
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 propensity cigarette would normally self-extinguish
14 instead of causing a 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 accidental fires
 18 and related personal injury and property damage caused by
 19 cigarette smoking.

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

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



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

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

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

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

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

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



1 § -3 Cigarettes; reduced ignition propensity;
2 **manufacturer testing.** (a) No cigarettes may be manufactured in
3 this State or sold or offered for sale to any person in this
4 State unless the cigarettes have been tested in accordance with
5 the test method and meet the performance standard specified in
6 this section and the manufacturer has filed a written
7 certification with the state fire council 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 as rules under chapter 91, a
15 subsequent American Society of Testing and Materials
16 Standard Test Method for Measuring the Ignition
17 Strength of Cigarettes upon a finding that the
18 subsequent method does not result in a change in the
19 percentage of full-length burns exhibited by any
20 tested cigarette when compared to the percentage of
21 full-length burns the same cigarette would exhibit
22 when tested in accordance with American Society of



- 1 Testing and Materials standard E2187-04 and the
2 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 constitute 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) Any written test result certification issued under
12 this section shall be based on testing conducted by a
13 laboratory accredited pursuant to standard ISO/IEC
14 17025 of the International Organization for
15 Standardization/International Electrotechnical
16 Commission, or other comparable accreditation standard
17 required by the state fire council;
- 18 (6) Laboratories that conduct tests in accordance with
19 this section shall implement a quality control and
20 quality assurance program that includes a procedure to
21 determine the repeatability of the testing results.
22 The repeatability value shall be no greater than 0.19;



- 1 (7) Each cigarette listed in a certification that uses
2 lowered permeability bands in the cigarette paper to
3 achieve compliance with the performance standard in
4 this section shall have at least two nominally
5 identical bands on the paper surrounding the tobacco
6 column. At least one complete band shall be located
7 at least fifteen millimeters from the lighting end of
8 the cigarette. For cigarettes on which the bands are
9 positioned by design, there shall be at least two
10 bands located at least fifteen millimeters from the
11 lighting end and ten millimeters from the filter end
12 of the tobacco column. In the case of an unfiltered
13 cigarette, the two complete bands shall be located at
14 least fifteen millimeters from the lighting end and
15 ten millimeters from the labeled end of the tobacco
16 column; and
- 17 (8) The manufacturer of a cigarette that the state fire
18 council determines cannot be tested in accordance with
19 the test method required by this section shall propose
20 to the state fire council a test method and
21 performance standard for that cigarette. The state
22 fire council may approve a test method and performance



1 standard that the state fire council determines is
2 equivalent to the requirement of this section, and the
3 manufacturer may use that test method and performance
4 standard for certification pursuant to section -4;
5 If a manufacturer has received approval from another
6 state having reduced ignition propensity standards,
7 including a test method and performance standard that
8 are the same as this chapter to use an alternative
9 test method and performance standard for a particular
10 cigarette, the state fire council may authorize that
11 manufacturer to employ that alternative test method
12 and performance standard in this State.

13 (b) A manufacturer shall retain all data from testing
14 conducted under this section for a period of three years. The
15 manufacturer shall provide that data to the state fire council
16 upon request in order to ensure compliance with the performance
17 standard required by this section. A manufacturer who fails to
18 make available any testing data within sixty days of receiving a
19 written request from the state fire council shall be fined not
20 more than \$10,000 for each day of noncompliance.

21 § -4 **Certification; marking.** (a) Each manufacturer
22 shall submit to the state fire council written certification



1 attesting that each cigarette has been tested in accordance with
2 and has met the performance standard required under section

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

- 5 (1) The brand or trade name;
- 6 (2) Style, such as light or ultra light;
- 7 (3) Length in millimeters;
- 8 (4) Circumference in millimeters;
- 9 (5) Flavor, if applicable;
- 10 (6) Filter or nonfilter;
- 11 (7) Package description, such as a soft pack or box;
- 12 (8) The mark approved pursuant to subsection (b);
- 13 (9) The laboratory conducting the test; and
- 14 (10) The date of the test.

