protect kids from the dangers of tobacco and nicotine addiction.*

◆ *President Clinton recently announced new FDA rules to make it much harder for kids to get cigarettes and smokeless ("spit") tobacco. The rules also will help make these products less appealing to youngsters.*

**BUT IT'S UP TO
ALL OF US TO MAKE
THESE RULES WORK.**



FOOD AND DRUG ADMINISTRATION

WHICH ONE IS 16?



Melissa

Amy

*Can you tell
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would the clerk know which
one was under 18? To
eliminate the guesswork,
FDA requires retailers to
card anyone who is
under 27.*

Melissa is 16. Amy is 25.

CHILDREN AND TOBACCO: DID YOU KNOW?

◆ 82 percent of adults who ever smoked had their first cigarette by their 18th birthday. More than half became regular smokers by that time.

◆ Smoking among 8th and 10th graders has risen 50 percent since 1991.

◆ Of 1,000 20-year-olds who continue to smoke, 6 will die prematurely from homicide, 12 from car accidents, and 500 from smoking.

◆ Studies show that minors succeed in buying cigarettes over-the-counter nearly 70 percent of the time and nearly 90 percent of the time from vending machines.

◆ In 1994, the tobacco companies spent more than \$4 billion on advertising and promoting their products.

◆ Thirty percent of 3-year-olds and 91 percent of 6-year-olds can identify Joe Camel as a symbol of smoking.

◆ Nearly 50 percent of kids who smoke, and 25 percent of those who don't, own at least one promotional item from a tobacco company.

TOGETHER, WE CAN PROTECT OUR CHILDREN'S FUTURES

- Spread the word about the new rule throughout your community.
- Let retailers know these rules are important to you.
- Praise retailers who comply with the rules.
- If you see a clerk selling cigarettes or smokeless tobacco to a person under 18 (after February 28, 1997) or a tobacco product vending machine accessible to kids (after August 28, 1997), report it to FDA at **1-888-FDA-4KIDS**.
- Visit FDA's website (www.fda.gov/).



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jeannette James



P.O. Box 56622
North Pole, AK 99705
TEL 488-1546, FAX 488-4271

State Capitol
Juneau, AK 99801
TEL 465-3743, FAX 465-2381

M E M O R A N D U M

TO: Jeannette
DATE: April 2, 1997
FROM: Barbara *see*
RE: House Bill 79, Minors in Possession of Tobacco

(This is my memo to Jeannette explaining the CS!)

The original HB 79 exempts minors from prosecution if they were working with law enforcement agencies to complete checks relating to the sale of tobacco to minors (under age 19). This allows Alaska to comply with the Synar Amendment which requires states to conduct such random inspections.

The CS adds several provisions making it more difficult for minors to obtain tobacco products:

prohibits vending machines containing tobacco products from being accessible to minors,

sets a fine up to \$300 for minors using false identification to acquire tobacco products,

raises the business license endorsement fee permitting sale of tobacco products from \$25 to \$100,

allows the Department of Revenue to revoke the endorsement for up to one year for retailers who sell or give tobacco to a minor,

requires retailers to keep tobacco products in a secure place, and to question a person who appears not to be 19 years of age and to require the person to furnish proof of age or to sign a statement affirming he/she is at least 19 years old,

requires retailers to inform new employees of state laws regarding selling tobacco to minors, and provides for the retailer to not be prosecuted if the minor did show sufficient identification or signed a statement affirming he/she was at least 19 years old.



Official Business

COMMITTEE:

HOUSE STATE AFFAIRS

DATE: APRIL 17, 1997

SIGN-IN

Subject of meeting:

HB 79 - MINOR IN POSSESSION OF TOBACCO

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Loren Jones	Box 110607 Juneau, AK 99811-0607	465-2671	Division of Alcoholism & Drug Abuse	yes ✓
Jennifer Strickler	PO Box 110806 Juneau, AK 99811-0806	465-2144	Dept. of Commerce Div. of Occupational Licensing	yes ✓
↓	faxing fiscal note			

04/17/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:09:59

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:HOM

TCN:70631 SCHEDULED FOR:04/17/97 08:00 TO 10:00

FOR:HOM

PUBLIC HEARING

HOUSE STATE AFFAIRS

LOCATION:HOMER

HB 79

MS.

