

CLERK'S OFFICE

AMENDED AND APPROVED

Date: 6-19-01

Reconsidered and postponed 6/19/01

Submitted by:

Prepared by:

For reading:

Chair Traini

Department of Law

May 22, 2001



ANCHORAGE, ALASKA

AO 2001-108

AN ORDINANCE REPEALING ANCHORAGE ORDINANCE 2000-161, WHICH REPEALED TOBACCO TAX EXEMPTIONS, AND AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.40 TO ESTABLISH AN EXEMPTION FROM TAXATION FOR CIGARETTES AND OTHER TOBACCO PRODUCTS BROUGHT INTO OR ACQUIRED WITHIN THE MUNICIPALITY AND TRANSPORTED OUTSIDE THE MUNICIPALITY FOR RESALE.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 12.40.006 is hereby amended by adding definitions for "cardholder or exemption cardholder" and "exemption card" to read as follows: *(Other definitions in the referenced section are not affected and therefore not set out.)*

12.40.006 Definitions.

Cardholder or exemption cardholder means a person in whose name a valid and current exemption card has been issued by the department.

Exemption card means a municipal cigarette and tobacco products exemption card issued under section 12.40.030.

Section 2. Anchorage Municipal Code section 12.40.025 is hereby amended by adding a new subsection to read as follows: (the remainder of this section is not affected by this ordinance and is therefore not set out.)

12.40.025 Exemptions.

C. Provided all persons otherwise subject to this chapter comply with its requirements, cigarettes and other tobacco products:

- 1 Brought into or acquired in the municipality;
2. Transported outside of the municipality; and
3. Which are for resale outside the municipality by a merchant with an Alaska business license carrying an Alaska tobacco endorsement thereon;

are exempt from the tax imposed under this chapter.

Section 3. Anchorage Municipal Code is hereby amended by adding a new section 12.40.030 to read as follows:

12.40.030 Exemption cards.

A. Except as otherwise provided herein, no person may acquire cigarettes or other tobacco products in the Municipality exempt of the tax unless that person has been issued an exemption card in accordance with this chapter. No licensee shall claim any exemption under this chapter unless cigarettes or other tobacco products for which an exemption is claimed have been sold or transferred to a person presenting a valid and current exemption card issued by the department in accordance with this chapter prior to such sale or transfer.

- 1 Any person **with an active physical business presence within the Municipality of Anchorage**, including a licensee, may apply for an exemption card under this section as an agent for merchants whose principal places of business are located outside of the Municipality and who acquire from an agent cigarettes or other tobacco products exempt from the tax imposed under this chapter, provided each merchant has a valid State of Alaska business license with a tobacco endorsement and the line of business (LOB) code or equivalent thereon.
2. A merchant acquiring cigarettes and other tobacco products through an agent under this section shall be considered an exemption cardholder for all purposes under this chapter.
3. A person or licensee issued an exemption card as an agent under this section shall comply with all provisions of this chapter except the agent shall not be required to maintain records to prove that cigarettes and other tobacco products for which an exemption is claimed under the agent's exemption card have been resold outside of the Municipality by the merchant. Violation of any provision of this chapter relating to exemption cardholders by a licensee as agent for a merchant shall be grounds for revocation of the licensee's license issued under this chapter.
4. Notwithstanding anything to the contrary contained in or implied by other provisions of this chapter, the licensee shall be and remain the taxpayer liable for the payment of taxes due under this chapter.

B. Application for an exemption card is restricted to persons with an active physical business presence within the Municipality of Anchorage acting as an agent for merchants whose principal places of business are located outside of the Municipality, shall be on a form provided by the department, and shall include the following information and such other information as the department may require:

- 1 The applicant's name and address;
2. A copy of the applicant's current State of Alaska business license, including a tobacco endorsement and the line of business (LOB) code or equivalent;
3. The merchant names and locations where cigarettes and tobacco products will be sold;

4. Each application for an exemption card shall be accompanied by a fee of \$50.00.

C. All exemption cardholders must maintain a valid, current business license, with a tobacco endorsement and line of business (LOB) code or equivalent, issued by the State of Alaska.

D. Each exemption card, unless suspended or revoked by the department, is valid from its date of issue until the end of that calendar year and may be renewed each year upon application and payment of the fee to the department.

E. The department may suspend, revoke or refuse to issue an exemption card under this section for any violation of or failure to comply with the requirements of this chapter by agent or cardholder, including any act or omission by such person which withholds, misstates or provides false or misleading information required by the department.

Section 4. Anchorage Municipal Code section 12.40.090 is hereby amended by changing the cross-reference of 12.40.025 to 12.40.025C. to read as follows: (the remainder of this section is not affected by this ordinance and is therefore not set out.)

12.40.090 **Tax returns.**

2. Each licensee shall report the cigarette and other tobacco product sales for which an exemption is claimed under section 12.40.025C. as a deduction on its monthly tax return to the department and shall provide a copy of an invoice or other document satisfactory to the department supporting each sale to a cardholder.

Section 5. Anchorage Municipal Code section 12.40.170 is hereby amended by adding "cardholder" to the title and adding a reference to "exemption card" in the first sentence of subsection 12.40.170A. to read as follows: (the remainder of this section is not affected by this ordinance and is therefore not set out.)

12.40.170 **Taxpayer, licensee, cardholder or other person remedies.**

A. Any person aggrieved by any action of the department in issuing, suspending, revoking or refusing to issue any license or exemption card under this chapter or in fixing the amount of taxes, penalties, interest or costs under this chapter may apply to the department and request a hearing within 30 days from the date the department mails the notice of the department's action.

Section 6. Anchorage Municipal Code section 12.40.220 is hereby amended to read as follows: (the remainder of this section is not affected by this ordinance and is therefore not set out.)

12.40.220 **Inspection and maintenance of documents and records.**

A. Every person subject to this chapter shall keep a complete and accurate record of all cigarettes and other tobacco products manufactured, purchased, sold, brought into, transported outside of, or acquired in the municipality by such person.

2. Each invoice or other documentation of the sale of cigarettes or other tobacco products within the Municipality shall state whether the tax imposed under this chapter has been paid.

3.[2.] Persons subject to this chapter shall keep such other documents and records as the department prescribes.

4.[3.] All documents and records required by this section shall be preserved by persons subject to this chapter for three years. All records and documents required by this chapter to be kept or retained are subject to inspection within the municipality upon demand by the department.

B. A licensee transferring or selling cigarettes or other tobacco products to a cardholder must keep a record of cigarettes and other tobacco products transferred or sold to such person, including the serial number of the exemption card.

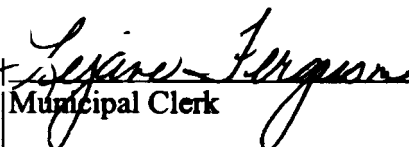
C.[B.] The chief fiscal officer may, during business hours, enter the business premises of a licensee or cardholder where cigarettes or other tobacco products are kept or stored, so far as it may be necessary for the purpose of examining such products and the related business records.

Section 7. This ordinance shall become effective ^{October} ~~August~~ 1, 2001.

PASSED AND APPROVED by the Anchorage Assembly this 19th day of June, 2001


Chair

ATTEST


Municipal Clerk