

SENATE BILL REPORT

SB 6164

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 1, 2006

Title: An act relating to fire safety for cigarettes.

Brief Description: Regulating fire-safe cigarettes.

Sponsors: Senators Kohl-Welles, Oke and Rockefeller.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 1/24/06, 2/1/06 [DPS-WM, DNP, w/oRec].
Ways & Means: 2/6/06.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6164 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Hewitt and Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette, Ranking Minority Member.

Staff: Alison Mendiola (786-7483)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Paula Faas (786-7449)

Background: Cigarettes sold in Washington do not have reduced ignition strength. New York, Vermont, and California have passed legislation requiring that only reduced ignition strength cigarettes may be sold.

Summary of Second Substitute Bill: Beginning August 1, 2007, only "fire safe" cigarettes may be sold in Washington. Fire safe cigarettes are a reduced ignition strength cigarette of a variety declared to be fire safe by the State Director of Fire Protection (Director).

The determination of fire safe is made by conducting ignition propensity strength testing or by accepting the results of such testing conducted by any source the Director finds reliable. In either instance, the testing relied upon must be performed using the Standard Test Method for Measuring the Ignition Strength of Cigarettes, developed by American Society for Testing and

Materials (ASTM) International. ASTM International is a not-for-profit organization that provides for the voluntary consensus standards for materials, products, systems, and services.

The testing must be conducted on ten layers of filter paper. A cigarette is deemed fire safe if not more than twenty-five percent of the cigarettes tested burned along the full length of the tobacco portion of the cigarette when subjected to ignition propensity strength testing.

Cigarettes in the inventory of a distributor, retailer, or wholesaler at the time of the effective date are exempt from the effective date so long as the distributor, retailer, or wholesaler can demonstrate the inventory was purchased prior to the effective date in comparable quantity to the inventory purchased during the same period, one year prior.

The Director is to issue, keep current, and make available to the public a list of cigarette varieties the Director determines to be fire safe.

The Director, by rule or application, can approve cigarette packaging or carton markings or other devices that identify a cigarette variety as fire safe.

The Director may impose a civil penalty for the distribution or selling of cigarettes out of compliance with these standards. The civil penalty may not exceed:

- 1) for a person who distributes or offers to sell cigarettes to a wholesaler or retailer, ten thousand dollars or five times the value of the cigarettes involved in the violation, whichever is greater; or
- 2) for a person who distributes or offers to sell cigarettes to the public:
 - a) for a distribution or offer of not more than one thousand cigarettes, five hundred dollars; and
 - b) for a distribution or offer of more than one thousand cigarettes, one thousand dollars or five times the retail value of the cigarettes involved in the violation, whichever is greater.

Any person who distributes or sells cigarettes in violation of this chapter and is aggrieved by an order, may appeal the order within thirty days.

All receipts from imposition of civil penalties under these provisions are deposited into the general fund.

Second Substitute Bill Compared to Substitute Bill: The sections establishing the cigarette safety account are deleted. All receipts from imposition of civil penalties imposed under this act are deposited into the general fund instead of the cigarette safety account.

Substitute Bill Compared to Original Bill: The emergency clause was deleted, an exemption was added for non-conforming cigarettes, an appeal process was added for those who distribute or sell cigarettes in violation of this chapter, and language was added to clarify that funds deposited into the cigarette safety account may only be used for fire prevention programs, among the other uses specified.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: August 1, 2007.

Testimony For: (Labor, Commerce, Research & Development) The State suffers great property loss and an unnecessary loss of lives resulting in a great economic cost and avoidable human suffering when tragedy occurs as a result of an unattended cigarette causing a fire. Cigarette fires are up nationally so it make sense to implement fire safe cigarettes. New York, the first state to pass fire safe legislation, has reported a 25 percent decrease in fire deaths. This is not an anti-smoking or business issue, but rather a pro safety issue.

Testimony Against: (Labor, Commerce, Research & Development) This issue has been studied extensively at the federal level. A Congressional report warned that fire safe cigarettes can actually result in a higher toxicity level. New York has also had a hard time dealing with the sale of cigarettes on tribal land. This bill would have an adverse impact on small businesses and create a logistical nightmare.

Who Testified: (Labor, Commerce, Research & Development) PRO: Chris Covert-Bowlds, WA Academy of Family Physicians; Roger Valdez, Seattle-King County Public Health; Mike Brown, WA Fire Chiefs; David Nuss, NFPA; Andrew McGuire, Trauma Foundation; Paul Webb, Lakewood Fire Department; and Roger Neal, University Place Fire.

CON: Jim Gould, Covington & Burlington/RJ Reynolds; Perry Park, Korean Association of Grocers; Dick Siegel, Convenience Group; and Ronald Black, Harbor Wholesale.

Signed in, Unable to Testify & Submitted Written Testimony: TK Bentler, RJ Reynolds.

Testimony For (Ways & Means): Based on new estimates, the State Patrol's cost for administering the program should be reduced in half.

Testimony Against (Ways & Means): Fire safe cigarettes have higher toxicity levels. State tax revenues will decline because consumers will purchase fewer taxable cigarettes in Washington State and instead opt to purchase online, at tribal smoke shops, or in other states. Also, wholesale food distributors currently distributes products to multiple states. Having to distribute different types of cigarettes specifically for Washington State only be difficult for the industry.

Who Testified (Ways & Means): PRO: Gordon Walgren, Washington State Fire Chiefs Association.

CON: T.K. Bentler, RJ Reynolds; Bob Gee, Washington Foods Industry.