ANCHORAGE, ALASKA
AO No. 2019-90(S)

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING CERTAIN SECTIONS OF ANCHORAGE MUNICIPAL CODE TITLE 14 TO INCREASE THE MINIMUM LEGAL AGE TO PURCHASE TOBACCO PRODUCTS TO 21, INCLUDING ELECTRONIC SMOKING PRODUCTS AND PRODUCTS CONTAINING NICOTINE IN THE REGULATION OF TOBACCO PRODUCTS, MAKE CONFORMING AMENDMENTS TO THE FINE SCHEDULE IN TITLE 14 AND COMPLEMENTARY AMENDMENTS TO TITLE 12, AND RELATED MATTERS.

WHEREAS, Tobacco use is the number one cause of preventable death in the United States, at approximately 480,000 per year; and

WHEREAS, Every year in Alaska, healthcare costs directly caused by smoking are about $438 million, and more people die from direct tobacco use than from suicide, motor vehicle crashes, liver disease, homicide, and HIV/AIDS combined; and

WHEREAS, National data shows that 95% of adult smokers begin smoking before they turn 21 years old, and that the ages of 18 to 21 are a critical period when many smokers move from experimental smoking to daily use; and

WHEREAS, Over 360 cities across the country have raised the minimum legal sales age of tobacco to 21 years old, in response to a national initiative effort called “Tobacco 21”; and

WHEREAS, Most of the tobacco acquired by youth under 18 comes from social sources, and Tobacco 21 policies have resulted in a decrease of high school aged tobacco use by up to 50%; and

WHEREAS, Last year, the City and Borough of Sitka became the first jurisdiction in Alaska to pass a measure raising the legal age to purchase tobacco to 21, following a study and poll by the Sitka Health Needs and Human Services Commission showing 71.5% of Sitkans supported raising the minimum age to buy tobacco; and

WHEREAS, The Anchorage Assembly supports the objectives of Tobacco 21 to support our young people by reducing access and delaying the decision to use tobacco, alleviating the detrimental effects from tobacco in the Municipality of Anchorage; and

WHEREAS, The Alaska Legislature and Governor passed Senate Bill 15 in 2018, which regulates electronic smoking products (used for vaping) and products containing nicotine (except those under prescription or an other use exception) and outlines certain prohibitions on tobacco use, sale and possession; and
WHEREAS, A consortium of national public health organizations, including the Cancer Action Network of the American Cancer Society and the American Lung Association, released a “Tobacco 21: Model Policy” document on April 12, 2019, to assist states and local governments considering raising the legal age to purchase tobacco products to 21; and

WHEREAS, The Anchorage Assembly desires to update the Anchorage Municipal Code similarly to how the State has, with guidance from the Model Policy, and to make complementary and conforming amendments in its tax, regulation, and use restriction regulations for tobacco products; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 14.70 is hereby amended by adding a new section 14.70.005 to read as follows:

14.70.005 – Definitions for sections 14.70.005 to .030.

Definitions. The following words, terms, and phrases, when used in sections 14.70.005 through .030, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Distribute” or “Distribution” means to furnish, give, provide, sell, or to attempt to do so, whether gratuitously or for compensation.

“Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. Electronic smoking device does not include marijuana or marijuana products, nor drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"Retail adults-only tobacco store" means any retail establishment which:

a. Primarily sells tobacco products;

b. Prohibits any person under the age of 21 from entering such retail establishment in accordance with subsection 14.70.020B.;

c. Has not been the site of two or more citations for a violation of this section in the previous 180 days unless all or all but one of such citations are overturned on appeal; and

d. Posts warning signs as described in subsection 14.70.020C.
“Tobacco product” means
a. any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, smoking tobacco, cheroot, stogie, perique, clove, kretek, chewing tobacco, iqmk, snuff, or snus;
b. any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
c. any component, part, or accessory of a. or b. above, whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include marijuana or marijuana products, nor drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

“Tobacco retailer” means any person who owns, operates, or manages any retail establishment where tobacco products are available for sale to the general public. The term includes, but is not limited to, any person who owns a controlling interest, operates, or manages a grocery store, retail adults-only tobacco store, convenience store, gasoline service station, bar, or restaurant.

