

AN ACT concerning fire safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Cigarette Fire Safety Standard Act.

Section 5. Definitions. As used in this Act:

"Agent" means any person licensed by the Department of Revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

"Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Manufacturer" means:

(1) any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(3) any entity that becomes a successor of an entity described in items (1) or (2) of this definition.

"Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

"Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco

products.

"Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money are considered sales.

"Sell" means to sell, or to offer or agree to do the same.

"Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in subsection (e) of Section 15 of this Act for all test trials used to certify cigarettes in accordance with this Act.

"Wholesale dealer" means any person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Section 10. General requirements.

(a) On and after the effective date of this Act, no cigarettes shall be sold or offered for sale to any person in this State unless:

(1) the cigarettes have been tested in accordance with the test method prescribed in Section 15 of this Act;

(2) the cigarettes meet the performance standard specified in Section 20 of this Act; and

(3) a written certification has been filed by the manufacturer with the Office of the State Fire Marshal and the Office of Attorney General in accordance with Section 30 of this Act.

(b) Nothing in this Act prohibits wholesale dealers or

retail dealers from selling their inventory of cigarettes existing on the effective date of this Act, provided that the wholesale dealer or retail dealer can establish that tax stamps were affixed to the cigarettes pursuant to Section 3 of the Cigarette Tax Act before the effective date of this Act, and provided further that the wholesale dealer or retail dealer can establish that the inventory was purchased before the effective date of this Act in comparable quantity to the amount of inventory purchased during the same period of the prior year.

(c) Nothing in this Act shall be construed to prohibit any person or entity from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with Section 30 of this Act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

Section 15. Test method.

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes". The Office of the State Fire Marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in Section 20 of this Act.

(b) Testing shall be conducted on 10 layers of filter paper.

(c) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by Section 20 of this Act shall only be applied to a complete test trial.

(e) Laboratories conducting testing in accordance with

this Section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19 pursuant to Section 20 of this Act.

(f) This Section does not require additional testing if cigarettes are tested consistent with this Act for any other purpose.

Section 20. Performance standard.

(a) When tested in accordance with Section 15 of this Act, no more than 25% of the cigarettes tested in a test trial shall exhibit full-length burns.

(b) Each cigarette listed in a certification submitted in accordance with Section 30 of this Act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subsection (a) of this Section shall have at least 2 nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least 2 bands fully located at least 15 millimeters from the lighting end and either (i) 10 millimeters from the filter end of the tobacco column, or (ii) 10 millimeters from the labeled end of the tobacco column for non-filtered cigarettes.

(c) The manufacturer or manufacturers of a cigarette that the Office of the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in Section 15 of this Act shall propose a test method and performance standard for such cigarette to the Office of the State Fire Marshal. Upon approval of the proposed test method and a determination by the Office of the State Fire Marshal that the performance standard proposed by the manufacturer or manufacturers is equivalent to the performance standard prescribed in subsection (a) of this Section, the manufacturer

or manufacturers may employ such test method and performance standard to certify such cigarette in accordance with Section 30 of this Act. If the State Fire Marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that is the same as those contained in this Act, and the State Fire Marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this subsection (c), then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal demonstrates a reasonable basis why the alternative test should not be accepted under this Act. All other applicable requirements of this Act shall apply to such manufacturer or manufacturers.

(d) This Act shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

Section 25. Test data. To ensure compliance with the performance standard specified in Section 20 of this Act, data from testing conducted by manufacturers to comply with this performance standard shall be kept on file by the manufacturers for a period of 3 years and shall be sent to the Office of the State Fire Marshal upon its request and to the Office of the Attorney General upon its request.

Section 30. Certification.

(a) Each manufacturer shall submit a written certification attesting that:

(1) each cigarette listed in the certification has been tested in accordance with Section 15 of this Act; and

(2) each cigarette listed in the certification meets the performance standard set forth in Section 20 of this Act.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) brand (i.e., the trade name on the package);
- (2) style (e.g., light, ultra light);
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor (e.g., menthol, chocolate) if applicable;
- (6) filter or non-filter;
- (7) package description (e.g., soft pack, box); and
- (8) marking approved in accordance with Section 40 of this Act.

