

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. The legislature finds that in 1979, the state
2 fire marshal's office was abolished and the legislature created
3 the state fire council, which is comprised of four county fire
4 chiefs and administratively attached to the department of labor
5 and industrial relations. The goal of the state fire council is
6 to develop and maintain a comprehensive fire service emergency
7 management network for the protection of life, property, and the
8 environment throughout the State. The state fire council is
9 tasked with reviewing and adopting the state fire code,
10 providing administrative oversight of the reduced ignition
11 propensity cigarette program, providing assistance with the
12 application and administration of federal grants for the fire
13 service, assisting and coordinating with the statewide delivery
14 of fire training programs, coordinating the collection of fire
15 data, and supporting contingency planning needs for
16 firefighters. The state fire council also has other
17 responsibilities, including establishing statewide



1 qualifications for testing, certifying, and credentialing
2 individuals who perform maintenance and testing of portable fire
3 extinguishers, fire protection systems, and fire alarm systems;
4 advising the governor and legislature on matters related to fire
5 prevention, fire protection, and life safety; and acting as a
6 voting member on the state building code council.

7 The legislature further finds that from the state fire
8 council's inception until 2001, the council had no funding for
9 staff personnel to fulfill its responsibilities. Instead, the
10 state fire council relied upon county personnel to perform its
11 duties, along with their normal functions within their
12 respective fire departments. In 2001, the governor directed the
13 department of labor and industrial relations to allocate \$35,000
14 into its budget to fund the first part-time employee for the
15 state fire council. Later, in 2011, an additional \$71,000 was
16 appropriated by the legislature to hire two additional personnel
17 for the state fire council.

18 The legislature further finds that an underutilized source
19 of funding for more staff personnel for the state fire council
20 may exist. Hawaii enacted a reduced ignition propensity
21 cigarette law effective on September 30, 2009, with the intent



1 to "require that only reduced ignition propensity cigarettes be
2 sold in the State". As a result, section 132C-4, Hawaii Revised
3 Statutes, requires that cigarette manufacturers submit written
4 certification attesting that each cigarette brand and style they
5 wish to sell in Hawaii has been tested in accordance with the
6 performance standards required under state law for reduced
7 ignition propensity. Along with each cigarette certification,
8 which must be renewed every three years, a fee of \$375 must be
9 paid to the state fire council and deposited into the reduced
10 ignition propensity cigarette program special fund. However,
11 from 2009 through early 2014, the special fund was not utilized.
12 Only since January 2014 has the fund been utilized for the
13 salary of personnel - the hiring of an administrative specialist
14 to help manage the reduced ignition propensity cigarette program
15 - and other expenses directly attributed to the program.

16 With moneys from the reduced ignition propensity cigarettes
17 special fund, the state fire council could hire additional
18 personnel to oversee the coordination of statewide fire data
19 collection and analysis and administer federal fire-related
20 grants. The state fire council would also be able to fund
21 statewide educational efforts for the protection of life,



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

4 The purpose of this Act is to:

- 5 (1) Expand the use of the reduced ignition propensity
6 cigarette program special fund to support the duties
7 and responsibilities of the state fire council,
8 including the hiring of staff;
- 9 (2) Specify the testing process by the state fire council
10 in determining a cigarette's compliance with
11 performance standards under state law; and
- 12 (3) Expand the conditions in which a civil penalty may be
13 imposed on a manufacturer to include a cigarette
14 failure rate of twenty-five per cent or greater after
15 two successive failed tests.

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

18 "(d) Testing performed or sponsored by the state fire
19 council to determine a cigarette's compliance with the
20 performance standard required by this section shall be conducted
21 in accordance with this section. For cigarettes that fail the



1 testing required by subsection (a), the following testing
2 process shall be followed by the state fire council:

3 (1) Twenty-five cigarette brand or style samples
4 consisting of two packs per brand or style shall be
5 selected by the state fire council for testing.

