

CS FOR SENATE BILL NO. 45(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/24/21

Referred: Finance

Sponsor(s): SENATOR STEVENS

A BILL

FOR AN ACT ENTITLED

1 "An Act raising the minimum age to purchase, sell, exchange, or possess tobacco, a
2 product containing nicotine, or an electronic smoking product; relating to transporting
3 tobacco, a product containing nicotine, or an electronic smoking product; relating to the
4 taxation of electronic smoking products; relating to electronic smoking products;
5 requiring electronic smoking product manufacturers to obtain a commercial general
6 liability insurance policy; relating to the marketing of electronic smoking products;
7 relating to tobacco products; and providing for an effective date."

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

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

10 (a) A person commits the offense of selling or giving tobacco to a **person**
11 **under 21 years of age** [MINOR] if the person

12 (1) negligently sells a cigarette, a cigar, tobacco, or a product
13 containing tobacco to a person under **21** [19] years of age;

1 (2) is 21 [19] years of age or older and negligently exchanges or gives
 2 a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 21 [19]
 3 years of age;

4 (3) maintains a vending machine that dispenses cigarettes, cigars,
 5 tobacco, or products containing tobacco; or

6 (4) holds a business license endorsement under AS 43.70.075 and
 7 allows a person under 21 [19] years of age to sell a cigarette, a cigar, tobacco, or a
 8 product containing tobacco.

9 * **Sec. 2.** AS 11.76.100(b) is amended to read:

10 (b) Notwithstanding the provisions of (a) of this section, a person who
 11 maintains a vending machine is not in violation of (a)(3) of this section if the vending
 12 machine is located

13 (1) on premises licensed as a beverage dispensary under AS 04.11.090,
 14 licensed as a club under AS 04.11.110, or licensed as a package store under
 15 AS 04.11.150; and

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

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

20 (2) in an employee break room or other controlled area of a private
 21 work place that is not generally considered a public place and the room or area
 22 contains a posted warning sign at least 11 inches by 14 inches indicating that
 23 possession of tobacco by a person under 21 [19] years of age is prohibited under
 24 AS 11.76.105.

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

26 **Sec. 11.76.105. Possession of tobacco, electronic smoking products, or**
 27 **products containing nicotine by a person under 21 years of age [MINOR].** (a) A
 28 person under 21 [19] years of age may not knowingly possess a cigarette, a cigar,
 29 tobacco, a product containing tobacco, an electronic smoking product, or a product
 30 containing nicotine in this state. [THIS SUBSECTION DOES NOT APPLY TO A
 31 PERSON WHO IS A PRISONER AT AN ADULT CORRECTIONAL FACILITY.]

1 (b) In a prosecution under (a) of this section for possession of an electronic
 2 smoking product or a product containing nicotine, it is an affirmative defense that the
 3 electronic smoking product or product containing nicotine possessed by the person
 4 under 21 [19] years of age was intended or expected to be consumed without being
 5 combusted, and the electronic smoking product or product containing nicotine

6 (1) has been approved by the United States Food and Drug
 7 Administration for sale as a tobacco use cessation [OR HARM REDUCTION] product
 8 or for other medical purposes;

9 (2) was being marketed and sold for the approved purposes; and

10 (3) was

11 (A) prescribed by a health care professional;

12 (B) given to the person by the person's parent or guardian;

13 (C) provided by a state-approved tobacco cessation program
 14 administered by the Department of Health and Social Services; or

15 (D) provided by a pharmacist to a person 18 years of age or
 16 older without a prescription.

17 (c) Possession of tobacco, an electronic smoking product, or a product
 18 containing nicotine by a **person under 21 years of age** [MINOR] is a violation.

