

HOUSE BILL REPORT

2SSB 5642

As Reported by House Committee On:

Commerce & Labor

Appropriations Subcommittee on General Government & Audit Review

Title: An act relating to reduced cigarette ignition propensity.

Brief Description: Addressing cigarette ignition propensity.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Rockefeller, Franklin and Tom).

Brief History:

Committee Activity:

Commerce & Labor: 2/26/08 [DP];

Appropriations Subcommittee on General Government & Audit Review: 2/28/08, 2/29/08 [DPA].

Brief Summary of Second Substitute Bill (As Amended by House Committee)

- Requires that all cigarettes sold in Washington be reduced ignition strength.
- Directs the State Director of Fire Protection to administer these provisions.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152).

Background:

The Office of the State Fire Marshal, Fire Protection Bureau (Bureau) is within the Washington State Patrol and provides various services to fire districts, government agencies, and the public. Examples of these services include fire incident reporting and data collection,

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fire code review and adoption, and construction plan reviews for fire sprinkler and alarm systems. The Bureau also regulates the fireworks and sprinkler industries. In addition, the Bureau provides high-risk fire training to fire departments and fire protection districts, hazardous materials training, and fire prevention education.

Other states, such as California, New York, and Vermont, have enacted legislation requiring that only reduced ignition strength cigarettes may be sold. Cigarettes sold in Washington do not need to meet similar requirements.

Summary of Bill:

All cigarettes sold in Washington after August 1, 2009, must be reduced ignition strength. The determination of reduced ignition strength is made by conducting propensity strength testing in accordance with the standards developed by the American Society of Testing and Materials (ASTM). The testing of cigarettes must be conducted on 10 layers of filter paper. A cigarette meets the ignition propensity strength testing if not more than 25 percent of the cigarettes tested exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

If the State Director of Fire Protection (Director) determines that a cigarette manufacturer cannot use the ASTM method, the manufacturer is required to propose a test method and performance standard. If the Director approves the method, the manufacturer may use it to certify the cigarette. The Director may allow manufacturers to use alternative methods and standards if they are approved by another state that has the same requirements.

Manufacturers must maintain copies of the reports of all tests conducted on cigarettes offered for sale for three years and must make copies of these reports available to the Director and the Attorney General. Any manufacturer who fails to make copies of these reports within 60 days of receiving a written request is subject to a civil penalty not to exceed \$10,000 for each day after the 60th day that the manufacturer does not make the copies available.

If the method does not result in a change in the percentage of full-length burns, the Director may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes.

Beginning in 2012, the Director must review the effectiveness of this test method and performance standard application. The Director must report the findings and any recommendations every three years to the Legislature.

Wholesale or retail dealers are not prohibited from selling their existing inventory of cigarettes on or after August 1, 2009, if the dealer can establish that state tax stamps were affixed to the cigarettes prior to August 1, 2009, and can establish that the inventory was purchased in a comparable quantity to the inventory purchased during the same period of the previous year. Each manufacturer must submit to the Director a written certification for each cigarette. Each cigarette must be recertified every three years. A manufacturer must pay a fee of \$250 for

each cigarette listed in a certification. The Director may adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter.

If a manufacturer makes any changes to a cigarette that has been certified, that cigarette may not be sold or offered for sale in this state until the manufacturer retests the cigarette according to the testing standards set in this chapter.

Cigarettes that are certified must be marked to indicate compliance with the testing and performance standard requirements. A manufacturer must present its proposed marking to the Director for approval. A manufacturer can use only one marking and it must be applied uniformly on all packages.

Civil penalties are established for violations of these provisions.

The Attorney General and the Director are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.

The Reduced Cigarette Ignition Propensity Account (Account) is created in the State Treasurer. All receipts from the payment of certification fees and from the imposition of civil penalties must be deposited to the Account. Expenditures from the Account may be used only for fire safety, enforcement, and prevention programs. Only the Director or their designee may authorize expenditures from the Account.

A person or entity is not prohibited from manufacturing or selling cigarettes that do not meet the requirements if the cigarettes are or will be stamped for sale in another state, if the person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2009.

Staff Summary of Public Testimony:

(In support) This bill is about saving lives and property. Fires started by smoking are the number one cause of fire deaths in Washington. These fires also cause a tremendous amount of property loss. There was some previous opposition to this bill, but a collaborative working process has helped the retailers, the wholesalers, and the tobacco industry to support this bill.

Twenty-two other states, as well as Canada, have already passed laws like this one. The European Union will implement similar restrictions in the next couple of years.

(Opposed) None.

Persons Testifying: Andrew McGuire, National Fire Protection Association; Mike Brown, Washington Fire Chiefs; and Joe Daniels, Phillip Morris USA.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

Majority Report: Do pass as amended. Signed by 12 members: Representatives Linville, Chair; Ericks, Vice Chair; Skinner, Assistant Ranking Minority Member; Alexander, Blake, Chandler, Kretz, Lantz, Lias, Miloscia, Morris and Nelson.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Audit Review Compared to Recommendation of Committee On Commerce & Labor:

A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect August 1, 2009. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill is about saving lives and property. The technology exists to prevent cigarette papers from continuing to burn, which will stop a major cause of fires. Fires started by smoking are the number one cause of fire deaths in Washington. A collaborative working process has helped retailers, wholesalers, and the industry to support the bill, and there is no opposition to the bill. Twenty-two other states and Canada have already passed laws similar to this one, and more are expected to pass in the coming months.

(Opposed) None.

Persons Testifying: Joe Daniels, Phillip Morris USA; and Mike Brown, Washington Fire Chiefs.

Persons Signed In To Testify But Not Testifying: None.