
A BILL FOR AN ACT

RELATING TO CIGARETTES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. According to the National Fire Protection
2 Association, cigarettes are the nation's leading cause of death
3 by fire, resulting in about one thousand deaths, three thousand
4 critical injuries, especially among firefighters, and about
5 \$400,000,000 in direct property damage annually. Fire-safe, or
6 "reduced ignition propensity" cigarettes are wrapped in a
7 special paper with ultra-thin bands that work like speed bumps
8 to slow the burning of the cigarette when the smoker is not
9 taking puffs. This makes it less likely for an unattended
10 cigarette to continue burning and thus lowers the risk of
11 discarded cigarettes accidentally igniting bedding or
12 upholstery. Left unsmoked, an abandoned or discarded reduced
13 ignition cigarette would normally go out instead of causing a
14 potentially fatal fire.

15 California, New York, Vermont, and Canada have implemented
16 reduced ignition propensity cigarettes laws. Before California
17 enacted its law, researchers at the Harvard School of Public
18 Health found that, while not perfectly self-extinguishing,



1 reduced ignition propensity cigarettes sold in New York were far
 2 less likely to burn to the end than cigarettes of the same
 3 brands in California and Massachusetts. Only ten per cent of a
 4 sample of five major cigarette brands sold in New York had a
 5 "full burn" compared to 99.8 per cent of the California and
 6 Massachusetts cigarettes tested.

7 The purpose of this Act is to require only reduced ignition
 8 propensity cigarettes to be sold in the State.

9 SECTION 2. The Hawaii Revised Statutes is amended by
 10 adding a new chapter to be appropriately designated and to read
 11 as follows:

12 **"CHAPTER**

13 **REDUCED IGNITION PROPENSITY CIGARETTES LAW**

14 § -1 **Purpose.** It is the intent of this chapter to
 15 require that only reduced ignition propensity cigarettes be sold
 16 in the State. Although these cigarettes are not guaranteed to
 17 self-extinguish, they are expected to reduce fires and related
 18 personal injury and property damage caused by cigarette smoking.

19 § -2 **Definitions.** For the purposes of this chapter,
 20 unless the context otherwise requires:

21 "Cigarette" has the meaning as defined in section 245-1.

22 "Dealer" has the meaning as defined in section 245-1.



1 "Manufacturer" means any person or a successor that
2 manufactures or produces cigarettes or causes cigarettes to be
3 manufactured or produced, whether in the State or outside of the
4 State, and intends to sell the cigarettes in Hawaii directly or
5 through an importer, including any first purchaser that intends
6 to resell cigarettes.

7 "Quality control and quality assurance program" means
8 laboratory procedures implemented to ensure that operator bias,
9 systematic and nonsystematic methodological errors, and
10 equipment-related problems do not affect the results of the
11 testing and to ensure that the testing repeatability remains
12 within the required repeatability value for any test trial used
13 to certify cigarettes under this section.

14 "Repeatability" means the range of values within which the
15 repeat results of cigarette test trials from a single laboratory
16 will fall ninety-five percent of the time.

17 "Sale" or "selling" means any transfer of title or
18 possession, exchange, or barter, conditional or otherwise, and
19 includes the giving of cigarettes as samples, prizes, or gifts
20 and the exchange of cigarettes for any consideration.

21 "Wholesaler" has the meaning as defined in section 245-1.



1 § -3 **Cigarettes; reduced ignition propensity.** No
2 cigarettes may be manufactured in this State or sold or offered
3 for sale to any person in this State unless the cigarettes have
4 been tested in accordance with the test method and meet the
5 performance standard specified in this section and the
6 manufacturer has filed a written certification with the state
7 fire council pursuant to section 132-16 in accordance with
8 section -4. The performance standard for cigarettes sold or
9 offered for sale in this State includes all the following:

10 (1) Testing of cigarettes shall be conducted in accordance
11 with the American Society of Testing and Materials
12 standard E2187-04 "Standard Test Method for Measuring
13 the Ignition Strength of Cigarettes". The state fire
14 council may adopt a subsequent American Society of
15 Testing and Materials Standard Test Method for
16 Measuring the Ignition Strength of Cigarettes upon a
17 finding that the subsequent method does not result in
18 a change in the percentage of full-length burns
19 exhibited by any tested cigarette when compared to the
20 percentage of full-length burns the same cigarette
21 would exhibit when tested in accordance with American



- 1 Society of Testing and Materials standard E2187-04 and
2 the performance standard of this section;
- 3 (2) Testing of cigarettes shall be conducted on ten layers
4 of filter paper;
- 5 (3) No more than twenty-five per cent of the cigarettes
6 tested in a test trial shall exhibit full-length
7 burns. Forty replicate tests shall comprise a
8 complete test trial for each cigarette tested;
- 9 (4) The performance standard required by this section
10 shall only be applied to a complete test trial;
- 11 (5) Laboratories that conduct tests in accordance with
12 this section shall implement a quality control and
13 quality assurance program that includes a procedure to
14 determine the repeatability of the testing results.
15 The repeatability value shall be no greater than 0.19;
- 16 (6) Each cigarette listed in a certification that uses
17 lowered permeability bands in the cigarette paper to
18 achieve compliance with the performance standard in
19 this section shall have at least two nominally
20 identical bands on the paper surrounding the tobacco
21 column. At least one complete band shall be located
22 at least fifteen millimeters from the lighting end of