Section 2. Anchorage Municipal Code section 14.70.020 is hereby amended to read as follows (the remainder of the chapter is not affected and therefore not set out):

14.70.020 - Restrictions on the manner of selling [TOBACCO AND] tobacco products, including electronic smoking devices [products, and products containing nicotine].

A. [DEFINITIONS.]

[1. "RETAIL ADULTS-ONLY TOBACCO STORE" MEANS ANY RETAIL ESTABLISHMENT WHICH:

a. PRIMARILY Sells TOBACCO AND TOBACCO PRODUCTS WHILE ONLY INCIDENTALLY OFFERING OTHER PRODUCTS;

b. PROHIBITS ANY PERSON UNDER THE AGE OF 19 FROM ENTERING SUCH RETAIL ESTABLISHMENT UNLESS SUCH PERSON UNDER 19 YEARS OF AGE IS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN;

c. HAS NOT BEEN THE SITE OF TWO OR MORE CITATIONS FOR A VIOLATION OF THIS SECTION IN THE PREVIOUS 180 DAYS UNLESS ALL OR ALL BUT
ONE OF SUCH CITATIONS ARE OVERTurned ON
APPEAL; AND
d. POSTS ONE OR MORE SIGNS DESCRIBED IN THE
NEXT SENTENCE VISIBLE FROM ANY ENTRANCE
TO SUCH RETAIL ESTABLISHMENT.
i. EACH OF THE SIGN(S) REFERENCED IN THIS
SUBSECTION SHALL BE AT LEAST SIX
INCHES BY 18 INCHES; MUST STATE THAT IT
IS A RETAIL ADULTS-ONLY TOBACCO
STORE; MUST READ, IN LETTERING AT
LEAST 1.25 INCHES HIGH, "THE SALE OF
TOBACCO PRODUCTS TO PERSONS UNDER
AGE 19 IS ILLEGAL"; AND MUST STATE THAT
NO PERSON UNDER 19 YEARS OF AGE MAY
ENTER THE RETAIL ESTABLISHMENT
UNLESS SUCH PERSON UNDER 19 YEARS
OF AGE IS ACCOMPANIED BY SUCH
PERSON'S PARENT OR LEGAL GUARDIAN.]

[B.] Retail sales generally; restricted access. Except in [FOR] a retail
adults-only tobacco store, it is unlawful to [FOR A PERSON
NEGLIGENTLY TO] sell or offer to sell tobacco products[
[CIGARETTES, CIGARS, TOBACCO, OR A PRODUCT
CONTAINING TOBACCO] in any manner that allows any person but
the sales clerk to control access to the tobacco products[
[CIGARETTES, CIGARS, TOBACCO, OR PRODUCT CONTAINING
TOBACCO] prior to sale. This subsection does not apply to:
1. [SUBSECTION B. OF THIS SECTION DOES NOT APPLY TO]
wholesale transactions in which the person selling the tobacco
products at wholesale pricing [CIGARETTES, CIGARS,
TOBACCO, OR PRODUCTS CONTAINING TOBACCO] is
licensed as a manufacturer or distributor under AS 43.50.010.
2. [SUBSECTION B. OF THIS SECTION DOES NOT APPLY TO]
sales by vending machines which are located in compliance
with section 14.70.030C. [:

a. AS FAR AS PRACTICAL FROM ANY ENTRANCE ON
THE INSIDE OF THE LICENSED PREMISES OF A
VALID, EXISTING BEVERAGE DISPENSARY
LICENSE, A CLUB LICENSE, OR A PACKAGE STORE
LICENSE ISSUED UNDER ALASKA STATUTES
4.11.090, 4.11.110, AND 4.11.150 RESPECTIVELY;
AND
b. THE LOCATION DESCRIBED IN SUBSECTION B.2.A.
OF THIS SECTION IS DIRECTLY AND CONTINUALLY
SUPERVISED BY A PERSON EMPLOYED ON THE
LICENSED PREMISES WHEN THE VENDING
MACHINE IS ACCESSIBLE TO THE PUBLIC.]

