

HOUSE BILL NO. 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE HANNAN

Introduced: 1/22/25

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tobacco, tobacco products, electronic smoking products, nicotine,
2 and products containing nicotine; raising the minimum age to purchase, exchange, or
3 possess tobacco, a product containing nicotine, or an electronic smoking product;
4 relating to the tobacco use education and cessation fund; relating to the taxation of
5 electronic smoking products and vapor products; and providing for an effective date."

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

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

8 (a) A person commits the offense of selling or giving tobacco to a **person**

9 **under 21 years of age** [MINOR] if the person

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

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

1 years of age;

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

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

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

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

11 (1) on premises licensed as a beverage dispensary under AS 04.09.200
12 or 04.09.350, licensed as a club under AS 04.09.220, or licensed as a package store
13 under AS 04.09.230 and

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

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

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

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

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

31 (b) In a prosecution under (a) of this section for possession of an electronic

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

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

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

9 (3) was

10 (A) prescribed by a health care professional;

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

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

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

16 (c) Possession of tobacco, an electronic smoking product, or a product
 17 containing nicotine by a **person under 21 years of age** [MINOR] is a violation
 18 **punishable by a fine of not more than \$300. Notwithstanding AS 12.55.035(b), in**
 19 **place of any fine imposed for the violation of this subsection, the court may refer**
 20 **a defendant, at the request of the defendant, to a tobacco education program.**

21 * **Sec. 4.** AS 11.76.105 is amended by adding new subsections to read:

22 (d) The supreme court shall establish by rule or order a schedule of bail
 23 amounts that may be forfeited without court appearance for a violation of this section
 24 by a person 19 or 20 years of age.

25 (e) The supreme court, in establishing scheduled amounts of bail under this
 26 section, may not allow for disposition of an offense without court appearance for a
 27 person under 18 years of age who is cited for a violation of this section.

28 (f) The provisions of (a) of this section do not apply to a person 19 or 20 years
 29 of age who is employed by a person with a business license endorsement under
 30 AS 43.70.075 and, as part of that employment, is selling a cigarette, a cigar, tobacco, a
 31 product containing tobacco, an electronic smoking product, or a product containing

1 nicotine.

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

3 (b) Subsection (a) does not apply if the sale

4 (1) is by vending machine as provided under AS 11.76.100(b) or
5 11.76.109(d);

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

9 (3) is by a retailer who sells primarily cigarettes, cigars, tobacco,
10 products containing tobacco, electronic smoking products, or products containing
11 nicotine and who restricts access to the premises to only those individuals who are **21**
12 [19] years of age or older; or

13 (4) is of electronic smoking products over the Internet to a person **21**
14 [19] years of age or older.

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

16 (a) A person commits the offense of selling or giving an electronic smoking
17 product or a product containing nicotine to a **person under 21 years of age** [MINOR]
18 if the person

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

21 (2) is **21** [19] years of age or older and negligently exchanges or gives
22 an electronic smoking product or a product containing nicotine to a person under **21**
23 [19] years of age;

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

26 (4) holds a business license endorsement under AS 43.70.075 and
27 allows a person under 19 years of age to sell an electronic smoking product or a
28 product containing nicotine.

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

30 (b) The provisions of (a) of this section do not apply to the sale, exchange, or
31 gift to a person under **21** [19] years of age of an electronic smoking product or a

product containing nicotine that is intended or expected to be consumed without being combusted if the electronic smoking product or product containing nicotine

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

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

(3) is

(A) prescribed by a health care professional;

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

(C) provided by a state-approved tobacco cessation program administered by the Department of Health; or

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

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

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

(1) on premises licensed as a beverage dispensary under AS 04.09.200 or 04.09.350, licensed as a club under AS 04.09.220, or licensed as a package store under AS 04.09.230, and is located

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

(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 and the room or area contains a posted warning sign at least 11 inches by 8.5 inches indicating that possession of electronic smoking products or products containing nicotine by a person under 21 [19] years of age without a prescription is prohibited under AS 11.76.105 [THIS SECTION].

