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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 cigarette 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 cigarette  
8 manufacturers and wholesalers to offer for sale reduced ignition  
9 propensity cigarettes at a ratio of to every one non-  
10 reduced ignition propensity cigarette offered for sale within  
11 the same calendar year in the State.

12 SECTION 2. The Hawaii Revised Statutes is amended by  
13 adding a new chapter to be appropriately designated and to read  
14 as follows:

15 **"CHAPTER**

16 **REDUCED IGNITION PROPENSITY CIGARETTES LAW**

17 § -1 **Purpose.** It is the intent of this chapter to  
18 require cigarette manufacturers and wholesalers to offer for  
19 sale reduced ignition propensity cigarettes at a ratio of  
20 to every one non-reduced ignition propensity cigarette  
21 offered for sale within the same calendar year in the State.

22 Although these cigarettes are not guaranteed to self-extinguish,



1 they are expected to reduce accidental fires and related  
2 personal injury and property damage caused by cigarette smoking.

3 § -2 **Definitions.** For the purposes of this chapter,  
4 unless the context otherwise requires:

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

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

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

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



1 "Sale" or "selling" means any transfer of title or  
2 possession, exchange, or barter, conditional or otherwise, and  
3 includes the giving of cigarettes as samples, prizes, or gifts  
4 and the exchange of cigarettes for any consideration.

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

6 § -3 **Cigarettes; reduced ignition propensity;**

7 **manufacturer testing.** No cigarettes may be manufactured in this  
8 State or sold or offered for sale to any person in this State  
9 unless reduced ignition propensity cigarettes are also offered  
10 for sale at a ratio of reduced ignition propensity  
11 cigarettes to every one non-reduced ignition propensity  
12 cigarette offered for sale within the same calendar year in the  
13 State. A sample of the reduced ignition propensity cigarettes  
14 intended to be manufactured in this State or intended to be sold  
15 or offered for sale in this State shall be tested in accordance  
16 with the test method and meet the performance standard specified  
17 in this section. The manufacturer shall file a written  
18 certification with the attorney general in accordance with  
19 section -4. The performance standard for reduced ignition  
20 propensity cigarettes manufactured, sold, or offered for sale in  
21 this State shall include all the following:



- 1           (1) Testing of cigarettes shall be conducted in accordance  
2           with the American Society of Testing and Materials  
3           standard E2187-04 "Standard Test Method for Measuring  
4           the Ignition Strength of Cigarettes". The attorney  
5           general may adopt as rules, under chapter 91, a  
6           subsequent American Society of Testing and Materials  
7           Standard Test Method for Measuring the Ignition  
8           Strength of Cigarettes upon a finding that the  
9           subsequent method does not result in a change in the  
10          percentage of full-length burns exhibited by any  
11          tested cigarette when compared to the percentage of  
12          full-length burns the same cigarette would exhibit  
13          when tested in accordance with American Society of  
14          Testing and Materials standard E2187-04 and the  
15          performance standard of this section;
- 16          (2) Testing of cigarettes shall be conducted on ten layers  
17          of filter paper;
- 18          (3) No more than twenty-five per cent of the cigarettes  
19          tested in a test trial shall exhibit full-length  
20          burns. Forty replicate tests shall constitute a  
21          complete test trial for each cigarette tested;



- 1           (4) The performance standard required by this section  
2                   shall only be applied to a complete test trial;
- 3           (5) Laboratories that conduct tests in accordance with  
4                   this section shall implement a quality control and  
5                   quality assurance program that includes a procedure to  
6                   determine the repeatability of the testing results.  
7                   The repeatability value shall be no greater than 0.19;
- 8           (6) Each cigarette listed in a certification that uses  
9                   lowered permeability bands in the cigarette paper to  
10                  achieve compliance with the performance standard in  
11                  this section shall have at least two nominally  
12                  identical bands on the paper surrounding the tobacco  
13                  column. At least one complete band shall be located  
14                  at least fifteen millimeters from the lighting end of  
15                  the cigarette. For cigarettes on which the bands are  
16                  positioned by design, there shall be at least two  
17                  bands located at least fifteen millimeters from the  
18                  lighting end and ten millimeters from the filter end  
19                  of the tobacco column. In the case of an unfiltered  
20                  cigarette, the two complete bands shall be located at  
21                  least fifteen millimeters from the lighting end and



1           ten millimeters from the labeled end of the tobacco  
2           column;

3           (7) The manufacturer of a brand and style of cigarette  
4           that the attorney general determines cannot be tested  
5           in accordance with the test method required by this  
6           section shall propose to the attorney general a test  
7           method and performance standard for that brand and  
8           style of cigarette. The attorney general may approve  
9           a test method and performance standard that the  
10          attorney general determines is equivalent to the  
11          requirement of this section, and the manufacturer may  
12          use that test method and performance standard for  
13          certification pursuant to section     -4; and

14          (8) A manufacturer shall retain all data from testing  
15          conducted under this section for a period of three  
16          years. The manufacturer shall provide that data to  
17          the attorney general upon request in order to ensure  
18          compliance with the performance standard required by  
19          this section.

