

Introduced by: Dunne
Date: 08/07/18
Hearing: 09/04/18
Action: Failed to Enact
Vote: 0 No, 9 Yes, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2018-28**

AN ORDINANCE ENACTING KPB CHAPTER 5.16, ESTABLISHING A BOROUGH-WIDE EXCISE TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS

- WHEREAS,** due to a number of causes including declining revenue from the state, increases in the need for local school district funding and increased tax exemptions, the borough needs to raise revenues to keep the unrestricted General Fund Fund Balance within the fund balance parameters established by resolution 2001-045; and
- WHEREAS,** several boroughs in the State of Alaska impose excise taxes on cigarettes and other tobacco products including the Matanuska-Susitna Borough, the Fairbanks North Star Borough, the City and Borough of Sitka, the Municipality of Anchorage, the Northwest Arctic Borough, Petersburg Borough, the Ketchikan Gateway Borough, and the City and Borough of Juneau; and
- WHEREAS,** the Matanuska-Susitna Borough currently imposes a 115 mill or 11.5 percent excise tax on cigarettes and an excise tax of 55 percent on the wholesale price of other tobacco products; and
- WHEREAS,** the Fairbanks North Star Borough imposes an excise tax of 8 percent on tobacco products levied at 8 percent of the wholesale price of tobacco products; and
- WHEREAS,** the City and Borough of Sitka imposes a 123.1 mill or 12.31 percent excise tax on cigarettes and an excise tax of 90 percent of the wholesale price of other tobacco products; and
- WHEREAS,** the assembly finds that the increased cost of cigarettes and other tobacco products resulting from imposition of an areawide excise tax on these products will be a deterrent to the use of tobacco, particularly among the youth; and
- WHEREAS,** an excise tax is distinguished from a sales tax in as many as three ways: (1) an excise tax typically applies to a narrower range of products; (2) an excise tax is typically greater, accounting for a higher fraction of the price of the taxed products; and, (3) although exceptions exist regarding aspects of the tax imposed by this ordinance, an excise tax is often a per unit tax, costing a specific amount for a volume or unit of the item purchased, while a sales tax is typically proportioned to the price of the product; and

WHEREAS, some other boroughs imposing an excise tax have done so without a public vote on the matter, the Alaska Supreme Court upheld the authority of a second-class borough to do so in *Fannon v. Matanuska-Susitna Borough*, 192 P.3d 982 (Alaska 2008), and public approval of an excise tax on cigarettes and other tobacco products is not legally necessary; and

WHEREAS, it is estimated that an excise tax of approximately \$0.05 per cigarette and 10 percent of the wholesale price on other tobacco products would provide annual revenues of approximately \$4.8 million dollars to the Kenai Peninsula Borough General Fund;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That KPB Chapter 5.16 is hereby enacted to read as follows:

CHAPTER 5.16 EXCISE TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS

5.16.010 Applicability of chapter.

Unless provided otherwise, this chapter shall apply to the taxation of all cigarettes and other tobacco products brought into or acquired in the borough.

5.16.020 Tax on cigarettes.

A. The borough hereby levies an excise tax of \$0.05 adjusted annually as provided in subsection (B) of this section, on each cigarette brought into the borough beginning on January 1, 2019. Cigarettes upon which the tax is imposed are not again subject to the tax when acquired by another person.

B. The annual Consumer Price Index adjustment shall be based on the August release date of the semiannual report for the Municipality of Anchorage from the United States Department of Labor statistics and determined to be the percent change to the current year from the average of the first and second half of the prior year, and will be effective January 1st of each year following the August release date. The first such adjustment date shall be January 1, 2020.

5.16.030 Tax on other tobacco products.

An excise tax of 10 percent of the wholesale price is levied on other tobacco products, as defined in this chapter, brought into the borough. The tax is levied effective January 1, 2019. Tobacco

products upon which this tax is imposed are not again subject to this tax when acquired by another person.