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

(g) Selling or giving an electronic smoking product or a product containing

1 nicotine to a **person under 21 years of age** [MINOR] is a violation and, upon
 2 conviction, is punishable by a fine of not less than \$300.

3 * **Sec. 10.** AS 11.81.900(b) is amended by adding a new paragraph to read:

4 (71) "nicotine" includes a chemical or chemical compound intended,
 5 when introduced into the human body, to mimic or simulate the effect of nicotine from
 6 tobacco.

7 * **Sec. 11.** AS 29.35.085(c) is amended to read:

8 (c) The community work provisions of **AS 47.12.030(b)(5)**
 9 [AS 47.12.030(b)(6)] apply to punishment for a minor's conviction of a violation of a
 10 curfew ordinance for which a penalty is provided under AS 29.25.070(a).

11 * **Sec. 12.** AS 37.05.580(a) is amended to read:

12 (a) **The** [THERE IS CREATED AS A SPECIAL ACCOUNT IN THE
 13 GENERAL FUND THE] tobacco use education and cessation fund **is established as a**
 14 **separate fund in the state treasury. Each year,** [INTO WHICH SHALL BE
 15 DEPOSITED] 20 percent **of annual** [ANNUALLY OF THE] revenue derived from
 16 the settlement of State of Alaska v. Philip Morris, Incorporated, et al, No. 1JU-97-915
 17 CI (Alaska Super. 1997) **shall be deposited into the fund.** The purpose of the tobacco
 18 use education and cessation fund is to provide a source to finance the comprehensive
 19 smoking education, tobacco use prevention, and tobacco control program authorized
 20 by AS 44.29.020(a)(12).

21 * **Sec. 13.** AS 43.50.070 is amended to read:

22 **Sec. 43.50.070. Suspension or revocation of or refusal to renew a license.**

23 (a) The department may suspend, revoke, or refuse to renew a license issued under this
 24 chapter (1) for a negligent violation of AS 11.76.100, 11.76.106, 11.76.107,
 25 11.76.109, or a violation of this chapter or a regulation of the department adopted
 26 under this chapter; (2) if a licensee ceases to act in the capacity for which the license
 27 was issued; or (3) if a licensee negligently sells tobacco or products containing
 28 tobacco to a person who is required to, but does not, hold a license endorsement under
 29 AS 43.70.075 or whose license endorsement under AS 43.70.075 has been suspended.
 30 A person whose license is suspended or revoked may not sell cigarettes, [OR] tobacco
 31 products, **or electronic smoking products,** or permit cigarettes, [OR] tobacco

products, or electronic smoking products to be sold, during the period of the suspension or revocation on the premises occupied or controlled by that person. A disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, renewal, or extension of a license issued under this chapter. The department shall comply with the provisions of AS 44.62 (Administrative Procedure Act), except that a hearing officer of the department, rather than a hearing officer assigned under AS 44.62.350, may conduct hearings.

(b) In this section, "licensee" means a person licensed under AS 43.50.010 - 43.50.180, [OR] 43.50.300 - 43.50.390, or 43.50.850 - 43.50.900.

* **Sec. 14.** AS 43.50.105(b) is amended to read:

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

(1) is licensed under this chapter;

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

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

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

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

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

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

(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. 16.** 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 **or 43.50.850 - 43.50.900** and the municipal tax on cigarettes, [OR OTHER] tobacco products, **or electronic smoking products**.

* **Sec. 17.** AS 43.50.190(d) is amended to read:

(d) A portion of the annual proceeds of the tax levied under (a) of this section equal to 8.9 percent of the total proceeds of the tax shall be deposited into the tobacco use education and cessation fund established in AS 37.05.580. [THIS DEPOSIT SHALL BE IN ADDITION TO ANY SUMS DEPOSITED INTO THE FUND UNDER AS 37.05.580(a).]

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

Sec. 43.50.325. Restrictions on shipping or transporting tobacco products.

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

(1) licensed under this chapter;

(2) an operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555; or

(3) an instrumentality of the federal government or an Indian tribal organization authorized by law to possess tobacco products not taxed under this chapter.

