

CS FOR HOUSE BILL NO. 188(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/24/10

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVES HERRON, Austerman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taxation of moist snuff tobacco, including spitless moist snuff
2 tobacco; including different types of moist snuff tobacco in the definition of 'tobacco
3 product' in provisions levying an excise tax on those products; relating to licensing for
4 and taxation of tobacco products, including tobacco products imported for personal use
5 and consumption; relating to the deposit of revenue from the taxation of moist snuff
6 tobacco into the tobacco use education and cessation fund; defining 'moist snuff
7 tobacco'; relating to the business license endorsement for the sale of tobacco products;
8 relating to the offense of selling tobacco to a minor; and providing for an effective date."

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

10 * **Section 1.** AS 11.76.100(a) is amended to read:

11 (a) A person commits the offense of selling or giving tobacco or nicotine to a
12 minor if the person

1 (1) negligently sells a cigarette, a cigar, tobacco, or a product
2 containing tobacco **or nicotine** to a person under 19 years of age;

3 (2) is 19 years of age or older and negligently exchanges or gives a
4 cigarette, a cigar, tobacco, or a product containing tobacco **or nicotine** to a person
5 under 19 years of age;

6 (3) maintains a vending machine that dispenses cigarettes, cigars,
7 tobacco, or products containing tobacco **or nicotine**; or

8 (4) holds a business license endorsement under AS 43.70.075 and
9 allows a person under 19 years of age to sell a cigarette, a cigar, tobacco, or a product
10 containing tobacco **or nicotine**.

11 * **Sec. 2.** AS 37.05.580(a) is amended to read:

12 (a) There is created as a special account in the general fund the tobacco use
13 education and cessation fund into which shall be deposited 20 percent annually of the
14 revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated,
15 et al, No. 1JU-97-915 CI (Alaska Super. 1997) **and 25 percent of the annual**
16 **revenue collected from the tax on moist snuff tobacco under AS 43.50.300 -**
17 **43.50.390**. The purpose of the tobacco use education and cessation fund is to provide a
18 source to finance the comprehensive smoking education, tobacco use prevention, and
19 tobacco control program authorized by AS 44.29.020(a)(14). **In this subsection,**
20 **"moist snuff tobacco" has the meaning given in AS 43.50.390.**

21 * **Sec. 3.** AS 43.50.070(b) is amended to read:

22 (b) In this section, "licensee" means a person licensed under AS 43.50.010 -
23 43.50.180 or 43.50.300 - 43.50.390, **except for a buyer required to be licensed**
24 **under AS 43.50.320(a)(2).**

25 * **Sec. 4.** AS 43.50.300 is amended to read:

26 **Sec. 43.50.300. Excise tax levied. (a)** An excise tax is levied on tobacco
27 products in the state at the **rate in (b) of this section** [RATE OF 75 PERCENT OF
28 THE WHOLESALE PRICE OF THE TOBACCO PRODUCTS]. The tax is levied
29 when a person

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

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

3 (3) ships or transports a tobacco product to a retailer in the state for
4 sale by the retailer **or to an individual for personal consumption; or**

5 **(4) brings or causes to be brought a tobacco product into the state**
6 **from outside the state for personal consumption.**

7 * **Sec. 5.** AS 43.50.300 is amended by adding a new subsection to read:

8 (b) The excise tax rate on

9 (1) moist snuff tobacco, other than spitless moist snuff tobacco, is
10 \$1.88 multiplied by the number of ounces of moist snuff tobacco, including fractions
11 of an ounce;

12 (2) spitless moist snuff tobacco is 100 percent of the wholesale price;

13 (3) tobacco products other than moist snuff tobacco products subject to
14 the tax rates in (1) and (2) of this subsection is 75 percent of the wholesale price of the
15 tobacco product.

16 * **Sec. 6.** AS 43.50.300, as amended by sec. 5 of this Act, is amended to read:

17 (b) The excise tax rate on

18 (1) [MOIST SNUFF TOBACCO, OTHER THAN SPITLESS MOIST
19 SNUFF TOBACCO, IS \$1.88 MULTIPLIED BY THE NUMBER OF OUNCES OF
20 MOIST SNUFF TOBACCO, INCLUDING FRACTIONS OF AN OUNCE;

21 (2)] spitless moist snuff tobacco is 100 percent of the wholesale price;

22 **(2)** [(3)] tobacco products other than **spitless** moist snuff tobacco
23 products subject to the tax **rate** [RATES] in (1) [AND (2)] of this subsection is 75
24 percent of the wholesale price of the tobacco product.

25 * **Sec. 7.** AS 43.50 is amended by adding a new section to read:

26 **Sec. 43.50.305. Packaging of certain tobacco products for sale.** (a) Cigars,
27 except for cigars that are hand-rolled and wrapped in whole tobacco leaf, shall be sold
28 in packages containing at least five cigars.

29 (b) Smokeless tobacco

30 (1) sold as loose tobacco shall be sold in packages containing at least
31 one ounce;

1 (2) in single-dose units shall be sold only in packages of not less than
2 10 units and in original unaltered manufacturer's packaging.

3 * **Sec. 8.** AS 43.50.320(a) is repealed and reenacted to read:

4 (a) Except as provided in (g) of this section, a person engaged in an activity
5 described in

6 (1) AS 43.50.300(a)(1) or (3) must be licensed by the department as a
7 distributor;

8 (2) AS 43.50.300(a)(4) must be licensed as a buyer.