5.16.040 Intent and purpose of chapter.

- A. It is the intent and purpose of this chapter to collect the tax from the person who:
1. First acquires the cigarettes or other tobacco products within the borough;
 2. Brings or causes cigarettes or other tobacco products to be brought into the borough;
 3. Makes, manufactures, or fabricates cigarettes or other tobacco products in the borough;
- or
4. Ships or transports cigarettes or other tobacco products into the borough.
- B. Notwithstanding anything to the contrary contained in this chapter, the taxpayer shall be those persons described in this section and no others.

5.16.050 Exemptions.

A. The tax imposed under this chapter does not apply to cigarettes and other tobacco products if the United States Constitution, other federal laws, the Alaska Constitution or State of Alaska laws prohibit the levying of this tax on such products by the borough.

B. Provided all persons otherwise subject to this chapter comply with its requirements, the tax imposed under this chapter does not apply to cigarettes and other tobacco products:

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

5.16.060. - Registration certificate required for dealers in cigarettes or tobacco products.

A. No person may sell, purchase, possess or acquire cigarettes or tobacco products in the borough as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer without first registering with the borough and obtaining a registration certificate. The application for the registration certificate shall be on a form provided by the borough and must include the information requested by the borough.

B. The registration certificate required by this chapter is in addition to any other registration or license required by law. An applicant for a registration certificate shall provide proof of a valid business license with applicable endorsements required by state law.

C. A registrant shall display the registration certificate prominently at the registrant's place of business.

D. A registration certificate is neither assignable nor transferable. It shall be surrendered to the borough if the registrant ceases to do business or if the registrant otherwise sells, assigns, transfers, conveys, leases, forfeits, or abandons the registrant's business to any person.

E. The borough may revoke a registration certificate if a registrant fails to comply with any of the provisions of this chapter. If a registration certificate has not been issued to the registrant or the registrant's registration certificate has been revoked, the borough may seek injunctive relief to prevent the registrant from engaging in any act prohibited by this chapter and any other civil or criminal remedies available at law.

5.16.070. - Registration certificate fee.

For each registration certificate issued under this chapter, the fee is two hundred dollars unless provided otherwise in the fee schedule as approved by the assembly.

5.16.080. - Reissuance of registration certificates.

A person whose registration certificate is lost, stolen or defaced shall immediately file an application with the department for reissuance of the registration certificate. The reissued registration certificate fee is fifty dollars unless provided otherwise in the fee schedule as approved by the assembly.

5.16.090. - Refund of tax or registration certificate fee.

A. The department shall not refund the registration certificate fee paid pursuant to this chapter upon the surrender or revocation of a registration certificate. Upon application on a form provided by the borough, the department will refund a registration certificate fee that is shown to have been paid or collected in error.

B. If a remittance by a registrant exceeds the amount due for the registration certificate, and the department, on audit of the account in question, is satisfied that this is the case, the department shall, upon written request of the registrant, refund the excess to the registrant without interest.

C. Any claim for refund filed more than one year after the due date of the tax is forever barred.

5.16.100. - Tax returns.

A. On or before the last day of each calendar month, a registrant shall submit to the department a tax return, upon forms provided by the department, for each registration certificate, and submit payment for the taxes due.

1. The return shall be signed under penalty of perjury by the registrant or his agent and must include:

- a. The name and address of the registrant;
- b. The name and address of the person filing the return, if different from the registrant;
- c. The number of the registration certificate issued under this chapter;
- d. The name under which the cigarette or tobacco business is being conducted;
- e. The number of cigarettes manufactured, brought into or acquired in the borough during the preceding month from any source whatsoever;
- f. The wholesale price of all other tobacco products brought into or acquired in the borough during the preceding month from any source whatsoever;
- g. The number of cigarettes brought into or acquired in the borough;
- h. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products for which exemptions are claimed under this chapter;
- i. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products, for which the tax has been paid previously by another person;
- j. The amount of tax due on the nonexempt cigarettes manufactured, brought into or acquired in the borough during the preceding month, and the amount of tax due based on

the wholesale price of nonexempt other tobacco products manufactured, brought into or acquired in the borough during the preceding month; and

k.. Other information and supporting documentation which may be required by the department with the return.

B. Each registrant shall report the cigarette and other tobacco product sales for which an exemption is claimed 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.