19 * **Sec. 4.** AS 11.76.106(a) is amended to read:

20 (a) Except as provided under (b) of this section, a person may not sell
 21 cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products,
 22 or products containing nicotine

23 **(1)** unless the sale occurs in a manner that allows only the sales clerk
 24 to control access to the cigarettes, cigars, tobacco, products containing tobacco,
 25 electronic smoking products, or products containing nicotine;

26 **(2) over the Internet to an individual for the individual's personal**
 27 **consumption.**

28 * **Sec. 5.** AS 11.76.106(b) is amended to read:

29 (b) **Paragraph (a)(1) of this section** [SUBSECTION (a)] does not apply if
 30 the sale

31 (1) is by vending machine as provided under AS 11.76.100(b) or

1 11.76.109(d);

2 (2) is a wholesale transaction, the person is licensed as a manufacturer
3 or distributor under AS 43.50.010, and the sale occurs on premises where no retail
4 transactions occur;

5 (3) is by a retailer who sells primarily cigarettes, cigars, tobacco,
6 products containing tobacco, electronic smoking products, or products containing
7 nicotine and who restricts access to the premises to only those individuals who are 21
8 [19] years of age or older; or

9 (4) is of electronic smoking products over the Internet to a person 19
10 years of age or older.

11 * **Sec. 6.** AS 11.76.109(a) is amended to read:

12 (a) A person commits the offense of selling or giving an electronic smoking
13 product or a product containing nicotine to a person under 21 years of age [MINOR]
14 if the person

15 (1) negligently sells an electronic smoking product or a product
16 containing nicotine to a person under 21 [19] years of age;

17 (2) is 21 [19] years of age or older and negligently exchanges or gives
18 an electronic smoking product or a product containing nicotine to a person under 21
19 [19] years of age;

20 (3) maintains a vending machine that dispenses electronic smoking
21 products or products containing nicotine; or

22 (4) holds a business license endorsement under AS 43.70.075 and
23 allows a person under 21 [19] years of age to sell an electronic smoking product or a
24 product containing nicotine.

25 * **Sec. 7.** AS 11.76.109(b) is amended to read:

26 (b) The provisions of (a) of this section do not apply to the sale, exchange, or
27 gift to a person under 21 [19] years of age of an electronic smoking product or a
28 product containing nicotine that is intended or expected to be consumed without being
29 combusted if the electronic smoking product or product containing nicotine

30 (1) has been approved by the United States Food and Drug
31 Administration for sale as a tobacco use cessation [OR HARM REDUCTION] product

1 or for other medical purposes;

2 (2) is being marketed and sold solely for the approved purposes; and

3 (3) is

4 (A) prescribed by a health care professional;

5 (B) given to a person by the person's parent or legal guardian;

6 (C) provided by a state-approved tobacco cessation program
7 administered by the Department of Health and Social Services; or

8 (D) provided by a pharmacist to a person 18 years of age or
9 older without a prescription.

10 * **Sec. 8.** AS 11.76.109(d) is amended to read:

11 (d) Notwithstanding (a)(3) of this section, a person who maintains a vending
12 machine is not in violation of (a)(3) of this section if the vending machine is located

13 (1) on premises licensed as a beverage dispensary under AS 04.11.090,
14 licensed as a club under AS 04.11.110, or licensed as a package store under
15 AS 04.11.150, and is located

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

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

20 (2) in an employee break room or other controlled area of a private
21 work place that is not generally considered a public place and the room or area
22 contains a posted warning sign at least 11 inches by 8.5 inches indicating that
23 possession of electronic smoking products or products containing nicotine by a person
24 under 21 [19] years of age without a prescription is prohibited under AS 11.76.109.

25 * **Sec. 9.** AS 11.76.109(g) is amended to read:

26 (g) Selling or giving an electronic smoking product or a product containing
27 nicotine to a **person under 21 years of age** [MINOR] is a violation and, upon
28 conviction, is punishable by a fine of not less than \$300.