LOIS

IRVIN

SELF

TESTIFY

The Synar Amendment Provisions

The Synar Amendment amends the US Public Health Act by requiring states demonstrate that they are taking effective measures to enforce laws restricting access of tobacco to minors. If states fail to enforce the law, they may lose up to 40% of annual Substance Abuse Prevention and Treatment (SAPT) Block Grant funds. That equates to a loss of \$640,000 for the state of Alaska. It is currently illegal to sell or distribute tobacco products to anyone under 19 years of age through a retail store or a vending machine in Alaska

The Alaska Department of Health and Social Services Divisions of Public Health and Alcoholism and Drug Abuse are collaborating to implement the new Synar regulations. These regulations require every state to:

- o have in effect a youth access law,
- o conduct annual random, unannounced inspections of tobacco vendors to ensure compliance with the law,
- o enforce the law in a manner that reduces the availability of tobacco products to minors,
- o develop a strategy and time frame for achieving a compliance rate of greater than 80%.

The annual random inspections must be done in a way that provides a valid sample of outlets accessible to youth. This permits states to measure the percent of tobacco outlets who sell tobacco to young people. This is the first year compliance checks are being conducted statewide. In the past, health related community groups in Anchorage, Dillingham, Juneau, Ketchikan and Sitka did compliance checks in their communities. Each group documented that initially, 40% to 70% of outlets sell cigarettes and smokeless tobacco to youth. Merchant education and media coverage in some of these communities brought down the percentage of "successful buys" by teenagers.

Limiting access to tobacco products is one proven method of preventing youth from starting to smoke or chew. While tobacco use among adults has declined, use among teenagers has increased. The goal of Synar amendment is to prevent young people from ever starting to use tobacco.

How the Synar Amendment was Implemented in Alaska

Retail tobacco vendors in 19 communities across the state were checked to determine their compliance to the state's tobacco restriction laws. The Department of Health and Social conducted spot checks of 134 merchants including sales over-the-counter and from vending machines. The compliance checks took place during the summer and through the end of the year.

Division of Alcoholism and Drug Abuse grantees and teen volunteers performed compliance checks in Anchorage, Barrow, Fairbanks, Homer, Kenai, Kodiak, North Pole, Palmer, Seward, Soldotna, Wasilla and Willow. Impact grantees and volunteers surveyed vendors in Bethel, Juneau, Ketchikan, Nome, Sitka, and Unalaska. In Valdez a local nonprofit was recruited to perform the checks. The groups followed a protocol developed by the Alaska Tobacco Vendor Compliance Work Group. Alaska used a procedure where underage youth attempted to purchase either cigarettes or smokeless tobacco from a sales clerk through a vending machine. When a sale was successful, the teen left the store and turned the tobacco product immediately over to an adult supervisor.

Results tallied show a statewide compliance rate of 64%. In the Anchorage/Mat-Su region 66% of the vendors complied with the law; the Interior/Northern region had 75% compliance; Southcentral/Southwest had 37% and Southeast had 78% compliance. All merchants involved received a follow-up letter informing them of their compliance status. Each merchant also received a copy of the Alaska statute regarding sales to minors.

In 1997 DADA amended a grant with the Alaska Council for the Prevention of Alcoholism and Drug Abuse to include Synar activities. The Council will revise the survey protocol, supervise the data collection, assist local grantees conducting the checks in their communities, and provide merchant education and follow-up.