C. A tax return must be filed even if there were no cigarettes or other tobacco products manufactured, brought into or acquired in the borough during the preceding month.

D. The taxes imposed under this chapter and the return required by this section must be received by the department or postmarked on or before the last business day of each calendar month following the month covered by the return.

5.16.110. - Involuntary returns.

If a registrant fails to file a return as required by this chapter, or when the department finds that a return is not supported by the records to be maintained pursuant to this chapter, the department may prepare and file a return on behalf of the registrant. Involuntary returns filed under this section may be premised upon any information that is available to the department, including, among other things, comparative data for similar businesses. A registrant for whom an involuntary return is filed under this section shall be subject to liability for the tax stated in the return, as well as subject to the penalties and interest provided for in this chapter. A return prepared by the department is, prima facie, good and sufficient for all legal purposes. However, nothing prevents the registrant from presenting evidence on an appeal to rebut the presumed sufficiency of a return prepared by the department, nor does the presumption of sufficiency alter the parties' respective burdens of proof once the registrant has presented evidence to rebut that presumption.

5.16.120. - Amended tax returns.

A. Any tax return filed hereunder may be amended by the registrant, and the borough may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one year after the due date of the tax return being amended. No amendment by the registrant shall be allowed after this one-year period; and

2. The registrant provides justification in writing for requesting approval of the amended return; and

3. The registrant agrees to submit to an audit upon request of the borough.

B. If the borough rejects an amended return, it shall give written notice to a seller, including the reason for the rejection.

C. The borough may adjust a return for a registrant if, after investigation, the borough determines that the figures included in the original return(s) are incorrect, and that additional excise taxes are due; and the borough adjusts the return within three years of the original due date of the return

D. Any tax return prepared and filed by the department on behalf of the registrant may be amended by the registrant within one year of the date filed by the department. No amendment by the registrant shall be allowed after this one-year period.

5.16.130. - Application of payments.

A. Any payment submitted to the department for any taxes, penalties, interest or cost due under any provision of this chapter or any return or any finding or determination by the department under this chapter shall be applied to the oldest balance due, by cigarette and other tobacco product tax period, in the following order: first to accrued fees and costs, then accrued interest, then accrued penalty, then to the tax principal; and then the next oldest balance due, in the above order, and so forth, until the payment is applied in full; except as otherwise provided in this section.

B. Payments on cigarette and other tobacco product tax accounts submitted with excise tax returns shall be applied to the most current return period, in the following order: first to accrued interest, then to accrued penalty, and then to the tax principal. Any remaining moneys shall be applied as in subsection A, above.

C. Payments on cigarette and other tobacco product tax accounts where excise tax liens have been recorded to secure payment on the account shall be applied to the oldest unsecured balance due, by cigarette and other tobacco product tax period, in the order listed in subsection A, above.

D. The borough may by written agreement, or shall by court order, vary the application of payments.

5.16.140. - Prohibited acts and penalties.

A. No person in violation of or without complying with the provisions of this chapter may:

1. Import cigarettes or other tobacco products into the borough;
2. Sell, transfer or acquire cigarettes or other tobacco products in the borough; or
3. Participate in the importation into the borough or in the sale, transfer or acquisition within the borough of cigarettes or other tobacco products.

B. A penalty of five percent of the taxes due shall be incurred automatically when a person fails to pay the full amount of the tax due under this chapter within the time required by this chapter. An additional penalty of five percent of the taxes due shall be incurred automatically when a person fails to file a tax return or report within the time required by this chapter. Failure to file two or more returns in any one calendar year after notice from the borough to the seller's last registered address; when intentional, constitutes a misdemeanor and is punishable by imprisonment for up to 30 days, and by a fine not to exceed \$500.00, plus costs of prosecution, in addition to any civil penalty assessed. If a person fails to pay the full amount of the tax due and/or file a tax return or report required under this chapter within sixteen calendar days after its due date, the five percent penalties incurred above shall be increased automatically to fifteen percent each. The penalties shall be computed on the unpaid balance of the tax liability as determined by the department.

