AN ACT

Relating to the improper sale of tobacco products and to the testing and packaging of cigarettes to be sold, offered for sale, or possessed in this state; relating to civil penalties for the improper sale of tobacco products and to suspension of business license endorsements and the right to obtain business license endorsements where the suspension is based on the improper sale of tobacco products; relating to citations for certain offenses related to tobacco; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1
AN ACT

Relating to the improper sale of tobacco products and to the testing and packaging of cigarettes to be sold, offered for sale, or possessed in this state; relating to civil penalties for the improper sale of tobacco products and to suspension of business license endorsements and the right to obtain business license endorsements where the suspension is based on the improper sale of tobacco products; relating to citations for certain offenses related to tobacco; and providing for an effective date.

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

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

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

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

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

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

* Sec. 2. AS 18 is amended by adding a new chapter to read:

Chapter 74. Cigarette Fire Safety.

Sec. 18.74.010. Requirement for sale. Except as provided by AS 18.74.060, a person may not sell or offer to sell cigarettes in this state, or sell or offer to sell cigarettes to another person located in this state, unless

(1) the cigarettes are tested under

(A) AS 18.74.030 and satisfy the performance standard in AS 18.74.030(d); or

(B) AS 18.74.040 and satisfy an alternative performance standard under AS 18.74.040;

(2) the cigarettes have been marked as required by AS 18.74.130; and

(3) a certification has been submitted by the manufacturer of the cigarettes under AS 18.74.080.

Sec. 18.74.030. Testing of cigarettes. (a) Cigarettes shall be tested under

(1) the ASTM International Standard E2187-04, entitled "Standard Test Method for Measuring the Ignition Strength of Cigarettes"; or

(2) a test method established under (b) of this section.

(b) The state fire marshal may adopt an ASTM International standard test method that is adopted by the American Society of Testing and Materials after the standard test method identified under (a) of this section if the state fire marshal finds that the method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns that the same cigarette would exhibit when tested under

(1) the standard test method identified under (a)(1) of this section; and
(2) the criteria established under (c) and (d) of this section.

(c) The testing under this section shall be conducted on 10 layers of filter paper. A complete test trial consists of 40 replicate tests of each cigarette. The performance standard required by (d) of this section may only be applied to a complete test trial.

(d) When tested under this section, not more than 25 percent of the cigarettes tested in a test trial may exhibit full-length burns.

Sec. 18.74.040. Alternative test methods. (a) If the state fire marshal determines that cigarettes cannot be tested by a test method established in AS 18.74.030(a), a manufacturer of the cigarettes shall propose an alternative test method and performance standard for the cigarettes to the state fire marshal. On approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed by AS 18.74.030(d), the manufacturer may employ the proposed alternative test method and performance standard to certify the cigarette under AS 18.74.080.

(b) Unless the state fire marshal demonstrates a reasonable basis why the alternative test method should not be accepted under this chapter, the state fire marshal shall authorize a manufacturer to use an alternative test method and performance standard to certify cigarettes for sale in this state if the state fire marshal

(1) determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter; and

(2) finds that the officials responsible for implementing those requirements have approved a proposed alternative test method and performance standard for particular cigarettes proposed by a manufacturer as meeting the fire safety standards of that state's law under a legal provision comparable to this section.

(c) All other applicable requirements of this chapter apply to the manufacturer of the cigarettes tested under this section.

Sec. 18.74.050. Testing laboratories. (a) Testing of cigarettes under this chapter shall be performed by a laboratory that has been accredited under standard
ISO/IEC 17025 of the International Organization for Standardization or by another comparable accreditation standard required by the state fire marshal.

(b) A laboratory that conducts cigarette testing under this chapter shall implement a quality control and quality assurance program that ensures the repeatability of the testing results. The repeatability value may not be greater than 0.19. In this subsection,

(1) "quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing quality control program;

(2) "repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

Sec. 18.74.060. Testing for another purpose. AS 18.74.030 and 18.74.040 do not require cigarettes to be tested if the cigarettes are tested for another purpose and the testing is consistent with this chapter.

Sec. 18.74.065. Testing by state fire marshal. The state fire marshal may perform testing of cigarettes to determine compliance with this chapter. If the state fire marshal or a contractor of the state fire marshal performs testing to determine a cigarette's compliance with the performance standard in AS 18.74.030(d) or an alternative performance standard under AS 18.74.040, the testing shall be performed under this chapter.