The merchant education program focuses on four points:

- using a voluntary approach to obtain retailer compliance with tobacco restriction laws;
- developing and maintaining positive merchant relations in conducting our youth access reduction program;
- understanding the close financial and commercial relationship with tobacco companies and distributors;
- explaining why retailers should not sell tobacco to minors and how retailers can avoid selling tobacco to minors.

The content of effective merchant education programs emphasize youth health and child protection issues, the merchants' responsibility under tobacco sales laws, what practices merchants can institute to prevent tobacco sales to youth and tobacco sales to minors contradict community norms and values.

Press Release

Monday, December 9, 1996

ALASKA MERCHANTS SAY TOBACCO, TEENS DON'T MIX Nearly two-thirds of those checked wouldn't sell to underage customers

Sixty-four percent of Alaska merchants involved in compliance checks sponsored by the Department of Health and Social Services would not sell tobacco products to teens posing as would-be buyers.

The compliance checks involved 114 merchants in 17 Alaska communities. The checks were conducted during the summer and fall.

"We applaud those retailers who refuse to sell to underage youth and encourage all retailers to train their employees to prevent teenagers from purchasing cigarettes and other tobacco products," Health and Social Services commissioner Karen Perdue said Monday.

Preventing tobacco use among teens and promoting healthy lifestyles are two main goals of the department, Perdue said. Because the majority of smokers start before the age of 20, the department tries to prevent Alaska teens from starting in the first place. To help these prevention efforts, it is important to find out where kids are getting cigarettes and other tobacco products.

Retailers in 17 communities were selected at random and underage teens attempted to purchase tobacco products both over-the-counter and through vending machines. Results show that, statewide, 64 percent of the outlets checked refused to sell to underage buyers. In Anchorage, 66 percent refused, compared to 37 percent in the Southcentral / Southwest region, 75 percent in the Interior / Northern region and 78 percent in Southeast Alaska.

The high rate of compliance in Southeast is credited to the work of local DHSS sponsored coalitions like the Juneau Tobacco Prevention Network, Alaskans for Drug-Free Youth in Ketchikan and the Sitka Teen Resource Center, which all do regular compliance checks.

The Juneau Tobacco Prevention Network has seen a dramatic increase in compliance to tobacco restriction laws. According to Jeannie Monk of the network, 60 percent of vendors complied in April 1995, compared to 93 percent in April 1996.

In the Northern/Interior region, the Tanana Chiefs Conference and Nome Tobacco Control Alliance work to prevent teens from using tobacco. As more merchants become aware of the law, the state expects to see increased compliance, Perdue said. The goal is to achieve an 80 percent compliance rate by the year 2000.

-30-

For more information, contact Mary Collins, Research Analyst, Division of Alcoholism and Drug Abuse at 907-465-2071.

THE NATION

Crackdown on tobacco sales begins

■ *Government says states must catch and punish stores that sell cigarettes to teens*

B; LAURAN NEERGAARD

THE ASSOCIATED PRESS

WASHINGTON — The government is giving states seven months to figure out how to catch stores that sell cigarettes to teen-agers, beginning a national crackdown on illegal tobacco sales.

Congress in 1992 passed a law forbidding any store from selling tobacco to anyone under 18. The so-called Synar amendment, named for the late Oklahoma Rep. Mike Synar, requires states to enforce the sales ban.

But the Department of Health and Human Services never told states how to do the job — and

studies have estimated that teen-agers buy hundreds of millions of packs of cigarettes a year.

On Friday, HHS will publish regulations in the Federal Register spelling out how states must catch stores that break the law and punish them until they comply with enforcing the ban.

Enforcing the ban will help “stop illegal tobacco sales and discourage thousands of young people from striking the first match of a lifelong, life-threatening addiction,” President Clinton wrote Synar’s family in informing them of the new rules.

Synar died of brain cancer Jan. 9.

The Tobacco Institute called the regulations a “reasonable” way to fight teen smoking, something the industry contends it helps to do already by educating store clerks not to sell minors tobacco.