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

1 (1) is licensed under this chapter;
 2 (2) holds a business license endorsement under AS 43.70.075;
 3 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 4 1311 or 19 U.S.C. 1555;

5 (4) is an instrumentality of the federal government or an Indian tribal
 6 organization authorized by law to possess tobacco products not taxed under this
 7 chapter; or

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

12 (c) A common or contract carrier may not knowingly transport a tobacco
 13 product to a person in this state unless the person

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

17 (A) an affidavit from the intended recipient certifying that the
 18 person receiving the tobacco product is a person described under (b)(1) - (4) of
 19 this section; or

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

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

26 (d) If a tobacco product is transported by a common or contract carrier to a
 27 home or residence, it is rebuttably presumed that the common or contract carrier knew
 28 that the recipient of the tobacco product was not a person described under (b)(1) - (5)
 29 of this section, unless the person shipping the tobacco product has satisfied the
 30 requirements in (c)(1) of this section.

31 (e) A person, other than a common or contract carrier, may not knowingly

1 transport a tobacco product to a person in this state, unless the recipient of the tobacco
2 product is a person described under (b)(1) - (5) of this section.

3 (f) A person who ships or causes to be shipped a tobacco product to a person
4 in this state shall plainly and visibly mark the container or wrapping with the words
5 "tobacco product" if the tobacco product is shipped in a container or wrapping other
6 than the manufacturer's original container or wrapping of the tobacco product.

7 (g) A person who violates the provisions of this section is guilty of a class A
8 misdemeanor if the person unlawfully ships, causes to be shipped, or transports a
9 tobacco product.

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

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

17 * **Sec. 19.** AS 43.50 is amended by adding new sections to read:

18 **Article 8. Electronic Smoking Products Sales, Shipping, Licensing, and Tax.**

19 **Sec. 43.50.850. Tax levied; collection.** (a) A tax is levied on closed electronic
20 smoking products and vapor products in the state. The tax is 25 percent of the retail
21 sales price of a closed electronic smoking product or a vapor product.

22 (b) A licensee located in the state shall collect and remit the tax to the
23 department. A licensee located outside of the state shall collect and remit the tax to the
24 department if the licensee has more than 200 transactions in the state in the current or
25 preceding calendar year.

26 **Sec. 43.50.855. Exemptions.** (a) The tax does not apply to

27 (1) a closed electronic smoking product or vapor product

28 (A) sold in a facility operated by one of the uniformed services
29 of the United States;

30 (B) approved for sale by the United States Food and Drug
31 Administration as a drug, drug product, including a drug product used to treat

1 tobacco dependence, or combination product under 21 U.S.C. 301 - 392
 2 (Federal Food, Drug, and Cosmetic Act);

3 (C) if the United States Constitution or other federal laws
 4 prohibit the levying of the tax on the product by the state;

5 (D) designed, marketed, and sold for the purpose of vaporizing
 6 or aerosolizing marijuana, marijuana products, hemp, or hemp products if the
 7 marijuana, marijuana products, hemp, or hemp products do not contain
 8 nicotine and are intended for sale only in a retail marijuana store;

9 (2) marijuana or marijuana products subject to tax under AS 43.61 if
 10 the marijuana or marijuana products do not contain nicotine; or

11 (3) hemp or hemp products if the hemp or hemp products do not
 12 contain nicotine.

13 (b) In this section,

14 (1) "hemp" and "hemp products" mean hemp or a hemp product
 15 produced by an individual registered under AS 03.05.076;

16 (2) "marijuana," "marijuana products," and "retail marijuana store"
 17 have the meanings given in AS 17.38.900;

18 (3) "uniformed services" has the meaning given in 5 U.S.C. 2101.

19 **Sec. 43.50.860. Licensing.** (a) Except as provided in (g) of this section, a
 20 person must be licensed by the department if the person engages in business as a
 21 retailer of an electronic smoking product.

22 (b) The department, upon application and payment of a fee of \$50, shall issue
 23 a license for one year to a person who applies for a license under (a) of this section.