15 Upon request, this certification shall be made available to the
16 state fire council and attorney general. Each cigarette
17 certified under this subsection shall be recertified every three
18 years.

19 (b) The manufacturer shall pay to the state fire council a
20 fee of \$250 for each cigarette tested. The state fire council
21 may adopt rules in accordance with chapter 91 to adjust the

1 amount of this fee to ensure it is sufficient to cover all
2 implementation costs incurred under this chapter.

3 (c) Cigarettes that have been certified pursuant to
4 subsection (a) shall be marked pursuant to the following
5 requirements:

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

8 (A) Modification of the product's universal product
9 code to include a visible mark printed at or
10 around the area of the universal product code.

11 The mark may consist of one or more alphanumeric
12 or symbolic characters permanently stamped,
13 engraved, embossed, or printed in conjunction
14 with the universal product code;

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

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



1 (2) Prior to the certification of any cigarette, a
2 manufacturer shall request approval of a proposed
3 marking from the state fire council. The state fire
4 council shall approve:

5 (A) Any marking approved and in use for the sale of
6 cigarettes in the states of New York, California,
7 or Vermont; and

8 (B) The letters "FSC" signifying "fire standards
9 complaint" in eight-point or large type font and
10 permanently printed, stamped, engraved, or
11 embossed on the package at or near the universal
12 product code.

13 A marking shall be deemed approved if the state fire council
14 fails to act within ten business days of receiving a request for
15 approval. A manufacturer shall not use a modified marking
16 unless the modification has been approved in accordance with
17 this chapter. A manufacturer shall use only one marking on all
18 brands that the manufacturer markets. A marking or modified
19 marking approved by the state fire council shall be applied
20 uniformly on all brands marketed and on all packages, including
21 packs, cartons, and cases, marketed by that manufacturer.



1 (d) A manufacturer shall provide a copy of certifications
2 to all wholesalers to which the manufacturer sells cigarettes
3 and shall provide sufficient copies of an illustration of the
4 packaging marking approved and used by the manufacturer pursuant
5 to subsection (b) for each of the dealers that purchases
6 cigarettes from any of those wholesalers. Wholesalers shall
7 provide a copy of the illustration to all dealers to which they
8 sell cigarettes. Wholesalers and dealers shall permit the state
9 fire council to inspect markings on cigarette packaging at any
10 time.

11 § -5 **State fire council; testing, certification,**
12 **marking, and random inspections; rules.** The state fire council:

- 13 (1) May adopt rules under chapter 91 necessary to
14 implement and administer the testing, certification,
15 and marking of cigarettes under this chapter;
- 16 (2) May adopt rules under chapter 91 to ensure compliance
17 with this section and may examine the books, papers,
18 invoices, and other records of any person possessing,
19 controlling, or occupying any premises on which
20 cigarettes are placed, stored, sold or offered for
21 sale, including any stocks of cigarettes on the
22 premises; and



1 (3) Shall ensure that the rules adopted under this section
2 are in accordance with the implementation and
3 substance of the New York fire safety standards for
4 cigarettes.

5 § **-6 Penalties; enforcement; state fire council.** (a)

6 The following civil penalties may be assessed:

- 7 (1) Against a manufacturer, wholesaler, retailer, or any
8 other person that knowingly sells cigarettes, except
9 by licensed retail sales, in violation of section
10 -3, a civil penalty not to exceed \$100 for each
11 pack of cigarettes sold or offered for sale; provided
12 that the penalty shall not exceed \$100,000 for a
13 violation occurring within any thirty consecutive
14 calendar days;
- 15 (2) Against a manufacturer that knowingly makes a false
16 certification pursuant to section -4, a civil
17 penalty of not less than \$75,000 but not more than
18 \$250,000 for each false certification;
- 19 (3) Against a dealer that knowingly sells or offers for
20 sale cigarettes in violation of section -3, a civil
21 penalty not to exceed \$100 for each pack of cigarettes
22 sold or offered for sale; provided that the penalty



1 shall not exceed \$25,000 for a violation occurring
2 within any thirty consecutive calendar days; and
3 (4) Against any other person that violates any provision
4 of this section, a civil penalty of not more than
5 \$1,000 for the first offense not more than \$5,000 for
6 each subsequent offense.

