

JAN 18 2019

A BILL FOR AN ACT

RELATING TO THE STATE FIRE COUNCIL.

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

1 SECTION 1. In 1979, the legislature abolished the state
2 fire marshal's office and created the state fire council. The
3 council, which is administratively attached to the department of
4 labor and industrial relations, comprises the four county fire
5 chiefs. The goal of the council is to develop and maintain a
6 comprehensive fire service emergency management network for the
7 protection of life, property, and the environment, throughout
8 the State of Hawaii. The council is tasked with reviewing and
9 adopting the state fire code, providing administrative oversight
10 of the reduced ignition propensity cigarette program, providing
11 assistance with the application and administration of federal
12 grants for the fire service, assisting and coordinating with the
13 statewide delivery of fire training programs, coordinating the
14 collection of fire data, and supporting contingency planning
15 needs for firefighters. The council may establish statewide
16 qualifications for testing, certifying, and credentialing
17 individuals who perform maintenance and testing of portable fire



1 extinguishers, fire protection systems, and fire alarm systems.
2 The council also advises the governor and legislature on matters
3 relating to fire prevention, fire protection, and life safety.
4 In addition, the council is a voting member of the state
5 building code council, whose responsibilities are delineated in
6 section 107-24, Hawaii Revised Statutes.

7 From its inception until 2001, the state fire council had
8 no funding to hire staff to fulfill its responsibilities. The
9 council relied upon county personnel to perform its duties.
10 These county personnel had to perform these added duties
11 alongside their normal functions within their respective fire
12 departments. In 2001, the governor directed the department of
13 labor and industrial relations to allocate \$35,000 into its
14 budget to fund the first part-time employee for the council. In
15 2011, an additional \$71,000 was appropriated by the legislature
16 to hire two additional personnel. The legislature finds that
17 with money from the reduced ignition propensity cigarette
18 special fund, the council could hire additional personnel to
19 oversee the coordination of statewide fire data collection and
20 analysis and to administer federal fire-related grants. The
21 council would also be able to fund statewide educational efforts



1 for the protection of life, property, and the environment, such
2 as the firefighter safety guide program for Hawaii's youth and
3 the residential smoke alarm installation program for Hawaii's
4 at-risk senior population.

5 Hawaii enacted a reduced ignition propensity cigarette law,
6 which took effect on September 30, 2009. The intent of this
7 law, codified at section 132C-1, Hawaii Revised Statutes, is "to
8 require that only reduced ignition propensity cigarettes be sold
9 in the State". Section 132C-4, Hawaii Revised Statutes,
10 requires that cigarette manufacturers submit written
11 certification attesting that each cigarette brand or style they
12 wish to sell in Hawaii has been tested in accordance with the
13 performance standard for reduced ignition propensity required
14 under section 132C-3, Hawaii Revised Statutes. These
15 certifications must be renewed every three years. A fee of \$375
16 must be paid to the state fire council for each cigarette brand
17 or style certification. These fees are deposited into the
18 reduced ignition propensity cigarette special fund. From 2009
19 through early 2014, this special fund was not utilized. On
20 January 16, 2014, an administrative specialist was hired to help
21 manage the reduced ignition propensity cigarette program. Wages



1 for the reduced ignition propensity cigarette program
2 administrator and other expenses directly attributed to the
3 reduced ignition propensity cigarette program are paid for using
4 money in the special fund.

5 The purpose of this Act to is to:

6 (1) Authorize the use of the reduced ignition propensity
7 cigarette program special fund to support the duties
8 and responsibilities of the state fire council, in
9 addition to administering and enforcing the reduced
10 ignition propensity cigarette program; and

11 (2) Specify the testing procedures of the reduced ignition
12 propensity cigarette program.

13 SECTION 2. Section 132C-3, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Testing performed or sponsored by the state fire
16 council to determine a cigarette's compliance with the
17 performance standard required by this section shall be conducted
18 in accordance with this section. The following test process
19 shall be followed by the state fire council:

20 (1) Twenty-five brand or style cigarette samples
21 consisting of two packs per brand or style shall be



1 selected by the state fire council for testing;
2 provided that cigarettes shall be tested in accordance
3 with the test method outlined in this section;

4 (2) Any brand or style test that has a failure rate of
5 twenty-five per cent or greater shall be identified
6 and designated for further testing; provided that the
7 manufacturer shall be notified in writing of the
8 failed brand or style test results;

9 (3) Forty packs of the failed brand or style cigarettes,
10 consisting of two packs per test, shall be purchased
11 and submitted for follow-up testing;

12 (4) If any of the follow-up tests has a failure rate of
13 twenty-five per cent or greater, the manufacturer
14 shall be informed of the second test failure and the
15 failed brand or style cigarette shall be removed from
16 sale in the State within thirty days from the date the
17 notification of test failure is received;

18 (5) The manufacturer may file a written appeal to the
19 state fire council no more than ten days after the
20 notification of the second test failure is received;



1 and the manufacturer shall provide written
2 justification or evidence to support its appeal; and
3 (6) No later than thirty days after an appeal has been
4 received, the state fire council shall conduct an
5 administrative hearing and render a decision based on
6 the written justification or evidence submitted by the
7 manufacturer to support the appeal."