29 * **Sec. 10.** AS 21.96 is amended by adding a new section to read:

30 **Sec. 21.96.055. Electronic smoking product manufacturer liability**
31 **insurance policy.** A manufacturer of an electronic smoking product sold in the state

1 shall obtain a commercial general liability insurance policy with the division in the
 2 amount of \$10,000,000, running to the state, conditioned on the manufacturer's
 3 promise to pay monetary judgments related to product liability in the state. A person
 4 having a claim against an electronic smoking product manufacturer required to obtain
 5 a commercial general liability insurance policy under this section may bring suit on
 6 the commercial general liability insurance policy for failure to pay a liability described
 7 in this section. A copy of the complaint shall be served by registered or certified mail
 8 on the director at the time suit is filed, and the director shall maintain a record,
 9 available for public inspection, of all suits commenced. If a judgment is entered
 10 against the commercial general liability insurance policy, the commissioner, upon
 11 receiving a certified copy of a final judgment, shall pay the judgment from the policy.
 12 The division is not liable for amounts in excess of the commercial general liability
 13 insurance policy. In this section, "electronic smoking product" has the meaning given
 14 in AS 43.50.390.

15 * **Sec. 11.** AS 43.50.105(b) is amended to read:

16 (b) A person who is licensed under this chapter may not ship or cause to be
 17 shipped cigarettes to a person in this state unless the person receiving the cigarettes

18 (1) is licensed under this chapter;

19 (2) holds a business license endorsement under AS 43.70.075;

20 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 21 1311 or 19 U.S.C. 1555;

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

24 (5) is an individual **21** [19] years of age or older **and the individual's**
 25 **age was verified at the time of purchase by a third-party verification service, the**
 26 **individual is** receiving the cigarettes for personal consumption, and the tax imposed
 27 on the cigarettes under this chapter has been paid.

28 * **Sec. 12.** AS 43.50.105(c) is amended to read:

29 (c) A common or contract carrier may not knowingly transport cigarettes to a
 30 person in this state unless the person

31 (1) shipping the cigarettes is licensed under this chapter and, before

shipment, provides the common or contract carrier with a copy of the person's current license issued by the department and

(A) an affidavit from the intended recipient certifying that the person receiving the cigarettes is a person described under **(b)(1) - (4)** [(b)(1) - (5)] of this section; or

(B) the common or contract carrier verifies the age of the recipient as 21 years of age or older before delivery; or

(2) receiving the cigarettes is a person described under (a)(2) or (3) of this section or is licensed under this chapter and, before receipt, provides the common or contract carrier with a copy of the person's current license issued by the department.

* **Sec. 13.** AS 43.50.150(c) is amended to read:

(c) The department may enter into an agreement with a municipality that imposes a tax on cigarettes, [OR OTHER] tobacco products, **or electronic smoking products** for the purpose of jointly auditing a person liable for a tax under AS 43.50.010 - 43.50.390 and the municipal tax on cigarettes, [OR OTHER] tobacco products, **or electronic smoking products. In this subsection, "electronic smoking product" has the meaning given in AS 43.50.390.**

* **Sec. 14.** AS 43.50.300 is amended to read:

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

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

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

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

* **Sec. 15.** AS 43.50.310(b) is amended to read:

(b) The tax does not apply to a

(1) tobacco product if the United States Constitution or other federal laws prohibit the levying of the tax on the product by the state; **or**

1 **(2) an electronic smoking product**

2 **(A) that is subject to taxation under AS 43.61.010 -**
 3 **43.61.030 and that does not contain nicotine;**

4 **(B) approved for sale by the United States Food and Drug**
 5 **Administration as a drug, drug product, including a drug product used to**
 6 **treat tobacco dependence, or combination product under 21 U.S.C. 301 -**
 7 **392 (Federal Food, Drug, and Cosmetic Act);**

8 **(C) if the United States Constitution or other federal laws**
 9 **prohibit the levying of the tax on the product by the state.**

10 * **Sec. 16.** AS 43.50.320(a) is amended to read:

11 (a) Except as provided in (g) of this section, a person must be licensed by the
 12 department if the person engages in business as a distributor for a tobacco product **or**
 13 **electronic smoking product** that is subject to the tax.