7 (b) Any cigarettes sold or offered for sale that do not
8 comply with the safety standard required by section -3 shall
9 be seized, ordered forfeited, and be destroyed; provided that
10 the true holder of trademark rights in the cigarette brand shall
11 be permitted to inspect the cigarettes prior to destruction.

12 (c) In addition to any other remedy provided by law, the
13 state fire council may file an action for a violation of this
14 section, including petitioning for injunctive relief, recovery
15 of costs or damages suffered by the State as the result of a
16 violation of this section, including enforcement costs relating
17 to the specific violation and attorney fees. In any such
18 action, the state fire council shall have the same authority to
19 investigate and obtain remedies, except civil penalties under
20 subsection (a), as if the action were brought pursuant to
21 section 708-870 relating to deceptive business practices. Each
22 violation of this chapter or of any rule adopted under this



1 chapter shall constitute a separate civil violation for which
2 the state fire council may obtain relief.

3 (d) Enforcement of this chapter shall be under the
4 jurisdiction of the state fire council. The state fire council
5 may seek assistance in the enforcement of this chapter from
6 other law enforcement agencies. Notwithstanding the existence
7 of other remedies at law, the state fire council may apply for a
8 temporary or permanent injunction restraining any person from
9 violating or continuing to violate this chapter. The injunction
10 shall be issued without bond.

11 § -7 **Exemption.** Nothing in this chapter shall be
12 construed to prohibit any person from manufacturing or selling
13 cigarettes that do not meet the requirements of this chapter, if
14 the cigarettes are stamped for sale in another state or are to
15 be sold outside the United States.

16 § -8 **Existing inventories.** Wholesalers or dealers may
17 sell existing cigarette inventories on or after July 1, 2009;
18 provided the wholesaler or dealer can establish both of the
19 following to the satisfaction of the state fire council:

20 (1) The Hawaii tax stamps were affixed to the cigarettes
21 pursuant to chapter 245, Hawaii Revised Statutes,
22 prior to July 1, 2009; and



1 (2) The inventory was purchased prior to July 1, 2009 and
2 the purchased inventory is comparable to the amount of
3 inventory purchased at the same time the previous
4 year.

5 Furthermore, the sale of cigarettes solely for the purpose of
6 consumer testing shall be exempt from this chapter. For the
7 purposes of this section, the term "consumer testing" means an
8 assessment of cigarettes that is conducted by or under the
9 control of a manufacturer for the purpose of evaluating consumer
10 acceptance of those cigarettes, using only a quantity of
11 cigarettes that is reasonably necessary for the assessment;
12 provided that the assessment is conducted in a controlled
13 setting where the cigarettes are either consumed immediately at
14 the site of the assessment or returned immediately to the person
15 conducting the assessment."

16 SECTION 3. Chapter 132, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§132- Reduced ignition propensity cigarettes law;
20 enforcement. The state fire council shall adopt rules under
21 chapter 91 to implement the enforcement of the reduced ignition
22 propensity cigarettes law pursuant to chapter ."



1 SECTION 4. Any other law to the contrary notwithstanding,
 2 no county may enact any ordinance that conflicts with, or
 3 enforce and ordinance that is preempted by, this Act or that
 4 conflicts with the intent of this Act, whether expressed or
 5 implied.

6 SECTION 5. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2009, and
 8 shall be repealed on the date of completion of:

9 (1) Delivery of a written certification by the state fire
 10 council to the governor that a federal reduced
 11 ignition propensity standard preempting this Act has
 12 been adopted; and

13 (2) Issuance of a proclamation by the governor of the
 14 delivery of certification.
 15

INTRODUCED BY:

Almond D. S. ...

[Handwritten signatures]



Cindy Evans

Report Title:

Reduced Ignition Propensity "Fire-Safe" Cigarettes

Description:

Prohibits sale of cigarettes in Hawaii that are not reduced ignition propensity "fire-safe" beginning 07/01/09. Sets civil fines and requires state fire council to adopt rules to enforce law.