1 the cigarette. For cigarettes on which the bands are
2 positioned by design, there shall be at least two
3 bands located at least fifteen millimeters from the
4 lighting end and ten millimeters from the filter end
5 of the tobacco column. In the case of an unfiltered
6 cigarette, the two complete bands shall be located at
7 least fifteen millimeters from the lighting end and
8 ten millimeters from the labeled end of the tobacco
9 column;

10 (7) The manufacturer of a cigarette that the state fire
11 council determines cannot be tested in accordance with
12 the test method required by this section shall propose
13 to the state fire council a test method and
14 performance standard for that cigarette. The state
15 fire council may approve a test method and performance
16 standard that the state fire council determines is
17 equivalent to the requirement of this section, and the
18 manufacturer may use that test method and performance
19 standard for certification pursuant to section -4;
20 and

21 (8) A manufacturer shall retain all data from testing
22 conducted under this section for a period of three



1 years. The manufacturer shall provide that data to
2 the state fire council and the attorney general upon
3 request in order to ensure compliance with the
4 performance standard required by this section.

5 § -4 **Certification; marking.** (a) Each manufacturer
6 shall submit to the state fire council written certification
7 attesting that each cigarette has been tested in accordance with
8 and has met the performance standard required under section

9 -3. The description of each cigarette listed in the
10 certification shall include:

- 11 (1) The brand;
- 12 (2) Style;
- 13 (3) Length in millimeters;
- 14 (4) Circumference in millimeters;
- 15 (5) Flavor, if applicable;
- 16 (6) Filter or nonfilter;
- 17 (7) Package description, such as a soft pack or box; and
- 18 (8) The mark approved pursuant to subsection (b).

19 Upon request, this certification shall be made available to the
20 attorney general. Each cigarette certified under this
21 subsection shall be recertified every three years.



1 (b) Cigarettes that have been certified pursuant to
2 subsection (a) shall be marked pursuant to the following
3 requirements:

4 (1) The marking shall be in a font of at least eight-point
5 type and shall include one of the following:

6 (A) Modification of the product's Universal Product
7 Code to include a visible mark printed at or
8 around the area of the Universal Product Code.

9 The mark may consist of one or more alphanumeric
10 or symbolic characters permanently stamped,
11 engraved, embossed, or printed in conjunction
12 with the Universal Product Code;

13 (B) Any visible combination of alphanumeric or
14 symbolic characters permanently printed, stamped,
15 engraved, or embossed on the cigarette package or
16 the cellophane wrap; and

17 (C) Printed, stamped, engraved, or embossed text that
18 indicates that the cigarettes meet the standards
19 of this section; and

20 (2) A manufacturer shall request approval of a proposed
21 marking from the state fire council. Any marking
22 approved and in use for the sale of cigarettes in the



1 states of New York, California, or Vermont shall be
2 approved. A marking shall be deemed approved if the
3 state fire council fails to act within business
4 days of receiving a request for approval. A
5 manufacturer shall not use a modified marking unless
6 the modification has been approved in accordance with
7 this chapter. A manufacturer shall use only one
8 marking on all brands that the manufacturer markets.
9 A marking or modified marking approved by the state
10 fire council shall be applied uniformly on all brands
11 marketed and on all packages, including packs,
12 cartons, and cases, marketed by that manufacturer.

13 (c) A manufacturer shall provide a copy of certifications
14 to all wholesalers to which the manufacturer sells cigarettes
15 and shall provide sufficient copies of an illustration of the
16 packaging marking approved and used by the manufacturer pursuant
17 to subsection (b) for each of the dealers that purchases
18 cigarettes from any of those wholesalers. Wholesalers shall
19 provide a copy of the illustration to all dealers to which they
20 sell cigarettes. Wholesalers and dealers shall permit the state
21 fire council to inspect markings on cigarette packaging at any
22 time.



1 § **-5 Rules; state fire council.** The state fire council:

2 (1) May adopt rules necessary to implement and administer
3 this section;

4 (2) May adopt rules regarding the conduct of random
5 inspections of wholesalers and dealers to ensure
6 compliance with this section; and

7 (3) Shall ensure that the implementation and substance of
8 this section is in accordance with the implementation
9 and substance of the New York fire safety standards
10 for cigarettes.