14 * **Sec. 17.** AS 43.50.320 is amended by adding a new subsection to read:

15 (i) A person licensed under this section may not distribute
 16 (1) a flavored electronic smoking product;
 17 (2) an electronic smoking product designed or packaged so as not to be
 18 clearly recognizable as a tobacco product, including an electronic smoking product
 19 designed or shaped to resemble a household or school object.

20 * **Sec. 18.** AS 43.50 is amended by adding a new section to read:

21 **Sec. 43.50.325. Restrictions on shipping or transporting tobacco products**
 22 **and electronic smoking products.** (a) A person who is not licensed under this chapter
 23 may not ship or cause to be shipped a tobacco product or electronic smoking product
 24 to a person in this state unless the person receiving the tobacco product or electronic
 25 smoking product is

26 (1) licensed under this chapter;
 27 (2) an operator of a customs bonded warehouse under 19 U.S.C. 1311
 28 or 19 U.S.C. 1555; or
 29 (3) an instrumentality of the federal government or an Indian tribal
 30 organization authorized by law to possess tobacco products or electronic smoking
 31 products not taxed under this chapter.

1 (b) A person who is licensed under this chapter may not ship or cause to be
 2 shipped a tobacco product or electronic smoking product to a person in this state
 3 unless the person receiving the tobacco product or electronic smoking product

4 (1) is licensed under this chapter;

5 (2) holds a business license endorsement under AS 43.70.075;

6 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 7 1311 or 19 U.S.C. 1555;

8 (4) is an instrumentality of the federal government or an Indian tribal
 9 organization authorized by law to possess tobacco products or electronic smoking
 10 products not taxed under this chapter; or

11 (5) is an individual 21 years of age or older and the individual's age
 12 was verified at the time of purchase through a third-party verification service, the
 13 individual is receiving the tobacco product or electronic smoking product for personal
 14 consumption, and the tax imposed on the tobacco product or electronic smoking
 15 product under this chapter has been paid.

16 (c) A common or contract carrier may not knowingly transport a tobacco
 17 product or electronic smoking product to a person in this state unless the person

18 (1) shipping the tobacco product or electronic smoking product is
 19 licensed under this chapter and, before shipment, provides the common or contract
 20 carrier with a copy of the person's current license issued by the department and

21 (A) an affidavit from the intended recipient certifying that the
 22 person receiving the tobacco product or electronic smoking product is a person
 23 described under (b)(1) - (4) of this section; or

24 (B) the common or contract carrier verifies the age of the
 25 recipient as 21 years of age or older before delivery; or

26 (2) receiving the tobacco product or electronic smoking product is a
 27 person described under (a)(2) or (3) of this section or is licensed under this chapter
 28 and, before receipt, provides the common or contract carrier with a copy of the
 29 person's current license issued by the department.

30 (d) If a tobacco product or electronic smoking product is transported by a
 31 common or contract carrier to a home or residence, it is rebuttably presumed that the

1 common or contract carrier knew that the recipient of the tobacco product or electronic
2 smoking product was not a person described under (b)(1) - (5) of this section, unless
3 the person shipping the tobacco product or electronic smoking product has satisfied
4 the requirements in (c)(1) of this section.

5 (e) A person, other than a common or contract carrier, may not knowingly
6 transport a tobacco product or electronic smoking product to a person in this state,
7 unless the recipient of the tobacco product or electronic smoking product is a person
8 described under (b)(1) - (5) of this section.

9 (f) A person who ships or causes to be shipped a tobacco product or electronic
10 smoking product to a person in this state shall plainly and visibly mark the container
11 or wrapping with the words "tobacco product" or "electronic smoking product" or
12 both, as applicable, if the tobacco product or electronic smoking product is shipped in
13 a container or wrapping other than the manufacturer's original container or wrapping
14 of the tobacco product or electronic smoking product.

15 (g) A person who violates the provisions of this section is guilty of a class A
16 misdemeanor if the person unlawfully ships, causes to be shipped, or transports a
17 tobacco product or electronic smoking product.

18 (h) In addition to the criminal penalty under (g) of this section, the department
19 may assess a civil penalty of not more than \$5,000 for each violation of this section.