1. Notice of the penalties incurred and to be incurred shall be given to the person responsible for payment of the taxes or for filing the return or report when such tax payment or return or report is delinquent for seven calendar days after its due date.

2. The penalties provided for in this section shall be in addition to all other penalties and interest provided for under this chapter.

C. If a properly filed amended return reduces the total tax liability or the tax required to be paid, or the department reduces the tax liability, the related penalty will be reduced accordingly.

D. All penalties and remedies enumerated in this chapter are cumulative.

E. Unless otherwise provided in this section, any person who violates or fails to comply with the provisions of this chapter shall be personally liable for all costs, interest, penalties and taxes due under this chapter plus a penalty equal to thirty percent of the tax due. For good cause shown, the finance director may waive or reduce all or part of any penalty imposed under this subsection.

5.16.150. - Civil fraud.

A. A civil fraud penalty may be assessed against a person in addition to a penalty for failure to file or failure to pay.

B. If it is determined by the department that a tax deficiency or part of a tax deficiency is due to fraud, then a penalty will be added to the tax. The penalty is fifty percent of the deficiency due or five hundred dollars, whichever is greater. The penalty is computed on the total amount of the deficiency due.

C. Fraud is the intentional misrepresentation of a material fact with the intent to evade payment of tax which the person is believed to owe. The person must have had knowledge of its falsity and intended that it be acted upon or accepted as the truth.

D. To establish civil fraud, the department must prove by clear and convincing evidence that:

1. The tax liability was understated; and
2. The understatement was the result of an intent to evade tax.

E. An intent to evade tax may be demonstrated by any relevant evidence, including but not limited to the following:

1. The person has provided false explanations regarding understated or omitted acquisitions of cigarettes or tobacco products;
2. The person has provided falsified or incomplete source documents;
3. The person has not justified an omission or understatement of a significant amount of acquisitions of cigarettes or tobacco products; or
4. The person has substantially overstated a deduction and has failed to justify the overstatement.

5.16.160. - Tax lien.

A. If any person who is liable to pay a tax or registration certificate fee under this chapter neglects or refuses to pay the tax or registration fee after demand, the amount, including interest, additional amounts, or assessable penalty together with costs, may be collected in the same manner as other debts owed to the borough. In addition, should the taxes due become delinquent under KPB

5.16.100, 5.16.140 and 5.16.170, the tax, penalty, and interest due shall constitute a lien in favor of the borough upon all property and rights to property, real or personal, belonging to that person. Notice of the lien shall be recorded in the office of the district recorder.

B. The lien imposed by this section arises and attaches at such time as payment becomes delinquent and continues until the entire amount is paid or a judgment against the person arising out of the liability is satisfied.

C. When recorded, the lien has priority over other liens except:

1. Liens for property taxes, special assessments, and sales and use taxes;
2. Liens that were perfected before the recording of the lien under this section;
3. Liens that, under state law, are prior, paramount, and superior to all other lien; and
4. Mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this section.

D. An action to foreclose a lien created by this section shall be commenced and pursued in the manner provided for the foreclosure of liens in AS 09.45.170 through 09.45.220.

E. The remedy provided in this section is not exclusive and shall be in addition to all other remedies available to the borough to collect the sales taxes, penalties, and interest due under this chapter.

F. Fees for the administrative costs of filing on notices of liens and releasing of liens shall be:

1. Filing notices of lien: \$25, plus recorder's office filing fee unless set otherwise by the assembly through annual budgetary process...if it changes.
2. Release of liens: \$25, plus recorder's office filing fee unless set otherwise by the assembly through annual budgetary process.

5.16.170.- Interest on unpaid tax.

In addition to any penalties imposed by this chapter, interest at the rate of ten percent per annum shall be charged on the unpaid balance of delinquent taxes.

5.16.180. - Taxpayer, registrant, cardholder, or other person remedies—hearing and appeals.