9 * **Sec. 9.** AS 43.50.320(b) is amended to read:

10 (b) The department, upon application and payment of a fee of

11 (1) \$50, shall issue a license for one year to a person who applies for a
12 license as a distributor under (a)(1) of this section;

13 (2) \$25, shall issue a license for one year to a person who applies
14 for a license as a buyer under (a)(2) of this section.

15 * **Sec. 10.** AS 43.50.320(d) is amended to read:

16 (d) A license issued under (b)(1) of this section must include the name and
17 address of the licensee, the type of business to be conducted, and the year for which
18 the license is issued.

19 * **Sec. 11.** AS 43.50.320(e) is amended to read:

20 (e) The department may renew a license issued under

21 (1) (b)(1) of this section for a fee of \$50;

22 (2) (b)(2) of this section for a fee of \$25.

23 * **Sec. 12.** AS 43.50.330(a) is amended to read:

24 (a) On or before the last day of each calendar month, a licensee shall file a
25 return with the department. The return must state the number or amount of tobacco
26 products sold by the licensee during the preceding calendar month, the wholesale
27 price or purchase [SELLING] price of the tobacco products, and the amount of tax
28 imposed on

29 (1) [THE] tobacco products other than moist snuff tobacco;

30 (2) moist snuff tobacco other than spitless moist snuff tobacco; and

31 (3) spitless moist snuff tobacco.

1 * **Sec. 13.** AS 43.50.350 is repealed and reenacted to read:

2 **Sec. 43.50.350. Disposition of proceeds.** (a) The tax collected by the
3 department, other than the tax collected on moist snuff tobacco, shall be deposited in
4 the general fund.

5 (b) Of the tax collected by the department on moist snuff tobacco,

6 (1) 25 percent shall be deposited in the tobacco use education and
7 cessation fund established in AS 37.05.580; and

8 (2) 75 percent shall be deposited in the general fund.

9 (c) The annual estimated balance in the account maintained by the
10 commissioner of administration under AS 37.05.142 may be used by the legislature to
11 make appropriations for health care, health research, health promotion, and health
12 education programs.

13 * **Sec. 14.** AS 43.50.390(1) is amended to read:

14 (1) "distributor" means a person who

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

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

19 (C) ships or transports a tobacco product to a retailer in the
20 state for sale by the retailer **or to an individual for personal consumption;**

21 * **Sec. 15.** AS 43.50.390(2) is amended to read:

22 (2) "licensee" means a distributor **or buyer** who is

23 (A) licensed under AS 43.50.320; or

24 (B) exempted by AS 43.50.320(g) from licensing under
25 AS 43.50.320;

26 * **Sec. 16.** AS 43.50.390(4) is amended to read:

27 (4) "tobacco product" means

28 (A) a cigar, **including any roll of tobacco wrapped in leaf**
29 **tobacco;**

30 (B) a cheroot;

31 (C) a stogie;

- 1 (D) a perique;
- 2 (E) snuff **tobacco, including moist snuff tobacco,** and snuff
- 3 flour;
- 4 (F) smoking tobacco, including granulated, plug-cut, crimp-cut,
- 5 ready-rubbed, and any form of tobacco suitable for smoking in a pipe or
- 6 cigarette;
- 7 (G) chewing tobacco, including cavendish, twist, plug, scrap,
- 8 and tobacco suitable for chewing; [OR]
- 9 (H) an article or product made of tobacco or a tobacco
- 10 substitute, but not including a cigarette as defined in AS 43.50.170; **or**
- 11 **(I) any other product containing tobacco or nicotine that is**
- 12 **intended or expected to be consumed without being combusted unless it**
- 13 **has been approved by the United States Food and Drug Administration**
- 14 **for sale as a tobacco use cessation or harm reduction product or for other**
- 15 **medical purposes and is being marketed and sold solely for the approved**
- 16 **purposes;**

17 * **Sec. 17.** AS 43.50.390 is amended by adding new paragraphs to read:

18 (6) "buyer" means a person who imports tobacco products for the

19 person's own consumption from any source other than licensee;

20 (7) "moist snuff tobacco" includes spitless moist snuff tobacco and

21 means any finely cut, ground, or powdered tobacco that is not intended to be

22 (A) smoked; or

23 (B) placed in the nasal cavity;

24 (8) "smokeless tobacco" means a tobacco product defined in (4)(E),

25 (G), (H), (I), and (9) of this section;

26 (9) "spitless moist snuff tobacco" means moist snuff tobacco that is

27 typically steam-pasteurized smokeless tobacco in a tea-bag-like pouch designed to be

28 placed between the cheek and gum and is manufactured to obviate the need for

29 spitting.

30 * **Sec. 18.** AS 43.70.110 is amended by adding a new paragraph to read:

31 (5) "cigarette" has the meaning given in AS 43.50.170.

1 * **Sec. 19.** AS 11.76.100(e) is repealed.

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

4 **APPLICABILITY.** (a) Sections 2 - 5 and 7 - 18 of this Act are applicable starting on
5 the first day of the month immediately following the effective date of this section.

6 (b) Section 6 of this Act is applicable starting on the first day of the month
7 immediately following the effective date of sec. 6.

8 * **Sec. 21.** Section 6 of this Act takes effect three years after the effective date of sec. 5 of
9 this Act.

10 * **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect immediately under
11 AS 01.10.070(c).