[B[C]. Retail adults-only tobacco store regulations.
1. Any owner of a retail adults-only tobacco store or agent or
employee of such owner that allows any person other than
[BUT] the sales clerk to have access to the tobacco products
[CIGARETTES, CIGARS, TOBACCO, OR PRODUCT
CONTAINING TOBACCO] prior to sale shall not
[NEGLIGENTLY] allow any person under the age of 21 [19] to
to enter or remain in the retail establishment, unless such person
[UNDER 19 YEARS OF AGE] is:

a. accompanied by a parent, [OR] legal guardian, or
spouse who has attained the age of 21 years; or

b. 19 or 20 years of age and employed by the retail
establishment on or before [enter effective date of
ordinance] and who enters only for purposes of
employment. After [enter effective date of ordinance],
the owner of a retail adults-only tobacco store, or agent
or employee of the owner, shall not allow any employee
under the age of 21 and hired after [enter effective date
of ordinance] to work at the retail establishment.

2. Notwithstanding subsection B.1. of this section, the owner of a
retail adults-only tobacco store or an agent or employee of such
owner may refuse entry to a person under the age of 21 years
or may require a person under the age of 21 years to leave the
retail establishment.

C. Posting warning signs required.

1. Any retail establishment that sells tobacco products, shall post
on the premises one or more warning signs in a manner
conspicuous to both employees and consumers, entirely
unobstructed from view, and within six (6) feet of each point of
sale device or register where tobacco products are available for
purchase. These warning signs must include a statement
compliant with state law, or substantially similar to this
statement: “[NO PERSON UNDER THE AGE OF 21 MAY
PURCHASE] WE MAY NOT SELL TOBACCO PRODUCTS,
INCLUDING ELECTRONIC SMOKING DEVICES, TO ANY
PERSON UNDER THE AGE OF 21.”

2. In addition to signage required by subsection C.1., a retail
adults-only tobacco store shall post one or more warning signs
in a manner conspicuous to any person entering the
establishment, unobstructed from view in their entirety, which
warning signs state substantially either:

a. “NO PERSON UNDER 21 YEARS OF AGE MAY
ENTER UNLESS ACCOMPANIED BY A PARENT,
LEGAL GUARDIAN, OR SPOUSE 21 OR OLDER.”; or

b. If the establishment chooses to prohibit entry to all
persons under the age of 21 years: “NO PERSON
UNDER 21 YEARS OF AGE MAY ENTER THIS
ESTABLISHMENT.”

3. The warning signs required by this section shall be at least 8.5
inches by 11 inches, with lettering at least one-half inch in
height.
D. Not later than seven days after the date of the citation, the chief of police or a designee shall notify the owner of record of any retail establishment of a citation given under this section [GIVEN] to any owner or agent or employee of such owner for a violation alleged to have occurred at such retail establishment.

E. Violation of this section shall be punishable by a civil penalty in accordance with chapter 14.60.

(AO No. 97-133(S), § 1, 11-11-97; AO 98-27(S-1), § 1, 3-3-98; AO No. 98-59(S), § 1, 5-21 [19]-98; AO No. 2003-73, § 3, 4-22-03; AO No. 2014-42, § 32, 6-21-14)

Section 3. Anchorage Municipal Code section 14.70.030 is hereby amended to read as follows:

14.70.030 – Selling or giving [SALE OF] tobacco products, including electronic smoking devices, [products, and devices, or products containing nicotine] to persons under the age of 21 [TO MINORS].