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

25 * **Sec. 19.** AS 43.50.330(a) is amended to read:

26 (a) On or before the last day of each calendar month, a licensee shall file a
27 return with the department. The return must state the number or amount of tobacco
28 products **and electronic smoking products** sold by the licensee during the preceding
29 calendar month, the selling price of the tobacco products **and electronic smoking**
30 **products**, and the amount of tax imposed on the tobacco products **and electronic**
31 **smoking products**.

1 * **Sec. 20.** AS 43.50.335 is amended to read:

2 **Sec. 43.50.335. Tax credits and refunds.** The department shall adopt
3 procedures for a refund or credit to a licensee of the tax paid for tobacco products **or**
4 **electronic smoking products** that have become unfit for sale, are destroyed, or are
5 returned to the manufacturer for credit or replacement if the licensee provides proof
6 acceptable to the department that the tobacco products **or electronic smoking**
7 **products** have not been and will not be consumed in this state.

8 * **Sec. 21.** AS 43.50.340 is amended to read:

9 **Sec. 43.50.340. Records.** A licensee shall keep a complete and accurate record
10 of all tobacco products **and electronic smoking products** of the licensee subject to
11 the tax, including purchase prices, sales prices, the names and addresses of the sellers
12 and the purchasers, the dates of delivery, the quantities of tobacco products **and**
13 **electronic smoking products**, and the trade names and brands. Statements and
14 records required by this section must be in the form prescribed by the department,
15 preserved for three years, and available for inspection upon demand by the
16 department.

17 * **Sec. 22.** AS 43.50.350 is amended to read:

18 **Sec. 43.50.350. Disposition of proceeds.** **Except as provided in (b) of this**
19 **section, the** [THE] tax collected by the department shall be deposited in the general
20 fund. The annual estimated balance in the account maintained by the commissioner of
21 administration under AS 37.05.142 may be used by the legislature to make
22 appropriations for health care, health research, health promotion, and health education
23 programs.

24 * **Sec. 23.** AS 43.50.350 is amended by adding a new subsection to read:

25 (b) The department shall separately account for tax collected on electronic
26 smoking products under AS 43.50.300. The annual estimated balance in the account
27 may be appropriated by the legislature to provide for education, programs, and
28 advertising related to the hazards of electronic smoking products.

29 * **Sec. 24.** AS 43.50.390(1) is amended to read:

30 (1) "distributor" means a person who

31 (A) brings, or causes to be brought, a tobacco product **or**

1 **electronic smoking product** into the state from outside the state for sale;

2 (B) makes, manufactures, or fabricates a tobacco product **or**
3 **electronic smoking product** in the state for sale in the state; or

4 (C) ships or transports a tobacco product **or electronic**
5 **smoking product** to a retailer in the state for sale by the retailer;

6 * **Sec. 25.** AS 43.50.390(5) is amended to read:

7 (5) "wholesale price" means

8 (A) the established price for which a manufacturer sells a
9 tobacco product **or electronic smoking product** to a distributor after
10 deduction of a discount or other reduction received by the distributor for
11 quantity or cash if the manufacturer's established price is adequately supported
12 by bona fide arm's length sales as determined by the department; or

13 (B) the price, as determined by the department, for which
14 tobacco products **or electronic smoking products** of comparable retail price
15 are sold to distributors in the ordinary course of trade if the manufacturer's
16 established price does not meet the standards of (A) of this paragraph.

17 * **Sec. 26.** AS 43.50.390 is amended by adding a new paragraph to read:

18 (6) "electronic smoking product"

19 (A) includes a product that can be used to deliver aerosolized
20 or vaporized nicotine to the person inhaling; an e-cigarette, e-cigar, e-pipe, e-
21 hookah, or vape pen and any component, part, accessory, or device related to
22 an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen; and a substance intended
23 to be aerosolized or vaporized when using a product for delivery of aerosolized
24 or vaporized nicotine;

25 (B) does not include a battery or battery charger when sold
26 separately.