Under the new regulations, states must:

- By Sept. 1, provide the government a list of all stores that sell tobacco and develop an HHS-approved plan to do surprise inspections to catch illegal sales to minors. Failure can mean losing 20 percent of the state’s federal substance abuse grants.

- In fiscal year 1997, do enough surprise inspections to report scientifically how well states comply with the Synar amendment. Also, they must develop a government-approved time frame to meet the law’s sales goal. Each state can decide on its own how to deal with stores that break the law, and each will have a different deadline for final compliance, to reflect that some states already enforce the law better than others. Failure to comply will mean losing 30 percent of anti-substance-abuse grants.

- By fiscal 1998, the states must be on track to meet their compliance deadlines or risk losing 40 percent of federal health funding.

Minnesota Attorney General Hubert Humphrey III said the regulations will help states crack down on illegal sellers. But he said states still need the Food and Drug Administration to cut teen-agers’ demand for cigarettes.

“While the Synar amendment makes major strides, ... it will do nothing about the Joe Camel billboard that today sits in plain view of a playground adjacent to a school in St. Paul,” Humphrey said.

The FDA has proposed strict limits on tobacco marketing, including bans on ads attractive to teens or displayed where children gather, in an effort to cut underage smoking. An estimated 3 million teen-agers smoke.

Tobacco Industry Youth Access Programs

One of the most instructive strategies of the tobacco industry is the development of its own youth access and education programs. The tobacco industry has aggressively disseminated these programs to businesses and elected officials, often when youth access legislation is pending (DiFranza and Brown, 1992; DiFranza and McAfee, 1992; McWhorter, 1991; Chilcote, 1992).

Under the guise of good corporate citizenship, these programs represent an attempt to improve the tobacco industry's credibility with elected officials, and stave off effective youth access policies (Roan, 1992).

There is an important instructive value to the tobacco industry's "prevention" programs. We have long relied on the tobacco industry's reactions to tobacco control strategies as a means of assessing our own effectiveness. If the tobacco industry promotes a given strategy, then that strategy is probably ineffective at controlling tobacco use (or may even backfire). Conversely, if the tobacco industry aggressively opposes a tobacco control effort, we have evidence that that particular strategy is effective.

YOUTH ACCESS PROGRAMS

"It's the Law"

This is a youth access program developed by the Tobacco Institute. The primary component of "It's the Law" is the distribution of blue signs with white and orange lettering which read: "It's the Law: We Do Not Sell Tobacco Products to Persons Under 18." In late 1990, the Tobacco Institute announced a \$10 million public relations campaign surrounding "It's the Law." In addition to posting signs, the program also includes:

- Support for legislation requiring adult *supervision* of tobacco vending machines.
- *Voluntary* restrictions on tobacco billboard placement and free sampling of tobacco products.
- Distribution of the Tobacco Institute/C.O.U.R.S.E Consortium booklet "Helping Youth Say No."

Not surprisingly, a 1992 study found "It's the Law" to be entirely ineffective in reducing youth access to tobacco products (DiFranza and Brown, 1992).

"Support The Law — It Works"

This is R.J. Reynolds' "comprehensive" retail program. The program is most notable for having enlisted actor Danny Glover as its spokesman. "Support The Law—It Works" bears many similarities to the Tobacco Institute's "It's the Law," including a focus on signage and on framing smoking as an adult activity. Components of "Support the Law" include:

- Posting of signs aimed at youth which read:

"We Check I.D.'s"
Support the Law.
It Works!
Age Restricted Product

- Public Service Announcements (PSA's) for TV, radio, and print.

Perhaps the most disturbing program element is the establishment of community coalitions to promote projects based on tobacco industry "prevention" programs. These industry-sponsored coalitions may mislead well-meaning community members into believing they have taken positive action to reduce youth tobacco use. The first of these coalitions was piloted in Fond du Lac, Wisconsin (Inter-Community Task Force on Youth Smoking, 1993).