Sec. 18.74.070. Maintenance of records. A manufacturer shall keep for three years copies of the reports of all tests conducted on all cigarettes offered for sale. The manufacturer shall make copies of those reports available to the state fire marshal and the attorney general on written request.

Sec. 18.74.080. Certification requirement. (a) A manufacturer shall submit to the state fire marshal a certification that each cigarette listed in the certification has been tested under AS 18.74.030 and satisfies the performance standard in AS 18.74.030(d), or has been tested under AS 18.74.040 and satisfies an alternative performance standard under AS 18.74.040.

(b) If a manufacturer has certified a cigarette under this section and
subsequently makes a change to the cigarette that is likely to alter its compliance with the performance standard under AS 18.74.030(d) or an alternative performance standard under AS 18.74.040, the cigarette may not be sold or offered for sale in this state or sold to a person located in this state until the manufacturer retests the cigarette under AS 18.74.030 or 18.74.040, the cigarette meets the performance standard under AS 18.74.030(d) or the alternative performance standard under AS 18.74.040, and the manufacturer maintains records of the retesting under AS 18.74.070.

(c) For each cigarette listed in a certification submitted under (a) of this section, a manufacturer shall pay to the state fire marshal a fee of $250. The state fire marshal may adjust this fee annually to ensure that it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter.

(d) Each cigarette certified under this section shall be recertified every three years.

**Sec. 18.74.090. Contents of certification.** The certification required by AS 18.74.080 must provide the following information for each cigarette listed in the certification:

1. the brand or trade name on the package;
2. the style, such as "light" or "ultra-light";
3. the length in millimeters;
4. the circumference in millimeters;
5. the flavor, if applicable;
6. whether the cigarette is filtered or nonfiltered;
7. a description of the package;
8. the marking approved under AS 18.74.120;
9. the name, address, and telephone number of the laboratory that conducted the test, if different than the manufacturer who conducted the test; and
10. the date that the testing occurred.

**Sec. 18.74.100. Banding requirement.** Each cigarette listed in a certification submitted under AS 18.74.080 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard in AS 18.74.030(d) must have at least two nominally identical bands on the paper surrounding the tobacco.
column. At least one complete band must be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands fully located at least

(1) 15 millimeters from the lighting end; and

(2) 10 millimeters from

(A) the filter end of the tobacco column; or

(B) the labeled end of the tobacco column of a nonfiltered cigarette.

Sec. 18.74.110. Availability of certifications. The certification required by AS 18.74.080 shall be made available to the attorney general for purposes consistent with this chapter and to the department for the purpose of ensuring compliance with AS 18.74.080.

Sec. 18.74.120. Packaging marking approval. (a) Before submitting a certification of a cigarette under AS 18.74.080, a manufacturer shall present its proposed packaging marking to the state fire marshal for approval. The state fire marshal shall approve or disapprove the proposed packaging marking. Proposed packaging marking shall be considered approved if the state fire marshal fails to act within 10 business days after receiving a request for approval.

(b) Notwithstanding AS 18.74.130, the state fire marshal shall give a preference to proposed packaging marking for a cigarette that is in use and approved for the cigarette under the fire safety standards for cigarettes established by the law of the state of New York, unless the state fire marshal demonstrates a reasonable basis why the proposed packaging marking should not be approved under this chapter.

(c) Notwithstanding AS 18.74.130, the state fire marshal shall approve the use of the letters "FSC" for "fire standards compliant" on proposed packaging marking to indicate that the cigarettes comply with the performance standard in AS 18.74.030(d) or an alternative performance standard under AS 18.74.040.

(d) A manufacturer may not change its approved packaging marking unless the state fire marshal has approved the modification under this section.

(e) A wholesale dealer, an agent, and a retail dealer shall permit the state fire marshal, the department, the attorney general, and the employees of those persons to
Sec. 18.74.130. Marking of cigarette packaging. (a) The packaging containing a brand and style of cigarette that a manufacturer certifies under AS 18.74.080 must be marked to indicate compliance with the requirements of this chapter. The packaging marking must be in eight-point type or larger and consist of

(1) a modification of the universal product code to include a visible mark printed at or around the area of the code; the mark may consist of alphanumeric or symbolic characters and must be permanently stamped, engraved, embossed, or printed in conjunction with the universal product code;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed on the package or wrapping; or

(3) printed, stamped, engraved, or embossed text on the cigarette package that indicates that the cigarettes satisfy the requirements of this chapter.

(b) A manufacturer shall use only one packaging marking and apply that packaging marking uniformly to all packaging and to all brands marketed by the manufacturer for sale in this state.