24 (c) The department may refuse to issue a license under this section if

25 (1) there is reasonable cause to believe the information submitted in
 26 the application is false or misleading and is not made in good faith;

27 (2) the applicant is not in good standing under AS 10.06 (Alaska
 28 Corporations Code); or

29 (3) a tax levied under this chapter is due and unpaid by the applicant.

30 (d) A license issued under this section must include the name and address of
 31 the licensee, the type of business to be conducted, and the year for which the license is

1 issued.

2 (e) The department may renew a license issued under this section for a fee of
3 \$50 if the applicant

4 (1) is in good standing under AS 10.06 (Alaska Corporations Code);
5 and

6 (2) does not have unpaid taxes under this chapter.

7 (f) The department may suspend, revoke, or refuse to renew a license issued
8 under this section as provided in AS 43.50.070.

9 (g) A license required by this section is in addition to any other license
10 required by law, except that a person who is licensed under AS 43.50.010 - 43.50.180
11 or 43.50.300 - 43.50.390 is exempt from the licensing requirements of this section.

12 (h) A license issued under this section is not assignable or transferable, except
13 that in the case of death, bankruptcy, receivership, or incompetency of the licensee, or
14 if the business of the licensee is transferred to another by operation of law, the
15 department may extend the license for a limited time to the executor, administrator,
16 trustee, receiver, or transferee.

17 (i) A person licensed under this section may not

18 (1) distribute an electronic smoking product designed or packaged so
19 as not to be clearly recognizable as an electronic smoking product; or

20 (2) market an electronic smoking product, including a flavored
21 electronic smoking product, in a manner likely to promote use of the electronic
22 smoking product by a person under 21 years of age.

23 **Sec. 43.50.865. Returns.** On or before the last day of each calendar month, a
24 licensee shall file a return with the department. The return must state the number or
25 amount of closed electronic smoking products, vapor products, and other electronic
26 smoking products sold by the licensee during the preceding calendar month, the
27 selling price of the electronic smoking products, and the amount of tax imposed on the
28 closed electronic smoking products and vapor products.

29 **Sec. 43.50.870. Records.** A licensee shall keep a complete and accurate record
30 of all electronic smoking products of the licensee, including purchase prices, sales
31 prices, the names and addresses of the sellers, the dates of delivery, the quantities of

1 electronic smoking products, and the trade names and brands. Statements and records
 2 required by this section must be in the form prescribed by the department, preserved
 3 for three years, and available for inspection upon demand by the department.

4 **Sec. 43.50.875. Disposition of proceeds.** The annual proceeds of the tax
 5 levied under AS 43.50.850 shall be deposited into the tobacco use education and
 6 cessation fund established in AS 37.05.580 and may be appropriated from the fund for
 7 the purposes listed in AS 44.29.020(a)(12) or for efforts to prevent or detect the use of
 8 tobacco or electronic smoking products in a school.

9 **Sec. 43.50.880. Restrictions on shipping or transporting electronic**
 10 **smoking products.** (a) A person who is not licensed under this chapter may not ship
 11 or cause to be shipped an electronic smoking product to a person in this state unless
 12 the person receiving the electronic smoking product is

13 (1) licensed under this chapter;

14 (2) an operator of a customs bonded warehouse under 19 U.S.C. 1311
 15 or 19 U.S.C. 1555; or

16 (3) an instrumentality of the federal government or an Indian tribal
 17 organization authorized by law to possess electronic smoking products not taxed under
 18 this chapter.

19 (b) A person who is licensed under this chapter may not ship or cause to be
 20 shipped an electronic smoking product to a person in this state unless the person
 21 receiving the electronic smoking product

22 (1) is licensed under this chapter;

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

24 (3) is an operator of a customs bonded warehouse under 19 U.S.C.
 25 1311 or 19 U.S.C. 1555;

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

29 (5) is an individual 21 years of age or older and the individual's age
 30 was verified at the time of purchase through a third-party verification service, the
 31 individual is receiving the electronic smoking product for personal consumption, and

1 the tax imposed on the electronic smoking product under this chapter has been paid.