EDUCATION PROGRAMS

The Family C.O.U.R.S.E. Consortium/Tobacco: Helping Youth Say No

Unveiled in 1990, the C.O.U.R.S.E. (Communication Through Understanding, Respect and Self-Esteem) Consortium was created by the Tobacco Institute. The C.O.U.R.S.E. "curriculum" includes two basic components: distribution of the booklet "Tobacco: Helping Youth Say No" and television PSA's with the theme "Smoking should not be a part of growing up." Both of these components are produced by the Tobacco Institute.

The themes underlying the C.O.U.R.S.E. "curriculum" or philosophy are familiar:

- Smoking is an adult activity.
- There are many adult activities children shouldn't engage in. Smoking is one of them. They do not yet have the maturity necessary to decide to smoke.

Although "Helping Youth Say No" is not specifically a youth access program, it has been sent to legislators and school board officials, often as they are considering tobacco control policies (DiFranza and McAfee, 1992). When the Oakland (CA) city council was considering a ban on tobacco vending machines, a tobacco industry representative testifying in opposition to the proposed ordinance offered to provide the booklets free of charge to all the schools in the city.

"Right Decisions. Right Now."

This R.J. Reynolds program includes posters and a brochure which reiterates many of the themes expressed in the Tobacco Institute's "Tobacco: Helping Youth Say No." The brochure, subtitled "How to Talk to Your Kids About Not Smoking Even if You Do," differs only in that it briefly acknowledges that smoking is a risk factor for developing disease. It has been promoted as an adjunct to the "Support the Law" campaign (Inter-Community Task Force on Youth Smoking, 1993).

ANALYSIS

An analysis of the tobacco industry's programs gives us important guidance regarding what the tobacco industry regards as ineffective tobacco control interventions. Given their sophistication and vast resources, substantial credence should be given to the tobacco industry's assessments, and we recommend steering clear of policies which reinforce strategies and interventions they promote.

Smoking as an "Adult Activity"

The tobacco industry frames smoking as an "adult activity." This is an extremely effective strategy. First, adult activities are by definition attractive to many young people. Second, this strategy lumps smoking in with many other adult activities, such as making one's own choices, which are not inherently harmful. The tobacco industry has identified "'the forbidden fruit' appeal as an important factor in adolescent experimentation" with smoking (DiFranza and McAfee, 1992). Youth access policies should not promote the status of smoking as the forbidden fruit, which is much more attractive to rebellious youth.

Punishing Children

The tobacco industry favors programs and policies penalizing youth for purchasing and possessing cigarettes. The reason for this is obvious — attention is diverted from the tobacco industry's own culpability, and blame is laid on children and parents. It also lessens the perceived responsibility of merchants. Effective youth access policies should avoid all appearance or effect of punishing youth.

Signage

The most common tobacco industry youth access strategy is the posting of signs directed at young people. Research has shown that this strategy does not reduce retailers' illegal sales to minors (DiFranza and Brown, 1992). Retailers using signs highly visible to youth may become unwitting accomplices in the tobacco industry's attempts to make smoking an enticing, "forbidden fruit" to youth.

