



State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing
Business Licensing Section
PO Box 110806
Juneau AK 99811-0806

BUSINESS LICENSE ENDORSEMENT PENALTIES

Effective starting January 1, 2019. Tobacco Products, Electronic Smoking Products, or Products Containing Nicotine.

It is the responsibility of each Endorsement licensee to be familiar with the proper sales of tobacco products, electronic smoking products, or products containing nicotine. This notice of Business License Endorsement penalties is provided in accordance with Alaska Statute 43.70.075(b).

IMPROPER SALE of Tobacco Products, Electronic Smoking Products, or Products Containing Nicotine:

Requirement: A person who holds a Business License Endorsement, or an agent or an employee of a person who holds a Business License Endorsement acting within the scope of the agency of employment must comply with the following laws

- a. AS 11.76.100 – Selling or giving tobacco to a minor
- b. AS 11.76.106 – Selling tobacco products, electronic smoking products, or products containing nicotine outside controlled access
- c. AS 11.76.107 – Failure to supervise vending machines selling tobacco products, electronic smoking products, or products containing nicotine.

Penalty:

AS 43.70.075(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 \$500 if the person has not been previously convicted of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 and is not otherwise subject to the sanctions described in (2) – (4) of this subsection;
- (2) 45 days and impose a civil penalty of \$2,000 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 once of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;
- (3) 90 days and impose a civil penalty of \$4,000 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, 11.76.107, or 11.76.109, 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 \$10,000 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 three more times of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

ENDORSEMENT REQUIRED:

Requirement: A person, agent, or employee while acting within the scope of the agency or employment must comply with the following –

- a. AS 43.70.075(a) – obtain a business license endorsement for the sale of tobacco products, electronic smoking products, or products containing nicotine.
- b. AS 43.70.075(g) – The selling of cigarettes other than the amount of cigarettes contained in the manufacturer's original cigarette pack or contained in a cigarette carton or box; or incorrectly labeled.

Penalty:

AS 43.70.075(k) – If a person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, violates a provision of (a) or (g) of this section, the department may suspend the person's business license endorsement or right to obtain a business license endorsement for a period of not more than (1) 45 days; or (2) 90 days 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, violates a provision of (a) or (g) of this section.

VENDING MACHINES:

AS 43.70.075(a) and AS 43.70.075(l)

Requirement: A Business License and an Endorsement are required to sell tobacco products from a vending machine in a location or outlet as a retailer. The person who owns a vending machine that offers products requiring an Endorsement AND the person who holds the business license at the location where the vending machine is located are BOTH required to obtain an Endorsement.

Penalty:

AS 43.70.075(l) – Notwithstanding (a) of this section, a person owning vending machines that offer tobacco products, electronic smoking products, or products containing nicotine for sale need obtain only one business license endorsement under this section even if the person has vending machines in more than one outlet or location in the state. The person who owns a vending machine that offers tobacco products, electronic smoking products, or products containing nicotine for sale and the person who owns the premises where the vending machine is located are both required to obtain a business license endorsement issued under this section. If the endorsement of the person owning the vending machine is suspended or revoked, the person may not sell cigarettes, cigars, products containing tobacco, electronic smoking products, or products containing nicotine during the period of suspension or revocation through the use of vending machines at the location or outlet where the violation occurred. During the period of suspension or revocation, the person owning that vending machine may not use that machine to sell tobacco products, electronic smoking products, or products containing nicotine at another location or outlet.

ENDORSEMENT WARNING SIGNAGE:

AS 43.70.075(f) and AS 43.70.075(p) *Requirement:* A person holding a Business License Endorsement must (mandatory) post and display the warning sign in a manner conspicuous to a person purchasing or consuming tobacco products, electronic smoking products, or products containing nicotine.

Penalty:

AS 43.70.075(p) – If a person who holds an endorsement issued under this section violates (f) of this section, the department may impose a civil penalty not to exceed \$250 for each day of the violation, but the department may not suspend or revoke a business license endorsement. The total civil penalty imposed under this subsection for each violation may not exceed \$5,000.

BUSINESS LICENSE REQUIRED:

AS 43.70.075(a) and AS 43.70.075(s)

Requirement: A person who sells cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine as a retailer must have a Business License and an Endorsement for each location.

Penalty:

AS 43.70.075(s) – If a person violates (a) of this section, the department may impose a civil penalty not to exceed \$250 for each day of the violation. The total civil penalty imposed under this subsection for each violation may not exceed \$5,000. The civil penalty described in this subsection may be imposed in addition to a suspension of a business license endorsement or the right to obtain a business license endorsement ordered by the department under (k) or (o) of this section.