Sec. 18.74.150. Copies. A manufacturer who certifies a cigarette under AS 18.74.080 shall provide a copy of the certification to each wholesale dealer and agent to whom the manufacturer sells the cigarette. The manufacturer shall also provide the wholesale dealer and agent with sufficient copies of an illustration of the cigarette packaging markings used by the manufacturer under AS 18.74.130 for each retail dealer to whom the wholesale dealer or agent sells cigarettes. A wholesale dealer or an agent shall provide a copy of the cigarette packaging markings received from a manufacturer to each retail dealer to whom the wholesale dealer or agent sells cigarettes.

Sec. 18.74.160. Penalties for violations. (a) A manufacturer, a wholesale dealer, an agent, or another person who knowingly sells or offers to sell cigarettes other than through retail sale and in violation of AS 18.74.010 is subject to a civil penalty not to exceed

(1) $10,000 for a first violation;

(2) $25,000 for each violation that is not a first violation.
(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of AS 18.74.010 is subject, for each sale or offer to sell, to a civil penalty not to exceed

(1) $500 for a first violation in which the total number of cigarettes sold or offered for sale does not exceed 1,000 cigarettes;

(2) $2,000 for each violation that is not a first violation and in which the total number of cigarettes sold or offered for sale does not exceed 1,000 cigarettes;

(3) $1,000 for a first violation in which the total number of cigarettes sold or offered for sale exceeds 1,000 cigarettes;

(4) $5,000 for a violation that is not a first violation and in which the total number of cigarettes sold or offered for sale exceeds 1,000 cigarettes.

(c) The penalties against

(1) one manufacturer, wholesale dealer, agent, or other person under (a) of this section may not exceed $100,000 for violations occurring during a 30-day period; or

(2) one retail dealer under (b) of this section may not exceed $25,000 for violations occurring during a 30-day period.

(d) In addition to any other penalty prescribed by law, a person engaged in the manufacture of cigarettes who knowingly makes a false certification under AS 18.74.080 is subject to a civil penalty of at least $75,000 for a first violation and a civil penalty not exceeding $250,000 for each violation that is not a first violation.

(e) A manufacturer who fails to make copies of reports available under AS 18.74.070 within 60 days after receiving a written request from the state fire marshal or the attorney general is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer does not make the copies available.

(f) If a person violates a provision of this chapter and a civil penalty is not set for the violation, the person is subject to a civil penalty not to exceed $1,000 for a first violation and a civil penalty not exceeding $5,000 for each violation that is not a first violation.

Sec. 18.74.180. Separate accounting. The fee received under AS 18.74.080(c) and the civil penalties imposed under AS 18.74.160 shall be deposited into the general
fund and separately accounted for under AS 37.05.142. The legislature may
appropriate the money accounted for under this section to the fire prevention and

Sec. 18.74.190. Seizure of cigarettes. (a) If a person is offering for sale or has
made a sale of cigarettes in violation of AS 18.74.010, the state fire marshal, the
department, or a law enforcement agency shall seize and, subject to (b) of this section,
dispose of the cigarettes.

(b) Before disposal of cigarettes under (a) of this section, the state fire marshal
or the department shall

(1) provide the person from whom the cigarette was seized with notice
of the seizure and an opportunity for a hearing regarding the seizure; and

(2) permit the holder of the trademark rights in the cigarette brand to
inspect the cigarettes.

Sec. 18.74.200. Other remedies. In addition to any other remedy provided by
law, the state fire marshal or attorney general may file an action in superior court for a
violation of this chapter, including an action for injunctive relief or to recover costs or
damages suffered by the state because of a violation of this chapter, including
enforcement costs relating to the specific violation. Each violation of this chapter or of
the regulations adopted under this chapter constitutes a separate cause of action for
which the state fire marshal or attorney general may obtain relief.

Sec. 18.74.210. Fire prevention and public safety fund. (a) The fire
prevention and public safety fund is established. The fund consists of appropriations
made to the fund.

(b) The purpose of the fund is to pay the expenses of the state fire marshal and
the department for implementing and enforcing this chapter.

(c) Money appropriated to the fund may be spent for the purposes of the fund
without further appropriation. Money appropriated to the fund does not lapse.

Sec. 18.74.220. Implementation. The substance of the fire safety standards for
cigarettes established by the law of the state of New York and the implementation of
these standards by the state of New York shall be persuasive authority in the
implementation of this chapter by the state fire marshal and the attorney general.
Sec. 18.74.230 Review by state fire marshal. The state fire marshal shall review the effectiveness of this chapter, report the state fire marshal's findings to the legislature every three years on or by January 30 of the reporting year, and, if appropriate, recommend legislation to improve the effectiveness of this chapter.