A. It is unlawful for any person [19 YEARS OF AGE OR OLDER] to [NEGLIGENTLY] sell, exchange, or give tobacco products [CIGARETTES, CIGARS OR TOBACCO] in any form to any person under 21 [19] years of age. A person commits this offense if the person

1. is a tobacco retailer and the retail establishment sells a tobacco product to a person under 21 years of age;
2. exchanges or gives a tobacco product to a person under 21 years of age; or
3. maintains a vending machine that dispenses tobacco products and is not located in compliance with subsection C. A person maintains a vending machine if the person owns or controls the machine or a facility in which the machine is located.

B. The tobacco retailer or agent or employee selling or offering to sell tobacco products shall verify that a recipient is 21 years of age or older prior to the sale, through examination of the recipient’s government-issued photographic identification. No such verification is required for a person over the age of 30. That a purchaser appeared to be 30 years of age or older shall not constitute a defense to a violation of this section.

C. A vending machine that dispenses tobacco products may only be located

1. on premises licensed as a beverage dispensary under AS 04.11.090, licensed as a club under AS 04.11.110, or licensed as a package store under AS 04.11.150; and 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
where persons under the age of 21 are not permitted
access at any time [provided the room or area contains a
posted warning sign as described in subsection
14.70.020C.1].

D. In a prosecution under subsection A, it is an affirmative defense[s]
that [are]:

1. the tobacco retailer or their agent or employee reasonably
relied on proof of age as described in subsection B.

2. an electronic smoking product or product containing
nicotine sold, exchanged, or given to the person under the
legal age was intended or expected to be consumed
without being combusted, and the electronic smoking
product or product containing nicotine

a. has been approved by the U.S. Food and Drug
Administration for sale as a tobacco use cessation
or harm reduction product, or for medical purposes;

b. is being marketed and sold for the approved
purposes; and

3. is

i. prescribed by a health care professional,

ii. given to the person by the person’s parent,
legal guardian, or spouse who has attained 21
years of age,

iii. provided by a government-approved tobacco
cessation program administered by the state
or the Anchorage Health Department, or

iv. provided by a pharmacist to a person 18 years
of age or older without a prescription.]

E. Nothing in this section prohibits an underage person from handling
tobacco products in the course of lawful employment and in
compliance with this code and State of Alaska statutes and policies.

F. Violation of this section by a tobacco retailer or other person shall be
punishable by a civil penalty in accordance with chapter 14.60.
Tobacco retailers and other persons shall each have separate penalty
structures.

(GAAB 18.05.010.X; AO No. 95-178, § 1, 9-26-95; AO No. 98-59(S), § 1, 5-
19-98; AO No. 2003-73, § 3, 4-22-03; AO No. 2014-42, § 32, 6-21-14)

Section 4. Anchorage Municipal Code chapter 14.70 is hereby amended by
adding new section 14.70.035 to read as follows:

14.70.035 – Owner’s failure to supervise tobacco products vending
machine.
A. A person commits the offense of failure to supervise a tobacco products vending machine if the person owns the vending machine or licensed premises where a vending machine is located (a beverage dispensary under AS 04.11.090, a club under AS 04.11.110, or a package store under AS 04.11.150), and the person fails to have an employee supervise a vending machine on those premises as required by subsection 14.70.030C.1.

B. In this section, “supervise” means reasonably monitor the use of.

C. Violation of this section shall be punishable by a civil penalty in accordance with chapter 14.60.

Section 5. Anchorage Municipal Code section 14.70.040 is hereby repealed. The text of the repealed section is set out in full below and marked for deletion:

14.70.040 - Minors: Possession of tobacco products (Repealed).

[A. A PERSON UNDER 19 YEARS OF AGE MAY NOT KNOWINGLY POSSESS A CIGARETTE, A CIGAR, TOBACCO, OR ANY PRODUCT CONTAINING TOBACCO.

B. VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY IN ACCORDANCE WITH CHAPTER 14.60.]

(AO No. 95-178, § 2, 9-26-95; AO No. 98-59(S), § 1, 5-19-98; AO No. 2003-73, § 3, 4-22-03; AO No. 2014-42, § 32, 6-21-14)

Section 6. Anchorage Municipal Code section 14.60.020 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

14.60.020 - Application of fine schedule.

