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Press Release

COMMISSIONER'S OFFICE

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Health and Social Services lauds decision as Alaska Supreme Court upholds state's duty to protect public from harm

Tobacco use harmful, license holders may be held accountable for employee sales to minors

(Anchorage, AK) — Today the Health and Social Services Behavioral Health Director praised the recent Alaska Supreme Court decision affirming businesses are responsible for harm that may result from the products — in this case tobacco — they sell.

“This decision clarifies responsibilities for stakeholders in our mutual efforts to keep minors tobacco-free,” Behavioral Health Director Melissa Stone said. “The decision strongly supports the Health and Social Services mission ‘to promote and protect the health and well-being of Alaskans.’”

The court issued a decision on Nov. 23, 2007, upholding Alaska Statute 43.70.075 in a case involving cigarette sales to minors. The court determined that a business owner can be held accountable for an employee's underage tobacco sale based on the employee's conviction, regardless of negligence on the part of the owner or employee.

The court concluded that “when an industry engages in commercial activity that routinely exposes the public to significant harm, the legislature has a legitimate interest in holding the industry's licensed participants accountable for all conduct in exercising the license, not just for the licensee's personal negligence or fault.”

The 2007 Youth Risk Behavior Survey revealed that more than half of Alaska high school students said they'd smoked cigarettes daily. Of students who said they smoked currently, 61 percent reported they'd tried to quit in the past year. Tobacco use remains by far the leading cause of preventable death in the United States.

“Curbing illegal tobacco sales to minors is an essential component of the best practices for state tobacco programs set by the national Centers for Disease Control and Prevention,” said Lisa Aquino, program manager Alaska Tobacco Prevention and Control Program.

The business owner in the case had argued the statute violated due process. While the case progressed, the state Legislature updated the statute to address retailers' concerns and reward conscientious employers' education efforts, while retaining the same basic penalty structure.

For more information on the effects of tobacco on the health of Alaskans, go to <http://www.hss.state.ak.us/dph/chronic/tobacco/>.

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