2 (c) A common or contract carrier may not knowingly transport an electronic
3 smoking product to a person in this state unless the person

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

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

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

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

16 (d) If an electronic smoking product is transported by a common or contract
17 carrier to a home or residence, it is rebuttably presumed that the common or contract
18 carrier knew that the recipient of the electronic smoking product was not a person
19 described under (b)(1) - (5) of this section, unless the person shipping the electronic
20 smoking product has satisfied the requirements in (c)(1) of this section.

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

24 (f) A person who ships or causes to be shipped an electronic smoking product
25 to a person in this state shall plainly and visibly mark the container or wrapping with
26 the words "electronic smoking product" if the electronic smoking product is shipped in
27 a container or wrapping other than the manufacturer's original container or wrapping
28 of the electronic smoking product.

29 (g) A person who violates the provisions of this section is guilty of a class A
30 misdemeanor if the person unlawfully ships, causes to be shipped, or transports an
31 electronic smoking product.

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

3 (i) A person who violates the provisions of this section is jointly and severally
4 liable for the taxes imposed by AS 43.50.850. To the fullest extent permitted by the
5 Constitution of the United States, a person who violates the provisions of this section
6 is required to collect the taxes and pay them to the department.

7 **Sec. 43.50.885. Restrictions on electronic smoking products.** A person may
8 sell or distribute to consumers in this state, acquire, hold, own, possess, or transport
9 for sale or distribution in this state, or import or cause to be imported into this state for
10 sale or distribution in this state only electronic smoking products

11 (1) for which the component vapor product

12 (A) has a nicotine content of not more than 50 milligrams of
13 nicotine for each milliliter of vapor product;

14 (B) is protected from breakage and leakage;

15 (C) does not contain added vitamins or other additives
16 marketed to create the impression of health benefits; in this subparagraph,
17 "vitamins or other additives" includes caffeine, taurine, vitamin E acetate,
18 stimulants, and colorants;

19 (2) that are packaged to be child- and tamper-proof; and

20 (3) that are labeled to inform consumers about all vapor product
21 ingredients and nicotine content.

22 **Sec. 43.50.900. Definitions.** In AS 43.50.850 - 43.50.900, "sales price"

23 (1) means the total amount of consideration, including cash, credit,
24 property, and services, for which an electronic smoking product is purchased or sold,
25 valued in money, whether received in money or otherwise, without any deduction for

26 (A) the seller's cost of the electronic smoking product sold;

27 (B) the cost of materials used, labor or service cost, interest,
28 losses, cost of transportation, taxes, or other expenses of the seller;

29 (C) charges by the seller for services necessary to complete the
30 sale;

31 (D) delivery charges;

(2) does not include

(A) discounts, including cash or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing, and carrying charges from credit extended on the sale of an electronic smoking product if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and

(C) taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Article 9. General Provisions.

Sec. 43.50.990. Definitions. In this chapter,

(1) "closed electronic smoking product" means a single-use electronic smoking product that includes a pre-filled disposable cartridge of vapor product;

(2) "electronic smoking product"

(A) includes

(i) a product that can be used to deliver aerosolized or vaporized nicotine to the person inhaling;

(ii) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar device of any shape;

(iii) a component, part, accessory, or device related to an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar device of any shape;

(iv) a vapor product used in a device or product described in (i) or (ii) of this subparagraph;

(v) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar device of any shape sold together with a solution, vapor product, or other similar product as a disposable nonrefillable unit;

(B) does not include a

(i) battery, battery charger, heating element, electronic

coil, or mouthpiece intended for use in an electronic smoking product,
when sold separately from the electronic smoking product;

(ii) cartridge, pod, tank, or similar container intended to
transport a vapor product, if sold empty;

(3) "nicotine" has the meaning given in AS 11.81.900(b);

(4) "retailer" means a person in the state who is engaged in the
business of selling electronic smoking products at retail;

(5) "vapor product" means a substance intended to be aerosolized or
vaporized during the use of an electronic smoking product.