A. Any person aggrieved by any action of the department in issuing, suspending, revoking or refusing to issue any registration certificate 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 thirty days from the date the department mails the notice of the department's action. An application for a hearing must notify the department of the specific action complained of and amount of tax, interest, cost or penalty contested and the reason it is contested. Upon timely application under this subsection for a hearing, the finance director (the hearing officer) shall hold a hearing to determine whether a correction is warranted. Hearings before the finance director under this subsection may, at the option of the finance director, be conducted by an administrative hearing officer designated by the finance director. If the finance director elects to refer the matter to an administrative hearing officer, the hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions must be forwarded to the finance director for adoption, rejection, or modification and issuance of a final order or decision by the finance director. The final decision of the hearing officer made pursuant to this section may be appealed to the superior court in the Kenai venue district under the rules of appellate procedure governing appeals from administrative agency decisions, within 30 days of the date of the decision; otherwise, a challenge or protest of a determination of the borough administration made under this section.

B. A request for appeal is filed on the date it is personally delivered, or if delivered to the department by the United States Postal Service, the date of the postmark stamped on the properly addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday or holiday, the due date is the next working day. A current mailing address must be provided to the department with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the department.

C. If the notice to the person pursuant to subsection A of this section shows an amount due the department, the uncontested portion of the amount due must be paid within thirty days after the date of the notice. If the uncontested amount is not paid within thirty days, collection action will be taken on that amount even if the person has filed a notice of appeal. Payment of the total amount due may be made at any time before the hearing. If the department has reason to believe that collection of the total amount due might be jeopardized by delay, immediate payment of the total

amount will be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect the person's right to a hearing.

D. If a person requests a hearing and fails to appear at the hearing, the hearing officer shall consider any written documentation filed at least ten days before the hearing by the person who requested a hearing. The hearing officer may issue a decision without taking additional evidence from that person, unless that person shows reasonable cause for failure to appear or to provide timely written evidence within seven days after the date scheduled for the hearing.

E. Taxes, registration certificate fees, penalties and interest declared to be due in the final administrative decision must be paid within thirty days after the date of the decision, or a bond and appeal must be filed with the court in accordance with Alaska Rules of Appellate Procedure.

5.16.190. - Reports by manufacturers.

A. No later than the end of each calendar month, a manufacturer shall submit a report to the department stating:

1. A list of the other tobacco products, the quantity and their wholesale price and the number of cigarettes which were brought into the borough from the manufacturer during the preceding month;
2. The name and address of those persons bringing cigarettes and other tobacco products into the borough from the manufacturer during the preceding month; and
3. A list of the quantity of other tobacco products, the wholesale price, and the number of cigarettes brought from the manufacturer into the borough by each person named in subsection (A)(2) of this section.

5.16.200. - 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 borough by such person.

1. Except in the case of a manufacturer, the records shall include a statement containing the name and address of the person from whom cigarettes or other tobacco products were purchased or acquired, the date of delivery, the quantity of cigarettes and other tobacco products, the trade name and brand, and the price paid for other tobacco products purchased.

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

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

4. 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 borough upon demand by the department.

B. A registrant transferring or selling cigarettes or other tobacco products to an exempt buyer must keep a record of cigarettes and other tobacco products transferred or sold to such person.

C. The finance director or his or her designee may, during business hours, enter the business premises of a registrant 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.

5.16.210. - Administrative regulations.

The finance director, or his or her designee, may adopt regulations providing for the application and interpretation of this chapter and providing methods and forms for reporting and collecting the tax imposed by this chapter.

5.16.220. - Confidential and non-confidential tax information.

A. The following information is publicly available information:

1. Names and addresses of business owners who filed tax returns under this chapter;
2. Whether a business is registered to collect taxes under this chapter in the borough;
3. Whether a business is current in filing tax returns and in remitting tax due under this chapter, and the number of returns not filed; and

B. The borough may permit any authorized representative of any federal, state or other local government agency to inspect and copy any tax returns filed and reports prepared under this chapter, if the other governmental agency provides substantially similar access to the borough and if the borough determines that other governmental agency provides adequate safeguards for the confidentiality of the tax returns and reports.