27 * **Sec. 27.** AS 43.70.075(f) is amended to read:

28 (f) A person who holds a license endorsement issued under this section shall
29 post on the licensed premises a warning sign as described in this subsection. A
30 warning sign required by this subsection must be at least 8.5 inches by 11 inches and
31 must read: "The sale of electronic smoking products or products containing nicotine

1 without a prescription or tobacco products to persons under age 21 [19] is illegal." A
 2 person holding an endorsement issued under this section shall display the warning sign
 3 in a manner conspicuous to a person purchasing or consuming tobacco products,
 4 electronic smoking products, or products containing nicotine on the licensed premises.
 5 The department shall make available the warning signs required under this section to a
 6 person who holds an endorsement issued under this section or a person who requests
 7 the sign with the intention of displaying it.

8 * **Sec. 28.** AS 43.70.075(m) is amended to read:

9 (m) The department may initiate suspension of a business license endorsement
 10 or the right to obtain a business license endorsement under this section by sending the
 11 person subject to the suspension a notice by certified mail, return receipt requested, or
 12 by delivering the notice to the person. The notice must contain information that
 13 informs the person of the grounds for suspension, the length of any suspension sought,
 14 and the person's right to administrative review. A suspension begins 30 days after
 15 receipt of notice described in this subsection unless the person delivers a timely
 16 written request for a hearing to the department in the manner provided by regulations
 17 of the department. If a hearing is requested under this subsection, an administrative
 18 law judge of the office of administrative hearings (AS 44.64.010) shall determine the
 19 issues by using the preponderance of the evidence test and shall, to the extent they do
 20 not conflict with regulations adopted under AS 44.64.060, conduct the hearing in the
 21 manner provided by regulations of the department. A hearing under this subsection is
 22 limited to the following questions:

23 (1) was the person holding the business license endorsement, or an
 24 agent or employee of the person while acting within the scope of the agency or
 25 employment of the person, convicted by plea or judicial finding of violating
 26 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

27 (2) if the department does not allege a conviction of AS 11.76.100,
 28 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the
 29 person while acting within the scope of the agency or employment of the person,
 30 violate a provision of (a) or (g) of this section;

31 (3) within the 24 months before the date of the department's notice

1 under this subsection, was the person, or an agent or employee of the person while
 2 acting within the scope of the agency or employment of the person, convicted of
 3 violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 or adjudicated for
 4 violating a provision of (a) or (g) of this section;

5 (4) did the person holding the business license endorsement establish
 6 that the person holding the business license endorsement had adopted and enforced an
 7 education, a compliance, and a disciplinary program for agents and employees of the
 8 person as provided in (t) of this section;

9 (5) did the person holding the business license endorsement overcome
 10 the rebuttable presumption established in (w) of this section;

11 (6) within five years before the date of the violation that is the subject
 12 of the hearing, did the department establish that the person holding the business
 13 license endorsement

14 (A) previously violated (a) or (g) of this section;

15 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or
 16 11.76.109 at a location or outlet in a location for which the person holds a
 17 business license endorsement, or had an agent or employee previously violate
 18 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not
 19 apply to a prior conviction that served to enhance a suspension period under
 20 (d)(2) - (4) of this section; or

21 (C) engaged at a location owned by the person in other conduct
 22 that was or is likely to result in the sale of tobacco, electronic smoking
 23 products, or products containing nicotine to a person under 21 [19] years of
 24 age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

25 * **Sec. 29.** AS 43.70.075(t) is amended to read:

26 (t) Based on evidence provided at the hearing under (m)(4) - (6) of this
 27 section, the department may reduce the license suspension period under (d) of this
 28 section if the person holding the business license endorsement establishes that, before
 29 the date of the violation, the person had

30 (1) adopted and enforced a written policy against selling cigarettes,
 31 cigars, tobacco, products containing tobacco, electronic smoking products, or products

1 containing nicotine to a person under 21 [19] years of age in violation of
2 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