Sec. 18.74.240. Regulations. The state fire marshal may adopt regulations to implement this chapter.

Sec. 18.74.250. Inspections. (a) The department may inspect cigarettes held by wholesale dealers, agents, and retail dealers to determine if the cigarettes are marked as required by AS 18.74.120 and 18.74.130. If the cigarettes are not marked as required, the department shall notify the state fire marshal.

(b) To determine compliance with this chapter, the state fire marshal and the attorney general may examine the books, papers, invoices, and other records of a person who possesses, controls, or occupies premises where cigarettes are placed, stored, sold, or offered for sale, and the stock of cigarettes on the premises.

(c) A person who possesses, controls, or occupies premises where cigarettes are placed, sold, or offered for sale shall allow the state fire marshal and the attorney general to make the inspections authorized by this section.

Sec. 18.74.260. Sale outside the state. This chapter may not be interpreted to prohibit a person from manufacturing or selling cigarettes that do not meet the requirements of this chapter if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and the person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

Sec. 18.74.270. Regulation by municipality. Notwithstanding any other provision of law, a municipality may not enact or enforce an ordinance or another law of the municipality that conflicts with this chapter.

Sec. 18.74.280. Relationship to federal law. This chapter does not apply if a federal law is enacted that establishes a reduced cigarette ignition propensity standard and preempts this chapter.

Sec. 18.74.290. Definitions. In this chapter,

(1) "agent" means a person authorized by the department to purchase
and affix stamps on packages of cigarettes under AS 43.50.500 - 43.50.700;

(2) "cigarette" means a roll for smoking of any size or shape, made wholly or in part of tobacco, whether or not the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco;

(3) "department" means the Department of Revenue;

(4) "manufacturer" means

(A) a person who manufactures or otherwise produces cigarettes, or causes cigarettes to be manufactured or produced anywhere, if the manufacturer intends the cigarettes to be sold in this state, including cigarettes intended to be sold in the United States through an importer;

(B) the first purchaser anywhere who intends to resell in the United States cigarettes that are manufactured anywhere and that the original manufacturer or maker does not intend to be sold in the United States; or

(C) a person who becomes a successor of a person described in (A) or (B) of this paragraph;

(5) "retail dealer" means a person, other than a manufacturer or wholesale dealer, who sells cigarettes or tobacco products;

(6) "sale" or "sell" means a sale, exchange, barter, and any other manner of transferring the ownership of personal property;

(7) "wholesale dealer" means a person who

(A) sells cigarettes or tobacco products to retail dealers or other persons for resale; and

(B) owns, operates, or maintains cigarette or tobacco vending machines in, at, or on premises owned or occupied by another person.

* Sec. 3. AS 37.05.146(c) is amended by adding a new paragraph to read:

(82) fees collected under AS 18.74.080.

* Sec. 4. AS 43.70.075(d) is amended to read:

(d) If a person who holds an endorsement issued under this section, or an agent or an employee of a person who holds an endorsement issued under this section acting within the scope of the agency or employment, has been convicted of violating
AS 11.76.100, 11.76.106, or 11.76.107, the department shall impose a civil penalty as set out in this subsection. However, following a hearing under (m) of this section, and based on evidence admitted at that hearing concerning questions specified in (m)(4) and (6) of this section, the department may reduce by not more than 10 days a suspension under (1) of this subsection, or by not more than 20 days a suspension under (2) of this subsection, or increase by not more than 10 days a suspension under (1) of this subsection, or by not more than 20 days a suspension under (2) of this subsection. If a hearing is not requested, or if a hearing is requested and the department determines that the evidence admitted does not support increasing or decreasing the suspension, the department shall suspend the endorsement for a period of

(1) 20 days and impose a civil penalty of $300 if the person has not been previously convicted of violating AS 11.76.100, 11.76.106, or 11.76.107 and is not otherwise subject to the sanctions described in (2) - (4) of this subsection;

(2) 45 days and impose a civil penalty of $500 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted once of violating AS 11.76.100, 11.76.106, or 11.76.107;

(3) 90 days and impose a civil penalty of $1,000 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted twice of violating AS 11.76.100, 11.76.106, or 11.76.107, or a provision of this section or a regulation implementing this section adopted under AS 43.70.090; or

(4) one year and impose a civil penalty of $2,500 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted more than twice of violating AS 11.76.100, 11.76.106, or 11.76.107.