D. Notwithstanding subsection A. of this section, a person upon whom a civil fine or a civil penalty for violation of [SECTION 14.70.040 (MINORS: POSSESSION OF TOBACCO PRODUCTS), SECTION 14.70.050 (UNDERAGE DRINKING), OR] Section 14.70.060 (Minors: curfew) has been imposed may elect to satisfy a maximum of $250.00 of such fine or penalty by performing community work service as assigned by the municipality’s department responsible for the community work service assignments. To satisfy any civil fine or penalty imposed, performance of the community work service must occur (a) within 60 days from the effective date of the final order; or (b) if the person chooses to begin the community work service prior to issuance of a final order, within 60 days of reporting for community work service.

1. Any citation for a violation of [SECTION 14.70.040 (MINORS: POSSESSION OF TOBACCO PRODUCTS), SECTION 14.70.050 (UNDERAGE DRINKING), OR] Section 14.70.060

RAW TEXT END
Section 7. Anchorage Municipal Code section 14.60.030 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

14.60.030 - Fine schedule.

The fine schedule under this chapter is as follows:

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Offense</th>
<th>Penalty/Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.70.020A. or B.</td>
<td>Restrictions on manner of selling [TOBACCO AND] tobacco products</td>
<td>500.00 [300.00]</td>
</tr>
<tr>
<td>14.70.020C.</td>
<td>Failure to post warning signs (tobacco products)</td>
<td>50.00</td>
</tr>
<tr>
<td>14.70.030A.</td>
<td>Selling or giving tobacco products to persons under the age of 21:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[SALE OF TOBACCO TO MINORS]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>tobacco retailer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>First violation:</td>
<td>500.00 [300.00]</td>
</tr>
<tr>
<td></td>
<td>Second violation in a 12-month period:</td>
<td>750.00</td>
</tr>
<tr>
<td></td>
<td>Third and subsequent violations within a 12-month period:</td>
<td>1,000.00</td>
</tr>
<tr>
<td>14.70.030B</td>
<td>Selling or giving tobacco products to persons under the age of 21: other persons</td>
<td>300.00</td>
</tr>
<tr>
<td>14.70.035</td>
<td>Failure to verify age before selling tobacco products</td>
<td>50.00</td>
</tr>
<tr>
<td>14.70.035</td>
<td>Failure to supervise tobacco products vending machine</td>
<td>500.00</td>
</tr>
<tr>
<td>[14.70.040]</td>
<td>MINORS: POSSESSION OF TOBACCO PRODUCTS</td>
<td>[100.00]</td>
</tr>
</tbody>
</table>

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-66(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-129(S), § 2, 10-14-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152(S), § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09; AO-2010-35(S), § 7, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No. 2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-11; AO No. 2011-59, § 10, 5-24-11; AO No. 2011-106(S), § 3, 11-8-11; AO No. 2011-112, § 4, 11-22-11, eff. 12-22-11; AO No. 2012-10, § 1, 1-31-12; AO No. 2012-77, § 29, 8-7-12; AO No. 2013-109(S-1), § 5, 12-3-13; AO No. 2013-130(S-1), § 1, 1-14-14; AO No. 2014-42, § 31, 6-21-14; AO No. 2014-85, § 4, 8-5-14; AO No. 2014-110(S), § 2, 9-9-14; AO No. 2014-137(S), § 3, 11-18-14; AO No. 2015-23(S), § 20, 3-24-15; AO No. 2015-48, § 16, 5-14-15; AO No. 2015-54, § 1, 5-26-15; AO No. 2015-65, § 4, 6-9-15; AO No. 2015-111(S-1), § 2, 1-1-16; AO No. 2016-16(S), § 4, 2-9-16; AO No. 2016-76(S), § 7, 7-12-16; AO No. 2016-81(S), § 4, 8-25-16; AO No. 2016-83(S), § 9, 7-26-16; AO No. 2016-82, § 3, 8-9-16; AO No. 2016-116, § 2, 10-18-
Section 8. Anchorage Municipal Code section 12.40.130 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

12.40.130 - Prohibited acts.

