

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxes on cigarettes and tobacco products; taxing electronic**
2 **smoking devices; requiring the electronic submission of certain applications and tax**
3 **returns with the Department of Revenue; and providing for an effective date."**

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

5 * **Section 1.** AS 43.05 is amended by adding a new section to read:

6 **Sec. 43.05.055. Electronic submission.** A return, license application, or other
7 document submitted to the department under this title shall be filed electronically
8 unless the person submitting the document does not have the technological capability
9 to do so. The department shall consider the electronic filing as equivalent to paper
10 filing for purposes of compliance with other requirements of this title. An electronic
11 filing authorized under this section is equivalent to a paper filing for the purposes of
12 civil or criminal penalties for violations of this title or AS 11.

13 * **Sec. 2.** AS 43.50.150(c) is amended to read:

14 (c) The department may enter into an agreement with a municipality that

1 imposes a tax on cigarettes, electronic smoking devices, or other tobacco products for
2 the purpose of jointly auditing a person liable for a tax under AS 43.50.010 -
3 43.50.390 and the municipal tax on cigarettes, electronic smoking devices, or other
4 tobacco products.

5 * **Sec. 3.** AS 43.50.170 is amended by adding a new section to read:

6 (13) "electronic smoking device" has the meaning given in
7 AS 43.50.390.

8 * **Sec. 4.** AS 43.50.190(a) is amended to read:

9 (a) There is levied an excise tax on each cigarette imported or acquired in this
10 state of 112 [,

11 (1) AFTER DECEMBER 31, 2004, BUT BEFORE JULY 1, 2006, 42
12 MILLS;

13 (2) AFTER JUNE 30, 2006, BUT BEFORE JULY 1, 2007, 52
14 MILLS;

15 (3) AFTER JUNE 30, 2007, 62] mills.

16 * **Sec. 5.** AS 43.50.300 is amended to read:

17 **Sec. 43.50.300. Excise tax levied.** An excise tax is levied on tobacco products
18 and electronic smoking devices in the state at the rate of 100 [75] percent of the
19 wholesale price of the tobacco products or electronic smoking devices. The tax is
20 levied when a person who first

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

23 (2) makes, manufactures, or fabricates a tobacco product or electronic
24 smoking device in the state for sale in the state [; OR

25 (3) SHIPS OR TRANSPORTS A TOBACCO PRODUCT TO A
26 RETAILER IN THE STATE FOR SALE BY THE RETAILER].

27 * **Sec. 6.** AS 43.50.310(b) is amended to read:

28 (b) The tax does not apply to a tobacco product or electronic smoking device
29 if the United States Constitution or other federal laws prohibit the levying of the tax on
30 the product or device by the state.

31 * **Sec. 7.** AS 43.50.320(a) is amended to read:

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

4 * **Sec. 8.** AS 43.50.330(a) is amended to read:

5 (a) On or before the last day of each calendar month, a licensee shall file a
6 return with the department. **The return must be submitted electronically to the**
7 **department in a format prescribed by the department.** The return must state the
8 number or amount of tobacco products **or electronic smoking devices** sold by the
9 licensee during the preceding calendar month, the selling price of the tobacco products
10 **or electronic smoking devices**, and the amount of tax imposed on the tobacco
11 products **or electronic smoking devices**.

12 * **Sec. 9.** AS 43.50.335 is amended to read:

13 **Sec. AS 43.50.335. Tax credits and refunds.** The department shall adopt
14 procedures for a refund or credit to a licensee of the tax paid for tobacco products **or**
15 **electronic smoking devices** that have become unfit for sale, are destroyed, or are
16 returned to the manufacturer for credit or replacement if the licensee provides proof
17 acceptable to the department that the tobacco products **or electronic smoking devices**
18 have not been and will not be consumed in this state.

19 * **Sec. 10.** AS 43.50.340 is amended to read:

20 **Sec. 43.50.340. Records.** A licensee shall keep a complete and accurate record
21 of all tobacco products **or electronic smoking devices** of the licensee subject to the
22 tax, including purchase prices, sales prices, the names and addresses of the sellers and
23 the purchasers, the dates of delivery, the quantities of tobacco products **or electronic**
24 **smoking devices**, and the trade names and brands. Statements and records required by
25 this section must be in the form prescribed by the department, preserved for three
26 years, and available for inspection upon demand by the department.