8 SECTION 3. Section 132C-6, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) The following civil penalties may be assessed:

12 (1) Against a manufacturer, wholesaler, or any other
13 person or entity that knowingly sells cigarettes,
14 except by licensed retail sales, in violation of
15 section 132C-3, a civil penalty not to exceed \$100 for
16 each pack of cigarettes sold or offered for sale;
17 provided that in no case shall the penalty exceed
18 \$100,000 during any thirty-day period;

19 (2) Against a manufacturer that knowingly makes a false
20 certification pursuant to section 132C-4, a civil



1 penalty of at least \$75,000 and not to exceed \$250,000
2 for each false certification;

3 (3) Against a dealer that knowingly sells or offers for
4 sale cigarettes in violation of section 132C-3, a
5 civil penalty not to exceed \$100 for each pack of
6 cigarettes sold or offered for sale; provided that in
7 no case shall the penalty exceed \$25,000 for sales or
8 offers to sell during any thirty-day period; and

9 (4) Against any other person that violates this chapter, a
10 civil penalty for a first offense not to exceed
11 \$1,000, and for a subsequent offense not to exceed
12 \$5,000 for each violation. Entities subject to this
13 paragraph may include manufacturers whose brand or
14 style cigarette has a failure rate of twenty-five per
15 cent or greater after two successive failed tests."

16 2. By amending subsection (d) to read:

17 "(d) In addition to any other remedy provided by law, the
18 attorney general may file an action for a violation of this
19 section, including petitioning for injunctive relief, recovery
20 of costs or damages suffered by the State as the result of a
21 violation of this section, including testing and enforcement



1 costs relating to the specific violation and attorney fees.
2 Each violation of this chapter or of any rule adopted pursuant
3 to this chapter shall constitute a separate civil violation for
4 which the attorney general may obtain relief."

5 SECTION 4. Section 132C-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~+~~§132C-9~~+~~ **Reduced ignition propensity cigarette**
8 **program special fund.** (a) There is established in the state
9 treasury a reduced ignition propensity cigarette program special
10 fund, into which shall be deposited all moneys collected by the
11 state fire council from the reduced ignition propensity
12 cigarette program pursuant to section 132C-4. All interest
13 earned or accrued on moneys deposited in the fund shall become
14 part of the fund.

15 (b) Moneys in the reduced ignition propensity cigarette
16 program special fund shall be administered and expended by the
17 state fire council to defray the actual cost of activities and
18 requirements of section 132C-4, including employing ~~[one full-~~
19 ~~time]~~ a full- or part-time administrator [and one full time], an
20 administrative assistant [whose], or other staff personnel
21 without regard to chapters 76 or 89. The duties of the



1 administrator, administrative assistant, or other staff

2 personnel shall include:

- 3 (1) Adopting administrative rules for program
4 implementation, establishing compliance inspections,
5 and approving forms and enforcement procedures and
6 guidelines;
- 7 (2) Receiving certifications for approximately six hundred
8 different brands and styles of cigarettes from the
9 manufacturers;
- 10 (3) Compiling a list of the cigarette brands and styles
11 for which manufacturers have submitted certifications,
12 verifying tax stamp compliance with the department of
13 the attorney general, and posting the list of
14 certified brands and styles on a state website for
15 informational purposes only;
- 16 (4) Reviewing and approving, as needed, any alternative
17 test methods or fire standard compliance markings
18 submitted by the manufacturer; and
- 19 (5) If needed, submitting certified cigarettes to an
20 accredited laboratory for testing to verify that
21 performance standards have been met.



1 (c) Money in the special fund may also be expended by the
2 state fire council to:

3 (1) Defray the cost of community fire education, safety,
4 and prevention programs, especially as they relate to
5 youth and seniors;

6 (2) Preparedness and life safety programs; and


7 (3) Administrative duties of the state fire council,
8 including the hiring of additional personnel."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

12

INTRODUCED BY: _____



By Request



S.B. NO. 146

Report Title:

State Fire Council Package; Reduced Ignition Propensity
Cigarette Certification Fees; Cigarette Testing; Civil Penalties

Description:

Authorizes the State Fire Council to use moneys in the reduced ignition propensity cigarette program special fund to support the duties and responsibilities of the state fire council. Specifies the testing procedures of the reduced ignition propensity cigarette program. Provides that a manufacturer of cigarettes that fail certain testing may be subject to civil penalties.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