(c) Each cigarette certified under this Section shall be re-certified every 3 years.

Section 35. Notification of certification. Manufacturers certifying cigarettes in accordance with Section 30 of this Act shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the cigarette packaging marking used by the manufacturer in accordance with Section 40 of this Act for each retail dealer to which the wholesale dealers and agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these cigarette packaging markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the Office of the State Fire Marshal, Department of Revenue, and the Office of the Attorney General to inspect markings of cigarette packaging marked in accordance with Section 40 of this Act.

Section 40. Marking of cigarette packaging.

(a) Cigarettes that have been certified by a manufacturer in accordance with Section 30 of this Act shall be marked to

indicate compliance with the requirements of this Act. The marking shall be in 8-point type or larger and consist of:

(1) modification of the product UPC Code to include a visible mark printed at or around the area of the UPC Code. The mark may consist of an alphanumeric or symbolic character or characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC Code;

(2) any visible alphanumeric or symbolic character or combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this Act.

(b) A manufacturer must use only one marking, and must apply this marking uniformly for all packages including, but not limited to, packs, cartons, and cases and to brands marketed by that manufacturer.

(c) The Office of the State Fire Marshal must be notified as to the marking that is selected.

(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the Office of the State Fire Marshal for approval. Upon receipt of the request, the Office of the State Fire Marshal shall approve or disapprove the marking offered. A marking in use and approved for the sale of cigarettes in the State of New York shall be deemed approved. Proposed markings shall be deemed approved if the Office of the State Fire Marshal fails to act within 10 business days of receiving a request for approval.

(e) No manufacturer shall modify its approved marking unless the modification has been approved by the Office of the State Fire Marshal in accordance with this Section.

Section 45. Penalties; Cigarette Fire Safety Standard Act Fund.

(a) Any manufacturer, wholesale dealer, agent, or other

person or entity who knowingly sells cigarettes wholesale in violation of item (3) of subsection (a) of Section 10 of this Act shall be subject to a civil penalty not to exceed \$10,000 for each sale of the cigarettes. Any retail dealer who knowingly sells cigarettes in violation of Section 10 of this Act shall be subject to the following: (i) a civil penalty not to exceed \$500 for each sale or offer for sale of cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale does not exceed 1,000 cigarettes; (ii) a civil penalty not to exceed \$1,000 for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale exceeds 1,000 cigarettes.

(b) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 30 of this Act shall be subject to a civil penalty not to exceed \$10,000 for each false certification.

(c) Upon discovery by the Office of the State Fire Marshal, the Department of Revenue, the Office of the Attorney General, or a law enforcement agency that any person offers, possesses for sale, or has made a sale of cigarettes in violation of Section 10 of this Act, the Office of the State Fire Marshal, the Department of Revenue, the Office of the Attorney General, or the law enforcement agency may seize those cigarettes possessed in violation of this Act.

(d) The Cigarette Fire Safety Standard Act Fund is established as a special fund in the State treasury. The Fund shall consist of all moneys recovered by the Attorney General from the assessment of civil penalties authorized by this Section. The moneys in the Fund shall, in addition to any moneys made available for such purpose, be available, subject to appropriation, to the Office of the State Fire Marshal for the purpose of fire safety and prevention programs.

Section 50. Enforcement. To enforce the provisions of this Act, the Attorney General may bring an action on behalf of the people of this State to enjoin acts in violation of this Act and to recover civil penalties authorized under Section 45 of this Act.

Section 55. Administration. The Office of the State Fire Marshal shall be responsible for administering the provisions of this Act.

Section 60. Applicability. This Act shall cease to be applicable if federal fire safety standards for cigarettes that preempt this Act are enacted and take effect subsequent to the effective date of this Act and the State Fire Marshal so notifies the Secretary of State.

Section 900. The State Finance Act is amended by adding Section 5.663 as follows:

(30 ILCS 105/5.663 new)

Sec. 5.663. The Cigarette Fire Safety Standard Act Fund.

Section 999. Effective date. This Act takes effect January 1, 2008.