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

(f) A person who holds a license endorsement issued under this section shall
post on the licensed premises a warning sign as described in this subsection. A
warning sign required by this subsection must be at least 8.5 inches by 11 inches and
must read: "The sale of electronic smoking products or products containing nicotine
without a prescription or tobacco products to persons under age 21 [19] is illegal." A
person holding an endorsement issued under this section shall display the warning sign
in a manner conspicuous to a person purchasing or consuming tobacco products,
electronic smoking products, or products containing nicotine on the licensed premises.
The department shall make available the warning signs required under this section to a
person who holds an endorsement issued under this section or a person who requests
the sign with the intention of displaying it.

* **Sec. 21.** AS 43.70.075(m) is amended to read:

(m) The department may initiate suspension of a business license endorsement
or the right to obtain a business license endorsement under this section by sending the
person subject to the suspension a notice by certified mail, return receipt requested, or
by delivering the notice to the person. The notice must contain information that
informs the person of the grounds for suspension, the length of any suspension sought,
and the person's right to administrative review. A suspension begins 30 days after
receipt of notice described in this subsection unless the person delivers a timely
written request for a hearing to the department in the manner provided by regulations
of the department. If a hearing is requested under this subsection, an administrative

1 law judge of the office of administrative hearings (AS 44.64.010) shall determine the
 2 issues by using the preponderance of the evidence test and shall, to the extent they do
 3 not conflict with regulations adopted under AS 44.64.060, conduct the hearing in the
 4 manner provided by regulations of the department. A hearing under this subsection is
 5 limited to the following questions:

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

10 (2) if the department does not allege a conviction of AS 11.76.100,
 11 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the
 12 person while acting within the scope of the agency or employment of the person,
 13 violate a provision of (a) or (g) of this section;

14 (3) within the 24 months before the date of the department's notice
 15 under this subsection, was the person, or an agent or employee of the person while
 16 acting within the scope of the agency or employment of the person, convicted of
 17 violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 or adjudicated for
 18 violating a provision of (a) or (g) of this section;

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

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

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

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

29 (B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or
 30 11.76.109 at a location or outlet in a location for which the person holds a
 31 business license endorsement, or had an agent or employee previously violate

AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not apply to a prior conviction that served to enhance a suspension period under (d)(2) - (4) of this section; or

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

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

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

(1) adopted and enforced a written policy against selling cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine to a person under 21 [19] years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

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

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

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

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

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

1 and 11.76.109; and

2 (7) monitored the compliance of the agents and employees of the
3 person with the written policy and the requirements of AS 11.76.100, 11.76.106,
4 11.76.107, and 11.76.109.

5 * **Sec. 23.** AS 43.70.075(w) is amended to read:

6 (w) For purposes of (m)(5) of this section, a conviction for a violation of
7 AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 by the agent or employee of the
8 person who holds the business license endorsement is rebuttably presumed to
9 constitute proof of the fact that the agent or employee negligently sold a cigarette, a
10 cigar, or tobacco, a product containing tobacco, an electronic smoking product, or a
11 product containing nicotine to a person under 21 [19] years of age. The person who
12 holds the business license endorsement may overcome the presumption by
13 establishing by clear and convincing evidence that the agent or employee did not
14 negligently sell a cigarette, a cigar, or tobacco, a product containing tobacco, an
15 electronic smoking product, or a product containing nicotine to a person under 21 [19]
16 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 as
17 alleged in the citation issued to the agent or employee. The presentation of evidence
18 authorized by this subsection does not constitute a collateral attack on the conviction
19 described in this subsection.