Protecting Youth from Tobacco Addiction

Restricting Access and Appeal of Tobacco
Products to Children and Adolescents

COMMENT PERIOD
EXTENDED
TO JAN. 2, 1996

Information Resource
and Referral Guide

Centers for Disease Control and Prevention
Office on Smoking and Health
10/95



Reprinted by the
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service

CDC
CENTERS FOR DISEASE CONTROL
AND PREVENTION

Teen Tobacco Use: In Perspective

The Problem

1. More than 400,000 Americans die prematurely each year due to cigarette smoking. This is 1 out of every 5 deaths in the United States. Each year smoking is responsible for 5 million years of life lost.
2. Each day, more than 3,000 young people begin to smoke -- that's more than 1 million new smokers each year. Among teens who are regular smokers, 1 in 3 will die from smoking.
3. Lung cancer is the leading cause of cancer deaths for both men and women, blacks and whites. Each year more women die of lung cancer (59,000) than breast cancer (46,000). If we do not prevent tobacco use among our teenage girls, this epidemic will repeat itself in our future generations of women.
4. The decision to smoke is nearly always made in the teen years. Among adult smokers, 80% smoked their first cigarette before their 18th birthday -- and by this time 50% were already smoking daily. Among high school seniors who use smokeless tobacco, 73% had tried it by grade nine.
5. There has been no progress in reducing teenage smoking rates in the last decade despite continuing progress against adult smoking. The most recent data indicate that smoking among young people actually increased since 1991, with the largest increase among the youngest smokers. There was a 30% increase in smoking among 8th graders between 1991 and 1994. Between 1970 and 1986, the use of snuff increased 15 times and the use of chewing tobacco increased four times among male adolescents aged 17-19 years.
6. Young people who smoke like adults become addicted like adults. About two-thirds of adolescent smokers say they want to quit smoking, and 70% say they would not have started smoking if they could choose again. Three-fourths of young people who use tobacco daily (cigarettes or smokeless tobacco) report that they use it because "it's really hard to quit."
7. The only positive change in youth smoking behavior is the smoking rate among African American teens, which has markedly decreased. Today in America, a white high school senior is 4 times more likely to smoke cigarettes daily than his or her black counterpart (22% vs. 5%).
8. Teen smoking is one of the few early warning signs we have in public health. Teens who smoke are 3 times more likely than nonsmokers to use alcohol, 8 times more likely to use marijuana, and 22 times more likely to use cocaine. Smoking is also associated with a host of other risky behaviors such as fighting and engaging in unprotected sex.

August 10, 1995

Contact: FDA Press Office
(301) 443-1130

CHILDREN AND TOBACCO: THE FACTS

The Clinton Administration is proposing a comprehensive and coordinated set of measures to significantly reduce the number of children and adolescents who become addicted to nicotine in cigarettes and smokeless tobacco (snuff and chewing tobacco). Children are becoming addicted to these products, with more than 80 percent of smokers beginning to smoke by age 18.

Smoking is the leading preventable cause of death in the United States, and health care costs associated with smoking soared to more than \$50 billion in 1993, according to the Centers for Disease Control and Prevention. While the proposed measures will continue to maintain the legal status of cigarettes and smokeless tobacco products for adults, they will reduce the easy access and strong appeal for children.

Preventing children from smoking is key to reducing the deadly toll of smoking. The Clinton Administration's plan will help parents provide their children with an environment in which to grow up healthy.

A Pediatric Disease

Children are becoming addicted to nicotine. The average teenage smoker starts at 14 1/2 years old and becomes a daily smoker before age 18. More than 80 percent of all adult smokers had tried smoking by their 18th birthday and more than half of them had already become regular smokers by that age. Studies show that if people do not begin to smoke as teenagers or children, it is unlikely they will ever do so.

Each and every day, another 3,000 young people become regular smokers, and nearly 1,000 of them will eventually die as a result of their smoking. Currently, more than 3 million children and adolescents smoke cigarettes, and 1 million adolescent boys currently use smokeless tobacco. Smoking by young people is rising sharply. Between 1991 and 1994, the percentage of eighth graders who smoke increased 30 percent, and the percentage of tenth graders who smoke increased 22 percent.

Children tend to vastly underestimate the likelihood that they will become addicted to these products. Although only 5 percent of daily smokers surveyed in high school said they would definitely be smoking five years later, close to 75 percent were smoking 7 to 9 years later. A survey conducted in 1992 found that approximately two-thirds of adolescents who smoked said they wanted to quit and 70 percent said they would not start smoking if they could make that choice again.