A. A person shall not:

2. Sell, transfer, or acquire cigarettes, [OR] other tobacco products, or electronic smoking devices [products, or products containing nicotine] in the municipality in violation of or without complying with the provisions of this chapter or sections 14.70.010 through 14.70.030;

B. An other tobacco products retailer shall not:

3. Sell, or offer for sale, other tobacco products to a business or merchant, including, but not limited to, an other tobacco products retailer as defined by this chapter; [OR]

4. Sell, or offer for sale, other tobacco products upon which taxes levied by this chapter have not been paid; or

5. Sell, or offer for sale, any tobacco products or electronic smoking devices [product, or product containing nicotine], in violation of sections 14.70.010 through 14.70.030.

C. A cigarette retailer shall not:

3. Sell, or offer for sale, cigarettes to a business or merchant, including, but not limited to, a cigarette retailer as defined by this chapter; [OR]

4. Sell, or offer for sale, cigarettes upon which taxes levied by this chapter have not been paid; or

5. Sell, or offer for sale, any cigarettes, tobacco products, or electronic smoking devices [product, or product containing nicotine] in violation of sections 14.70.010 through 14.70.030.

(AO No. 2013-125, § 1, 1-1-14)
Section 9. The Assembly hereby waives the limitation on increasing fines set forth in AMC section 3.99.020.

Section 10. This ordinance shall be effective August 20, 2019 [30 DAYS AFTER PASSAGE AND APPROVAL BY THE ASSEMBLY].

PASSED AND APPROVED by the Anchorage Assembly this 23rd day of July, 2019.

Chair

ATTEST:

Municipal Clerk
The S-version of the ordinance includes several changes recommended by local spokespersons for national public health organizations. The changes from the original AO 2019-90 are summarized as follows:

- For consistency with the defined terms, the amendments to the titles of AMC sections 14.70.020 (p. 3 line 33) and 14.70.030 (p. 6 line 18) are amended to use the product-descriptive phrasing “... tobacco products, including electronic smoking devices, ...”
- The references to Chapter 14.70 regulation in the prohibited acts for cigarette and other tobacco products retailers for purposes of the excise tax in AMC section 12.40.130 (AO Section 6, p. 11), are amended to use the similar product-descriptive phrasing above.
- In both of the changes above, the phrase “product containing nicotine” is deleted as unnecessary because it is included in the definition of “tobacco product” in AMC section 14.70.005. (p. 3 line 3)
- The language on warning signs required to be visible at the point of sale for tobacco retailers is edited to reflect the retailer has the burden of compliance. (p. 5 line 32)
- In the employee break room or other controlled area of a private work place where tobacco products vending machines are allowed, the requirement is changed from having a warning sign to prohibiting access of persons under the age of 21. (p. 7 line 3)
- The affirmative defense to selling or giving tobacco products to a person under 21 in AMC subsection 14.70.030D.2. is deleted because it is redundant of the definitions of “tobacco product” and “electronic smoking device” which exclude from their scope the products approved by the U.S. FDA. (p. 7 line 13) Sales of those products are not violations.
- A new Section 9 is added to waive any limitation by AMC ch. 3.99 on increasing the civil fines, if applicable.
• In renumbered Section 10, the effective date is changed to coincide with the first day of instruction in the Anchorage School District. This will aide in impact campaigning of prevention and cessation to youth.

These changes improve the ordinance without compromising the goals, objectives, and rationale in the other Assembly Memorandum supporting this legislation. That memorandum is equally applicable to this S-version.

The co-sponsors request your support of AO 2019-90(S).

Respectfully submitted:  
John Weddleton, Assembly Member  
District 6 - South Anchorage, Girdwood and Turnagain Arm

Suzanne LaFrance, Assembly Vice-Chair  
District 6 - South Anchorage, Girdwood and Turnagain Arm

Austin Quinn-Davidson, Assembly Member  
District 3 – West Anchorage