20 * **Sec. 24.** AS 45.50.471(b) is amended by adding a new paragraph to read:

21 (58) marketing an electronic smoking product in a manner likely to
22 promote use of electronic smoking products by a person under 21 years of age; in this
23 paragraph, "electronic smoking product"

24 (A) includes

25 (i) a product that can be used to deliver aerosolized or
26 vaporized nicotine to the person inhaling;

27 (ii) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen,
28 or other similar device of any shape;

29 (iii) a component, part, accessory, or device related to
30 an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar
31 device of any shape;

(iv) a vapor product used in a device or product described in (i) or (ii) of this subparagraph;

(v) an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other similar device of any shape sold together with a solution, vapor product, or other similar product as a disposable nonrefillable unit;

(B) does not include a

(i) battery, battery charger, heating element, electronic coil, or mouthpiece intended for use in an electronic smoking product, when sold separately from the electronic smoking product;

(ii) cartridge, pod, tank, or similar container intended to transport a vapor product, if sold empty.

* **Sec. 25.** AS 45.50.471(b)(58), enacted by sec. 24 of this Act, is amended to read:

(58) marketing an electronic smoking product in a manner likely to promote use of electronic smoking products by a person under 21 years of age; in this paragraph, "electronic smoking product" **has the meaning given in AS 43.50.990**

[(A) INCLUDES

(i) A PRODUCT THAT CAN BE USED TO DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE PERSON INHALING;

(ii) AN e-CIGARETTE, e-CIGAR, e-PIPE, e-HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY SHAPE;

(iii) A COMPONENT, PART, ACCESSORY, OR DEVICE RELATED TO AN e-CIGARETTE, e-CIGAR, e-PIPE, e-HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY SHAPE;

(iv) A VAPOR PRODUCT USED IN A DEVICE OR PRODUCT DESCRIBED IN (i) OR (ii) OF THIS SUBPARAGRAPH;

(v) AN e-CIGARETTE, e-CIGAR, e-PIPE, e-HOOKAH, VAPE PEN, OR OTHER SIMILAR DEVICE OF ANY SHAPE SOLD TOGETHER WITH A SOLUTION, VAPOR

1 PRODUCT, OR OTHER SIMILAR PRODUCT AS A DISPOSABLE
2 NONREFILLABLE UNIT;

3 (B) DOES NOT INCLUDE A

4 (i) BATTERY, BATTERY CHARGER, HEATING
5 ELEMENT, ELECTRONIC COIL, OR MOUTHPIECE INTENDED
6 FOR USE IN AN ELECTRONIC SMOKING PRODUCT, WHEN
7 SOLD SEPARATELY FROM THE ELECTRONIC SMOKING
8 PRODUCT;

9 (ii) CARTRIDGE, POD, TANK, OR SIMILAR
10 CONTAINER INTENDED TO TRANSPORT A VAPOR PRODUCT,
11 IF SOLD EMPTY].

12 * **Sec. 26.** AS 47.12.030(b) is amended to read:

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

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

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

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

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

28 (5) [REPEALED

29 (6)] a municipal curfew ordinance, whether adopted under
30 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
31 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for

the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled;

(6) [(7)] AS 04.16.050, relating to consumption, possession, or control of alcohol by a person under 21 years of age.

* **Sec. 27.** AS 11.76.100(e) is repealed.

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

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

- (1) AS 11.76.100(a), as amended by sec. 1 of this Act;
- (2) AS 11.76.100(b), as amended by sec. 2 of this Act;
- (3) AS 11.76.105, as amended by sec. 3 of this Act;
- (4) AS 11.76.105(d) - (f), enacted by sec. 4 of this Act;
- (5) AS 11.76.106(b), as amended by sec. 5 of this Act;
- (6) AS 11.76.109(a), as amended by sec. 6 of this Act;
- (7) AS 11.76.109(b), as amended by sec. 7 of this Act;
- (8) AS 11.76.109(d), as amended by sec. 8 of this Act;
- (9) AS 11.76.109(g), as amended by sec. 9 of this Act;
- (10) AS 11.81.900(b)(71), enacted by sec. 10 of this Act;
- (11) AS 43.50.325, enacted by sec. 18 of this Act;
- (12) AS 43.50.880, enacted by sec. 19 of this Act; and
- (13) AS 47.12.030(b), as amended by sec. 26 of this Act.

* **Sec. 29.** Sections 13, 16, 19, and 25 of this Act take effect January 1, 2027.

* **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect January 1, 2026.