

FINAL BILL REPORT

2SSB 5642

C 239 L 08

Synopsis as Enacted

Brief Description: Addressing cigarette ignition propensity.

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

Senate Committee on Labor, Commerce, Research & Development

Senate Committee on Ways & Means

House Committee on Commerce & Labor

House Committee on Appropriations Subcommittee on General Government & Audit Review

Background: Cigarettes sold in Washington do not meet fire safety standards of having a lower ignition strength. Other states, including California, New York, and Vermont have passed legislation requiring that only reduced ignition strength cigarettes may be sold.

Summary: Beginning August 1, 2009, only reduced ignition strength cigarettes may be sold in Washington. 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 (ASTM).

The testing of cigarettes must be conducted on ten 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.

A manufacturer of a cigarette that the State Director of Fire Protection (Director) determines cannot be tested by the ASTM method must propose a test method and performance standard that is approved by the Director. The manufacturer may employ that test method and performance standard to certify the cigarette.

If the Director determines that another state has enacted reduced cigarette ignition propensity standards and the Director finds that the test method and performance standard are the same as those in this chapter, then the Director can authorize the manufacturer to certify that cigarette for sale in this state.

Each manufacturer must maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and must make copies of these reports available to the Director and the Attorney General upon request. 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 sixtieth day that the manufacturer does not make the copies available.

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

Beginning in 2012, the Director must review the effectiveness of this test method and performance standard application. The Director must report every three years, no later than July 1, to the Legislature the findings and any recommendations, if appropriate, for improvement.

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 to the Director a fee of \$250 for each cigarette listed in a certification. The Director is authorized to annually 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 this act.

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.

This act does not prohibit any person or entity 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 that 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.

Votes on Final Passage:

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| Senate | 47 | 1 | |
| House | 93 | 0 | (House amended) |

Senate 46 1 (Senate concurred)

Effective: August 1, 2009