Smoking: Leading Cause of Avoidable, Premature Death

Tobacco use takes enormous, deadly toll each year. Tobacco products are responsible for more than 400,000 deaths each year due to cancer, respiratory illness, heart disease, and other health problems. Cigarettes kill more Americans each year than AIDS, alcohol, car accidents, murders, suicides, illegal drugs and fires combined. Smokers who die as a result of smoking would have lived on average 12 to 15 years longer if they had not smoked.

The health care costs associated with tobacco use are rising. The Centers for Disease Control and Prevention estimated that in 1993 the health care costs associated with smoking totalled \$50 billion: \$26.9 billion for hospital costs; \$15.5 billion for doctors; \$4.9 billion in nursing home costs; \$1.8 billion for prescription drugs and \$900 million for home-health care expenditures. The Office of Technology Assessment calculated the social costs attributable to smoking in 1990 at \$68 billion. That calculation was based on \$20.8 billion in direct health care costs and \$6.9 billion in lost productivity from disabilities and \$40.3 billion in lost productivity from premature deaths.

August 10, 1995

Contact: FDA Press Office
(301) 443-1130

CHILDREN AND TOBACCO: THE PROBLEM

Easy Access

Despite state laws prohibiting the sale of tobacco to minors, children can easily buy these products. One study estimated that teenagers annually consume 516 million packs of cigarettes and 26 million containers of chewing tobacco. A review of 13 studies of over-the-counter sales found that on average, children and adolescents were able to successfully buy tobacco products 67 percent of the time.

- **Vending machines** are a primary source of tobacco products for young smokers. A study by the vending machine industry found that 22 percent of 13-year-old smokers use vending machines compared with 2 percent of 17-year-old smokers. The 1994 Surgeon General's Report found that young people were able to buy cigarettes in vending machines an average of 88 percent of the time.
- **Mail-order sales** provide no sure way of verifying age. Current industry practice only asks the consumer to provide a birth date or check box to verify age.
- **Self-service displays** allow children to easily obtain tobacco products. The Institute of Medicine, in its landmark 1994 report, "Growing Up Tobacco Free," concluded that placing tobacco products "out of reach reinforces the message that tobacco products are not in the same class as candy or potato chips."
- **Free samples** are obtained by children, including those in elementary school, despite industry code prohibiting distribution to anyone under 21. Free samples occur on street corners, at shopping malls and sporting events. A New Jersey survey found that one-third of high school students who were smokers or ex-smokers reported receiving free samples before age 16.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 79

Revision Date: 03/18/97 Dept. Affected: Public Safety
 Title: Selling or Giving Tobacco to a Minor BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Rep. Bunde
 Requestor: House State Affairs COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill would not have any significant fiscal impact on AST.

Prepared By: F/Sgt. Robert Gorder Phone: 269-5511
 Division: Alaska State Troopers Date: 03/18/97
 Approved by Commissioner: Ronald L. Otte Date: 3/19/97
 Agency: Department of Public Safety

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STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jeannette James



P.O. Box 56622
North Pole, AK 99705
TEL 488-1546, FAX 488-4271

State Capitol
Juneau, AK 99801
TEL 465-3743, FAX 465-2381

MEMORANDUM

TO: Representative Con Bunde
DATE: February 5, 1997
FROM: Representative Jeannette James
RE: Minors and Tobacco

A handwritten signature in black ink, appearing to be "Jeannette James", written over the printed name in the "FROM" field.

Recently you indicated your willingness to incorporate other provisions regarding minors use of tobacco into your House Bill 79. At yesterday's State Affairs meeting I said I would be introducing legislation myself, but I would prefer to add it to your existing bill if possible. Items of interest to me would be:

1. Raising the minimum age for purchasing tobacco to 21.
2. Disallowing cigarette vending machines except where customers are required to be age 21 or older.
3. Requiring grocery stores to keep tobacco products behind their