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

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

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

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

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

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

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

(B) previously violated AS 11.76.100, 11.76.106, or 11.76.107 at a location or outlet in a location for which the person holds a business license endorsement, or had an agent or employee previously violate AS 11.76.100, 11.76.106, or 11.76.107; 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 to a person under 19 years of age in violation of AS 11.76.100, 11.76.106, or 11.76.107.

* Sec. 6. AS 43.70.075 is amended by adding new subsections 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, or products containing tobacco to a person under 19 years of age in violation of AS 11.76.100, 11.76.106, or 11.76.107;

(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, and 11.76.107;

(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, and 11.76.107;

(5) required the agents and employees of the person to verify the age of purchasers of cigarettes, cigars, tobacco, or other products containing tobacco 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, and 11.76.107; and

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

(u) A reduction in the period of suspension under this section may not be granted more than once in a 12-month period for a location or outlet in a location for which the person holds a business license.

(v) Notwithstanding (d) of this section, in place of a hearing under (m) of this section, the department and the person holding the business license endorsement may enter into a memorandum of agreement regarding the imposition of a suspension and civil penalties based on a violation of AS 11.76.100, 11.76.106, or 11.76.107. The memorandum of agreement must contain a provision that the person holding the business license endorsement admits or does not contest that a violation of AS 11.76.100, 11.76.106, or 11.76.107 occurred and accepts the imposition of suspension and civil penalty under this section. Based on the memorandum of agreement, the department may reduce the period of suspension. For violations involving AS 11.76.100, 11.76.106, or 11.76.107, the department may not reduce the period of suspension by more than 10 days under (d)(1) of this section or by more than 20 days under (d)(2) of this section. The department may not agree to a reduction in the period of suspension more than once in a 12-month time period for a location or outlet in a location for which the person holds a business license endorsement.

(w) For purposes of (m)(5) of this section, a conviction for a violation of AS 11.76.100, 11.76.106, or 11.76.107 by the agent or employee of the person who holds the business license endorsement is rebuttably presumed to constitute proof of the fact that the agent or employee negligently sold a cigarette, a cigar, or tobacco, or a
product containing tobacco to a person under 19 years of age. The person who holds
the business license endorsement may overcome the presumption by establishing by
clear and convincing evidence that the agent or employee did not negligently sell a
cigarette, a cigar, or tobacco, or a product containing tobacco to a person under 19
years of age in violation of AS 11.76.100, 11.76.106, or 11.76.107 as alleged in the
citation issued to the agent or employee. The presentation of evidence authorized by
this subsection does not constitute a collateral attack on the conviction described in
this subsection.

(x) Notwithstanding (d), (t), or (v) of this section, a period of suspension may
not be reduced for a violation of AS 11.76.100(a)(4).

* Sec. 7. AS 44.29.094 is amended by adding a new subsection to read:

(h) The department shall notify the person who holds the business license
endorsement required by AS 43.70.075(a) that the person's agent or employee has
received a citation for a violation of AS 11.76.100, 11.76.106, or 11.76.107. The
department may make the notification by delivering a copy of the citation or another
document that includes the essential facts constituting the violation charged. The
department shall accomplish the delivery by

(1) hand delivery of the citation or other document to a person who
confirms that the person serves in a management or supervisory position at the
location, or outlet in a location, where the alleged violation occurred; or

(2) mailing the citation or other document by first class mail to the
person who holds the business license endorsement; the department shall use the
person's most current address that the Department of Commerce, Community, and
Economic Development has on file for the person's business license endorsement
under AS 43.70.075; the citation or other document shall be postmarked within five
business days after the citation is issued.

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

TRANSITION. (a) AS 18.74.010, enacted by sec. 2 of this Act, does not prohibit a
wholesale dealer or retail dealer from selling or offering to sell an inventory of cigarettes
existing on the effective date of sec. 2 of this Act if the wholesale dealer or retail dealer
establishes that

(1) state tax stamps were affixed to the cigarettes under AS 43.50 before the effective date of sec. 2 of this Act; and

(2) the inventory was purchased before the effective date of sec. 2 of this Act in comparable quantity to the inventory purchased during the same period of the previous year.

(b) In this section, "retail dealer," "sell," and "wholesale dealer" have the meanings given in AS 18.74.290.

* Sec. 9. Section 2 of this Act takes effect on the first day of the 13th month after the month in which this Act becomes law under AS 01.10.070.