6 Cigarettes shall be tested in accordance with the test
7 method outlined under this section;

8 (2) Any cigarette brand or style test that has a failure
9 rate of twenty-five per cent or greater shall be
10 identified and designated for further testing;
11 provided that the manufacturer shall be notified in
12 writing of the failed cigarette brand or style test
13 results;

14 (3) Forty packs of the failed cigarette brand or style,
15 with two packs per test, shall be purchased and
16 submitted for follow-up testing;

17 (4) If any of the follow-up tests has a failure rate of
18 twenty-five per cent or greater, the manufacturer
19 shall be informed of the second test failure and the
20 failed cigarette brand or style shall be removed from
21 sale in the State within thirty days from the date the



1 notification of the second test failure is received by
2 the manufacturer;

3 (5) The manufacturer may file a written appeal to the
4 state fire council no more than ten days after the
5 notification of the second test failure is received by
6 the manufacturer. The manufacturer shall provide
7 written justification or evidence to support its
8 appeal; and

9 (6) Thirty days after an appeal has been received, the
10 state fire council shall conduct an administrative
11 hearing to render a decision based on the written
12 justification or evidence submitted by the
13 manufacturer to support the appeal."

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

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

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

18 (1) Against a manufacturer, wholesaler, or any other
19 person or entity that knowingly sells cigarettes,
20 except by licensed retail sales, in violation of
21 section 132C-3, a civil penalty not to exceed \$100 for



1 each pack of cigarettes sold or offered for sale;
2 provided that in no case shall the penalty exceed
3 \$100,000 during any thirty-day period;

4 (2) Against a manufacturer that knowingly makes a false
5 certification pursuant to section 132C-4, a civil
6 penalty of at least \$75,000 and not to exceed \$250,000
7 for each false certification;

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

14 (4) Against any other person that violates this chapter, a
15 civil penalty for a first offense not to exceed
16 \$1,000, and for a subsequent offense not to exceed
17 \$5,000 for each violation[-]; provided that the
18 penalties under this paragraph may apply to
19 manufacturers whose cigarette brand or style has a
20 failure rate of twenty-five per cent or greater after
21 two successive failed tests."



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

2 "(d) In addition to any other remedy provided by law, the
3 attorney general may file an action for a violation of this
4 section, including petitioning for injunctive relief, recovery
5 of costs or damages suffered by the State as the result of a
6 violation of this section, including testing and enforcement
7 costs relating to the specific violation and attorney fees.
8 Each violation of this chapter or of any rule adopted pursuant
9 to this chapter shall constitute a separate civil violation for
10 which the attorney general may obtain relief."

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

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



1 (b) Moneys in the reduced ignition propensity cigarette
2 program special fund shall be administered and expended by the
3 state fire council to defray the actual cost of activities and
4 requirements of section 132C-4, including employing ~~[one]~~ a
5 full-time or part-time administrator ~~[and one full-time]~~, an
6 administrative assistant ~~[whose duties]~~, and other staff
7 personnel without regard to chapters 76 and 89. The duties of
8 the administrator, administrative assistant, and other staff
9 shall include:

- 10 (1) Adopting administrative rules for program
11 implementation, establishing compliance inspections,
12 and approving forms and enforcement procedures and
13 guidelines;
- 14 (2) Receiving certifications for approximately six hundred
15 different brands and styles of cigarettes from the
16 manufacturers;
- 17 (3) Compiling a list of the cigarette brands and styles
18 for which manufacturers have submitted certifications,
19 verifying tax stamp compliance with the department of
20 the attorney general, and posting the list of



1 certified brands and styles on a state website for
2 informational purposes only;

3 (4) Reviewing and approving, as needed, any alternative
4 test methods or fire standard compliance markings
5 submitted by the manufacturer; and

6 (5) If needed, submitting certified cigarettes to an
7 accredited laboratory for testing to verify that
8 performance standards have been met.

9 (c) Moneys in the reduced ignition propensity cigarette
10 program special fund may be administered and expended by the
11 state fire council to defray the cost of:

12 (1) Statewide community fire education, safety, and
13 prevention programs, especially programs related to
14 youth and seniors;

15 (2) Emergency preparedness and life safety programs; and

16 (3) The administrative duties of the state fire council,
17 including the hiring of additional personnel."

18 SECTION 5. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



S.B. NO. 631

1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

4

INTRODUCED BY: *Clarence J. Fisk* *B/R*



S.B. NO. 631

Report Title:

State Fire Council; Reduced Ignition Propensity Cigarette Program Special Fund; Personnel; Testing; Penalties

Description:

Expands the use of the reduced ignition propensity cigarette program special fund to support the duties and responsibilities of the state fire council, including the hiring of staff. Specifies the testing process by the state fire council in determining a cigarette's compliance with performance standards under state law. Expands the conditions in which a civil penalty may be imposed on a manufacturer to include a cigarette failure rate of twenty-five per cent or greater after two successive failed tests.

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

