
Commerce & Labor Committee

2SSB 5642

Brief Description: Addressing cigarette ignition propensity.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Rockefeller, Franklin and Tom).

Brief Summary of Second Substitute Bill

- Requires that all cigarettes sold in Washington be reduced ignition strength.
- Directs the State Director of Fire Protection to administer these provisions.

Hearing Date: 2/26/08

Staff: Alison Hellberg (786-7152).

Background:

The Office of the State Fire Marshal, Fire Protection Bureau (Bureau) is within the Washington State Patrol (WSP) and provides various services to fire districts, government agencies, and the public. Examples of these services include fire incident reporting and data collection, fire code review and adoption, and construction plan reviews for fire sprinkler and alarm systems. The Bureau also regulates the fireworks and sprinkler industries. In addition, the Bureau provides high-risk fire training to fire departments and fire protection districts, hazardous materials training, and fire prevention education.

Other states, such as California, New York, and Vermont, have enacted legislation requiring that only reduced ignition strength cigarettes may be sold. Cigarettes sold in Washington do not need to meet similar requirements.

Summary of Bill:

All cigarettes sold in Washington after August 1, 2009 must be reduced ignition strength. The determination of reduced ignition strength is made by conducting propensity strength testing in accordance with the standards developed by the American Society of Testing and Materials

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

(ASTM). The testing of cigarettes must be conducted on 10 layers of filter paper. A cigarette meets the ignition propensity strength testing if not more than 25 percent of the cigarettes tested exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

If the State Director of Fire Protection (Director) determines that a cigarette manufacturer cannot use the ASTM method, the manufacturer is required to propose a test method and performance standard. If the Director approves the method, the manufacturer may use it to certify the cigarette. The Director may allow manufacturers to use alternative methods and standards if they are approved by another state that has the same requirements.

Manufacturers must maintain copies of the reports of all tests conducted on cigarettes offered for sale for three years and must make copies of these reports available to the Director and the Attorney General. Any manufacturer who fails to make copies of these reports within 60 days of receiving a written request is subject to a civil penalty not to exceed \$10,000 for each day after the 60th day that the manufacturer does not make the copies available.

If the method does not result in a change in the percentage of full-length burns, the Director may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes.

Beginning in 2012, the Director must review the effectiveness of this test method and performance standard application. The Director must report the findings and any recommendations every three years to the Legislature.

Wholesale or retail dealers are not prohibited from selling their existing inventory of cigarettes on or after August 1, 2009, if the dealer can establish that state tax stamps were affixed to the cigarettes prior to August 1, 2009, and can establish that the inventory was purchased in a comparable quantity to the inventory purchased during the same period of the previous year. Each manufacturer must submit to the Director a written certification for each cigarette. Each cigarette must be recertified every three years. A manufacturer must pay a fee of \$250 for each cigarette listed in a certification. The Director may adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter.

If a manufacturer makes any changes to a cigarette that has been certified, that cigarette may not be sold or offered for sale in this state until the manufacturer retests the cigarette according to the testing standards set in this chapter.

Cigarettes that are certified must be marked to indicate compliance with the testing and performance standard requirements. A manufacturer must present its proposed marking to the Director for approval. A manufacturer can use only one marking and it must be applied uniformly on all packages.

Civil penalties are established for violations of these provisions.

The Attorney General and the Director are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.

The reduced cigarette ignition propensity account is created in the State Treasurer. All

receipts from the payment of certification fees and from the imposition of civil penalties must be deposited to the account. Expenditures from the account may be used only for fire safety, enforcement, and prevention programs. Only the Director or their designee may authorize expenditures from the account.

A person or entity is not prohibited from manufacturing or selling cigarettes that do not meet the requirements if the cigarettes are or will be stamped for sale in another state, if the person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

Rules Authority: The Washington State Patrol must adopt rules to establish the approved cigarette packing within the Fire Marshal Standards.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2009.