3 (2) informed the person's agents and employees of the applicable laws
4 and their requirements and conducted training on complying with the laws and
5 requirements;

6 (3) required each agent and employee of the person to sign a form
7 stating that the agent and employee has been informed of and understands the written
8 policy and the requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

9 (4) determined that the agents and employees of the person had
10 sufficient experience and ability to comply with the written policy and requirements of
11 AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

12 (5) required the agents and employees of the person to verify the age
13 of purchasers of cigarettes, cigars, tobacco, other products containing tobacco,
14 electronic smoking products, or products containing nicotine by means of a valid
15 government issued photographic identification;

16 (6) established and enforced disciplinary sanctions for noncompliance
17 with the written policy or the requirements of AS 11.76.100, 11.76.106, 11.76.107,
18 and 11.76.109; and

19 (7) monitored the compliance of the agents and employees of the
20 person with the written policy and the requirements of AS 11.76.100, 11.76.106,
21 11.76.107, and 11.76.109.

22 * **Sec. 30.** AS 43.70.075(w) is amended to read:

23 (w) For purposes of (m)(5) of this section, a conviction for a violation of
24 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 by the agent or employee of the
25 person who holds the business license endorsement is rebuttably presumed to
26 constitute proof of the fact that the agent or employee negligently sold a cigarette, a
27 cigar, or tobacco, a product containing tobacco, an electronic smoking product, or a
28 product containing nicotine to a person under 21 [19] years of age. The person who
29 holds the business license endorsement may overcome the presumption by
30 establishing by clear and convincing evidence that the agent or employee did not
31 negligently sell a cigarette, a cigar, or tobacco, a product containing tobacco, an

1 electronic smoking product, or a product containing nicotine to a person under 21 [19]
2 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 as
3 alleged in the citation issued to the agent or employee. The presentation of evidence
4 authorized by this subsection does not constitute a collateral attack on the conviction
5 described in this subsection.

6 * **Sec. 31.** AS 45.50.471(b) is amended by adding a new paragraph to read:

7 (58) marketing electronic smoking products to a person under 21 years
8 of age; in this paragraph, "electronic smoking product" has the meaning given in
9 AS 43.50.390.

10 * **Sec. 32.** AS 47.12.030(b) is amended to read:

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

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

21 (2) AS 11.76.105, relating to the possession of tobacco by a person
22 under 21 [19] years of age;

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

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

26 (5) [REPEALED]

27 (6) a municipal curfew ordinance, whether adopted under
28 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
29 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for
30 the violation of a municipal curfew ordinance, the court shall allow a defendant the
31 option of performing community work; the value of the community work, which may

1 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);
2 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
3 or work that, on the recommendation of the municipal or borough assembly, city
4 council, or traditional village council of the defendant's place of residence, would
5 benefit persons within the municipality or village who are elderly or disabled.

6 * **Sec. 33.** AS 11.76.100(e) and 11.76.106(b)(4) are repealed.

7 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. The following sections apply to offenses committed on or after the
10 effective date of those sections:

- 11 (1) AS 11.76.100(a), as amended by sec. 1 of this Act;
- 12 (2) AS 11.76.100(b), as amended by sec. 2 of this Act;
- 13 (3) AS 11.76.105, as amended by sec. 3 of this Act;
- 14 (4) AS 11.76.106(a), as amended by sec. 4 of this Act;
- 15 (5) AS 11.76.106(b), as amended by sec. 5 of this Act;
- 16 (6) AS 11.76.109(a), as amended by sec. 6 of this Act;
- 17 (7) AS 11.76.109(b), as amended by sec. 7 of this Act;
- 18 (8) AS 11.76.109(d), as amended by sec. 8 of this Act;
- 19 (9) AS 11.76.109(g), as amended by sec. 9 of this Act;
- 20 (10) AS 43.50.325, enacted by sec. 18 of this Act; and
- 21 (11) AS 47.12.030(b), as amended by sec. 32 of this Act.

22 * **Sec. 35.** This Act takes effect January 1, 2022.