C. Except as otherwise provided in this section, tax forms and their contents shall be confidential and shall not be disclosed by the finance department except:

1. In connection with efforts by the borough to collect the tax;
2. In response to a subpoena issued by a court, state agency or governmental board or commission;
3. In connection with legislative inquiry specifically authorized by the assembly;
4. In connection with the borough audits for purposes of verifying borough accounting practices;
5. In compilation of statistics and studies by the finance department for public distribution, so long as information from individual businesses is not identifiable as to source.

5.16.230. - Definitions.

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

- “Borough” means the Kenai Peninsula Borough, Alaska
- “Brought into or acquired” includes all manners, ways, and modes of bringing into or obtaining cigarettes or tobacco products in the borough.
- “Buyer” means a person who brings into or acquires in the borough cigarettes or other tobacco products for his own consumption from any source other than a manufacturer, distributor, direct-buying retailer or retailer.
- “Cigarette” means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.
- “Department” means the finance department of the borough.
- “Direct-buying retailer” means a person who is engaged in the sale of the cigarettes or other tobacco products at retail in the borough, and who brings or causes them to be brought into the borough.
- “Distributor” means a person who brings cigarettes or other tobacco products or causes them to be brought into the borough, and who sells or distributes them to others for resale in the borough.

- “Finance Director” means the Director of Finance for the borough or his or her designee.
- “Inventory count” means the effective date and details of a count by description, including the trade name and brand, purchase price and total quantity on hand of all cigarettes and other tobacco products. Detail must be subtotaled and distinguished between cigarettes and other tobacco products which are taxable and cigarettes and other tobacco products which were acquired exempt of the borough excise tax under this chapter.
- “Manufacturer” means a person who makes, fashions or produces cigarettes or other tobacco products for sale to distributors or other persons within the borough.
- “Other tobacco products” means:
 1. A cigar;
 2. A cheroot;
 3. A stogie;
 4. A perique;
 5. Snuff and snuff flour;
 6. Smoking tobacco, including granulated, plug-cut, crimp-cut and ready-rubbed tobacco, and any form of tobacco suitable for smoking in a pipe or cigarette;
 7. Chewing tobacco, including cavendish, twist, plug, or scrap tobacco and tobacco suitable for chewing; or
 8. An article or product made wholly or in part of tobacco or a tobacco substitute or otherwise containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose; or
 9. Any noncombustible device that provides a vapor of liquid nicotine to the user or relies on vaporization of any liquid or solid nicotine, including devices manufactured as e-cigarettes, e-cigars, e-pipes, or any other product name;

- “Person” includes an individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, estate, trust, business trust, receiver or trustee, syndicate, or political subdivision of this state, or combination acting as a unit, including individuals who are employees or officers of any of the such entities who are under a duty to perform an act concerning which a violation of this chapter could occur. It is the intent of this chapter that such persons be personally liable for unremitted taxes.
- “Place of business” means a place where cigarettes or other tobacco products are sold, or where they are brought or kept for the purpose of sale or consumption, including a vessel, vehicle, airplane or train.
- “Purchase” means the acquisition of ownership or possession of cigarettes or other tobacco products from any source.
- “Record” means a group of logically related fields of information concerning events effecting an organization, which is an integral part of an accounting information system, where separate, identifiable transaction data is entered as historical data.
- “Registrant” means a person that has been issued a current registration certificate by the borough and paid the fee to the borough as required by this chapter.
- “Retail” means a sale to a consumer or to any person for any purpose other than for resale.
- “Retailer” means a person in the borough who is engaged in the business of selling cigarettes or other tobacco products at retail.
- “Sale” includes a sale, barter, exchange and every other manner of transferring the ownership of personal property.
- “Tax” means the cigarette and other tobacco products excise tax assessed pursuant to this chapter.
- “Tax return” means the monthly report to be submitted to the department as required by this chapter.
- “Vending machine operator” means a person who brings or causes cigarettes or tobacco products to be brought into the borough and who owns or operates a vending machine that dispenses cigarettes, whether the vending machine is installed on the person’s own premises or installed elsewhere.
- “Wholesale price” means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by the distributor for quantity or cash.

SECTION 2. That this ordinance shall take effect January 1, 2019,

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2018.

Wayne H. Ogle, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

FAILED TO ENACT

Yes: None

No: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle

Absent: None