11 § **-6 Penalties; enforcement.** (a) The following civil
12 penalties may be assessed:

13 (1) Against a manufacturer, wholesaler, retailer, or any
14 other person that knowingly sells cigarettes, except
15 by licensed retail sales, in violation of section

16 -3, a civil penalty not to exceed \$10,000 for each
17 sale;

18 (2) Against a manufacturer that knowingly makes a false
19 certification pursuant to section -4, a civil
20 penalty not to exceed \$10,000 for each false
21 certification;



1 (3) Against a dealer that knowingly sells or offers for
2 sale cigarettes in violation of section -3, a civil
3 penalty not to exceed \$500 for each sale or offer of
4 sale of one thousand cigarettes or fewer;

5 (4) Against a dealer that knowingly sells or offers for
6 sale cigarettes in violation of section -3, a civil
7 penalty not to exceed \$1,000 for each sale or offer of
8 sale of more than one thousand cigarettes; and

9 (5) Against any other person that violates any provision
10 of this section, a civil penalty not to exceed \$1,000
11 for each violation. Any cigarettes sold or offered
12 for sale that do not comply with the safety standard
13 required by section -3 shall be ordered forfeited
14 pursuant to chapter 712A.

15 (b) In addition to any other remedy provided by law, the
16 attorney general may file an action for a violation of this
17 section, including petitioning for injunctive relief, recovery
18 of costs or damages suffered by the State as the result of a
19 violation of this section, including enforcement costs relating
20 to the specific violation and attorney fees. In any such
21 action, the attorney general shall have the same authority to
22 investigate and obtain remedies, except civil penalties under



1 subsection (a), as if the action were brought pursuant to
2 section 708-870 relating to deceptive business practices. Each
3 violation of this chapter or of any rule adopted under this
4 chapter shall constitute a separate civil violation for which
5 the attorney general may obtain relief.

6 (c) Enforcement of this chapter shall be under the
7 jurisdiction of the attorney general. The attorney general may
8 seek assistance in the enforcement of this chapter from the
9 state fire council and other law enforcement agencies.

10 Notwithstanding the existence of other remedies at law, the
11 attorney general may apply for a temporary or permanent
12 injunction restraining any person from violating or continuing
13 to violate this chapter. The injunction shall be issued without
14 bond."

15 SECTION 3. Chapter 28, Hawaii Revised Statutes, is amended
16 by adding a new section to be appropriately designated and to
17 read as follows:

18 "§28- Reduced ignition propensity cigarettes law;
19 enforcement. The attorney general shall adopt rules to
20 implement the enforcement of the reduced ignition propensity
21 cigarettes law pursuant to chapter ."



1 SECTION 4. Section 132-16, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The state fire council [~~may also~~]:

4 (1) [~~Appoint~~] May appoint advisory committees comprised of
5 representatives from each county fire department to
6 assist in drafting the state fire code and
7 coordinating statewide training, data collection, and
8 contingency planning needs for firefighters; [~~and~~]

9 (2) [~~Advise~~] May advise and assist the county fire
10 departments where appropriate, may prescribe standard
11 procedures and forms relating to inspections,
12 investigations, and reporting of fires, may approve
13 plans for cooperation among the county fire
14 departments, and may advise the governor and the
15 legislature with respect to fire prevention and
16 protection, life safety, and any other functions or
17 activities for which the various county fire
18 departments are generally responsible[~~-~~]; and

19 (3) Shall adopt rules to implement its duties and
20 responsibilities with respect to reduced ignition
21 propensity cigarettes for sale in Hawaii, including



1 certification, testing, and inspections of such
2 cigarettes pursuant to chapter ."

3 SECTION 5. Nothing in this Act shall be construed to
4 prohibit any person from manufacturing or selling cigarettes
5 that do not meet the requirements of chapter , Hawaii
6 Revised Statutes, if the cigarettes are stamped for sale in
7 another state or are to be sold outside the United States.

8 SECTION 6. The requirement that cigarettes sold in Hawaii
9 must be in compliance with section 2 of this Act shall not
10 prohibit wholesalers or dealers from selling existing cigarette
11 inventories on or after July 1, 2007; provided the wholesaler or
12 dealer can establish both of the following to the satisfaction
13 of the attorney general:

14 (1) The Hawaii tax stamps were affixed to the cigarettes
15 pursuant to chapter 245, Hawaii Revised Statutes,
16 prior to July 1, 2007; and

17 (2) The inventory was purchased prior to July 1, 2007, and
18 the purchased inventory is comparable to the amount of
19 inventory purchased during the same period the
20 previous year.

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



H.B. NO. 2111

1 SECTION 8. This Act shall take effect on July 1, 2007.

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INTRODUCED BY:

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Report Title:

Reduced Ignition Propensity "Fire-Safe" Cigarettes

Description:

Prohibits sale of cigarettes in Hawaii that are not reduced ignition propensity "fire-safe" beginning 7/1/2007. Requires state fire council to certify, test, and inspect cigarettes. Sets civil fines and requires attorney general to adopt rules to enforce law.