27 * **Sec. 11.** AS 43.50.390(4) is amended to read:

28 (4) "tobacco product"

29 **(A)** means

30 **(i)** [(A)] a cigar;

31 **(ii)** [(B)] a cheroot;

1 (iii) [(C)] a stogie;

2 (iv) [(D)] a perique;

3 (v) [(E)] snuff and snuff flour;

4 (vi) [(F)] smoking tobacco, including granulated, plug-
5 cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for
6 smoking in a pipe or cigarette;

7 (vii) [(G)] chewing tobacco, including cavendish, twist,
8 plug, scrap, and tobacco suitable for chewing; or

9 (viii) [(H)] an article or product made of tobacco or a
10 tobacco substitute, but not including a cigarette as defined in
11 AS 43.50.170;

12 **(B) does not include a product that has been approved by**
13 **the United States Food and Drug Administration for sale as a smoking**
14 **cessation product, tobacco dependence product, or modified risk tobacco**
15 **product;**

16 * **Sec. 12.** AS 43.50.390(5) is amended to read:

17 (5) "wholesale price" means, **for a tobacco product or electronic**
18 **smoking device**

19 (A) **acquired from a manufacturer,** the **gross invoice**
20 [ESTABLISHED] price, **including all federal excise taxes, at** [FOR] which
21 **the** [A] manufacturer sells a tobacco product **or electronic smoking device** to
22 **an unaffiliated** [A] distributor after a deduction of a **trade** discount or other
23 reduction received by the distributor [FOR QUANTITY OR CASH IF THE
24 MANUFACTURER'S ESTABLISHED PRICE IS ADEQUATELY
25 SUPPORTED BY BONA FIDE ARM'S LENGTH SALES AS
26 DETERMINED BY THE DEPARTMENT]; or

27 (B) **not acquired from a manufacturer,** the **gross invoice**
28 price, **including all federal excise taxes, after a deduction of a trade**
29 **discount or other reduction** [AS DETERMINED BY THE DEPARTMENT,
30 FOR WHICH TOBACCO PRODUCTS OF COMPARABLE RETAIL PRICE
31 ARE SOLD TO DISTRIBUTORS IN THE ORDINARY COURSE OF

1 TRADE IF THE MANUFACTURER'S ESTABLISHED PRICE DOES NOT
2 MEET THE STANDARDS OF (A) OF THIS PARAGRAPH].

3 * **Sec. 13.** AS 43.50.390 is amended by adding a new paragraph to read:

4 (6) "electronic smoking device"

5 (A) means

6 (i) an electronic cigarette, electronic cigar, electronic
7 cigarillo, electronic pipe, or other similar device that is used to
8 aerosolize and deliver nicotine or other substances to the person
9 inhaling from the device; and

10 (ii) a component, solution, vapor product, or other
11 related product of an electronic cigarette, electronic cigar, electronic
12 cigarillo, electronic pipe, or other similar device;

13 (B) does not include a

14 (i) battery or battery charger that is sold separately;

15 (ii) drug, device, or combination product approved for
16 sale by the United State Food and Drug Administration, as those terms
17 are defined in 21 U.S.C. 301-392 (Food, Drug, and Cosmetic Act); or

18 (iii) product that has been approved by the United
19 States Food and Drug Administration for sale as a smoking cessation
20 product, tobacco dependence product, or modified risk tobacco product.

21 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 APPLICABILITY. (a) AS 43.50.190(a), as amended by sec. 4 of this Act, and
24 AS 43.50.300, as amended by sec. 5 of this Act, apply to tobacco products sold on or after the
25 effective date of this Act.

26 (b) AS 43.50.330, as amended by sec. 8 of this Act, applies to the first monthly return
27 submitted after the first full month after the effective date of this Act.

28 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 TRANSITIONAL PROVISION: REGULATIONS. The Department of Revenue may
31 adopt regulations necessary to implement the changes made by this Act. The regulations take

1 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
2 law implemented by the regulation.

3 * **Sec. 16.** Section 15 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2016.