

JAN 23 2006

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# 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.



# S.B. NO. 2091

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

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SB2001

**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.

