

ALASKA STATE LEGISLATURE

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REPRESENTATIVE PETE KOTT

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Sponsor Statement For HB 276

HB 276 amends the current Alaska Statute AS 43.70.075 dealing with the sale of tobacco to minors to:

- Stiffen financial penalties for noncompliance by employees and employers
- Recognize employers who have put education, monitoring and enforcement programs into effect, and encourages others to do so
- Establish more predictable and fairer due process for the hearing of citations
- Encourage employees to be more diligent in checking ID at the point of sale.

More specifically the changes to the statute achieve the goals in the following ways:

Stiffening Penalties for Non-Compliance

- HB 276 increases the minimum fines for employers with education, monitoring and enforcement programs per violation from the current levels of \$300, \$500, \$1,000 and \$2,500 to \$750, \$1000, \$2,500 and \$3,500 respectively.
- HB 276 increases the minimum fines for employers without effective education, monitoring and enforcement programs per violation from the current levels of \$300, \$500, \$1,000 and \$2,500 to \$500, \$750, \$1,500 and \$2,500 respectively, in addition to having its tobacco endorsement suspended for a pre-determined period of time.
- HB 276 creates a separate fine for employee's violation of AS 43.70.075 in addition to fines already described at AS 11.76.100(f) (both dealing with the sale of tobacco to minors).

Recognizing and Encouraging Education, Monitoring and Enforcement Programs

- HB 276 would allow employers to demonstrate internal education, monitoring and enforcement programs as mitigating factors in administrative hearing resulting from violations.
- HB 276 provides that if no employer –sponsored education, monitoring and enforcement program is in effect at the time of an alleged violation, then the employer (1) Faces

suspension of its tobacco endorsement and higher fines than under current law (2) Is not afforded the opportunity to present evidence of mitigating factors or other circumstances at the administrative hearing.

Would require employees to sign a statement that they understand it is against the law to sell tobacco to minors and that they will bear some of the responsibility personally if they violate the law.

Establishing More Predictable and Fairer Due Process

- HB allows qualifying employers (employers with documented education, monitoring and enforcement programs) to assert defenses and provide evidence at administrative hearings for endorsement suspension regardless of the disposition of a case against the violating employee. Under current law, employers have little to no chance to present their own cases if an employee pleads no contest or guilty. This should encourage more employers to create education, monitoring and enforcement programs to prevent the sale of tobacco to minors.

Encourages Employees to be more diligent in checking ID at the Point of Sale

- Would require employees to sign a statement that they understand it is against the law to sell tobacco to minors and that they will bear some of the responsibility personally if they violate the law.
- Creates a separate cause of action against the employee for violating the statute in addition to AS 11.76.100(f).

Summary

With these changes to Alaska's statute, dealing with the illegal sale of tobacco to minors will still have the toughest suspension penalties of any state of the country and it will have stronger financial penalties than most other states, including Alaska's current statute.

The changes could also make Alaska one of the strongest states in the country in terms of employer-sponsored education, monitoring and enforcement programs, and lead to even better federal compliance.

Alaska has had good success in curbing underage smoking recently thanks to beefed up enforcement efforts by the State. The statute enacted by the Alaska Legislature in 2001 was a good first step towards curbing underage smoking, but more must be done.

We must look to employers to improve their own internal operation every day, and we should punish those employers who choose not to come along and recognize those responsible employers who do make strong internal efforts at curbing underage smoking in a fair, balanced, and reasonable manner.