20          §    -4   **Certification; marking.** (a) A manufacturer that  
21          intends to manufacture or sell reduced ignition propensity and  
22          non-reduced ignition propensity cigarettes in the State shall



1 submit to the attorney general written certification attesting  
2 that samples of each brand and style of the manufacturer's  
3 reduced ignition propensity cigarettes intended for manufacture  
4 or sale in the State have been tested in accordance with and  
5 have met the performance standard required under section -3.

6 The description of each brand and style of reduced ignition  
7 propensity cigarette tested and to be listed in the  
8 certification shall include:

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

17 Upon request, this certification shall be made available to the  
18 attorney general. Each brand and style of reduced ignition  
19 propensity cigarette certified under this subsection shall be  
20 recertified every three years.





1 (b) Reduced ignition propensity cigarettes that have been  
2 certified pursuant to subsection (a) shall be marked pursuant to  
3 the following 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 who intends to manufacture or sell  
21 reduced ignition propensity and non-reduced ignition  
22 propensity cigarettes in the State shall request



1 approval of a proposed marking from the attorney  
2 general for the reduced ignition propensity  
3 cigarettes. Any marking approved and in use for the  
4 sale of reduced ignition propensity cigarettes in the  
5 states of New York, California, or Vermont shall be  
6 approved. A marking shall be deemed approved if the  
7 attorney general fails to act within business  
8 days of receiving a request for approval. The  
9 manufacturer shall not use a modified marking unless  
10 the modification has been approved in accordance with  
11 this chapter. The manufacturer shall use only one  
12 marking on all brands that the manufacturer markets.  
13 A marking or modified marking approved by the attorney  
14 general shall be applied uniformly on all brands  
15 marketed and on all packages, including packs,  
16 cartons, and cases, marketed by that manufacturer.

17 (c) The manufacturer shall provide a copy of  
18 certifications to all wholesalers that sell reduced ignition  
19 propensity cigarettes in the State to which the manufacturer  
20 sells such cigarettes and shall provide sufficient copies of an  
21 illustration of the packaging marking approved and used by the  
22 manufacturer pursuant to subsection (b) for each of the dealers



1 that purchases reduced ignition propensity cigarettes from any  
2 of those wholesalers. These wholesalers shall permit the  
3 attorney general to inspect markings on reduced ignition  
4 propensity cigarette packaging at any time.

5 § -5 **Attorney general; testing, certification, marking,**  
6 **and random inspections; rules.** The attorney general:

- 7 (1) May adopt rules under chapter 91 necessary to  
8 implement and administer the testing, certification,  
9 and marking of cigarettes under this chapter;
- 10 (2) May adopt rules under chapter 91 regarding the conduct  
11 of random inspections of wholesalers to ensure  
12 compliance with this section; and
- 13 (3) Shall ensure that the rules adopted under this section  
14 are in accordance with the implementation and  
15 substance of the New York fire safety standards for  
16 cigarettes.

17 § -6 **Penalties; enforcement; attorney general.** (a) The  
18 following civil penalties may be assessed:

- 19 (1) Against a manufacturer or wholesaler or any other  
20 person who offers non-reduced ignition propensity  
21 cigarettes for sale in the State and knowingly fails  
22 to also offer for sale within the same calendar year



1 in the State reduced ignition propensity cigarettes at  
2 a ratio of to every one non-reduced ignition  
3 propensity cigarette in violation of section -3, a  
4 civil penalty not to exceed \$10,000 for each day of  
5 the violation;

6 (2) Against a manufacturer who knowingly makes a false  
7 certification pursuant to section -4, a civil  
8 penalty not to exceed \$10,000 for each false  
9 certification; and

10 (3) Against any other person who violates any provision of  
11 this chapter, a civil penalty not to exceed \$1,000 for  
12 each violation.

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



1 violation of this chapter or of any rule adopted under this  
2 chapter shall constitute a separate civil violation for which  
3 the attorney general may obtain relief.

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

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

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

20 "§28- Reduced ignition propensity cigarettes law;  
21 enforcement. The attorney general shall adopt rules under



1 chapter 91 to implement the enforcement of the reduced ignition  
2 propensity cigarettes law pursuant to chapter ."

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2009.

5

INTRODUCED BY: *Shiranne Chun Randall*



**Report Title:**

Reduced Ignition Propensity "Fire-Safe" Cigarettes

**Description:**

Requires cigarette manufacturers and wholesalers to offer within the same calendar year reduced ignition propensity cigarettes at a ratio of \_\_\_\_\_ to one regular cigarette beginning 07/01/09. Sets civil fines and requires attorney general to adopt rules to enforce law.

