



General Assembly

Substitute Bill No. 703

January Session, 2007

* _____SB00703PS_JUD030707_____*

AN ACT MANDATING FIRE SAFE CIGARETTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2008*) As used in sections 1 to 4,
2 inclusive, and sections 6 to 9, inclusive, of this act, unless the context
3 clearly indicates otherwise:

4 (1) "Cigarette" means any product that is intended to be burned or
5 heated under ordinary conditions of use, and consists of or contains
6 any roll of tobacco wrapped in paper or in any substance not
7 containing tobacco;

8 (2) "Manufacturer" means (A) any entity that manufactures or
9 otherwise produces cigarettes or causes cigarettes to be manufactured
10 or produced anywhere that such manufacturer intends to be sold in
11 the state, including cigarettes intended to be sold in the United States
12 through an importer; (B) the first purchaser anywhere that intends to
13 resell in the United States cigarettes manufactured anywhere that the
14 original manufacturer or maker does not intend to be sold in the
15 United States; or (C) any entity that becomes a successor of an entity
16 described in subparagraph (A) or (B) of this subdivision;

17 (3) "Quality control and quality assurance program" means the
18 laboratory procedures implemented to ensure that operator bias,
19 systematic and nonsystematic methodological errors and equipment-

20 related problems do not affect the results of the testing;

21 (4) "Repeatability" means the range of values within which the
22 repeat results of cigarette test trials from a single laboratory will fall
23 ninety-five per cent of the time;

24 (5) "Retail dealer" means any person, other than a manufacturer or
25 wholesale dealer, engaged in selling cigarettes or tobacco products;

26 (6) "Sale" means any transfer of title or possession, or both, exchange
27 or barter, conditional or otherwise, in any manner and by any means,
28 and includes, but is not limited to, the giving of cigarettes as samples,
29 prizes or gifts, and the exchanging of cigarettes for any consideration;

30 (7) "Sell" means to sell, or to offer or agree to do the same; and

31 (8) "Wholesale dealer" means any person other than a manufacturer
32 who sells cigarettes or tobacco products to retail dealers or other
33 persons for purposes of resale, and any person who owns, operates or
34 maintains one or more cigarette or tobacco product vending machines
35 in, at or upon premises owned or occupied by any other person.

36 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Except as provided in
37 subsection (f) of this section, no cigarettes may be sold or offered for
38 sale in the state or offered for sale or sold to persons located in the state
39 unless the cigarettes have been tested in accordance with the test
40 method and meet the performance standard specified in this section, a
41 written certification has been filed by the manufacturer with the Office
42 of the State Marshal in accordance with section 3 of this act, and the
43 cigarettes have been marked in accordance with section 4 of this act.
44 All testing by the manufacturer or testing performed or sponsored by
45 the Office of the State Fire Marshal to determine a cigarette's
46 compliance with the performance standard required shall be
47 conducted in accordance with the following requirements:

48 (1) Testing of cigarettes shall be conducted in accordance with the
49 American Society of Testing and Materials or "ASTM" standard E2187-

50 04, "Standard Test Method for Measuring the Ignition Strength of
51 Cigarettes" or a subsequent ASTM Standard Test Method for
52 measuring the ignition strength of cigarettes upon a finding by the
53 State Fire Marshal that such subsequent method does not result in a
54 change in the percentage of full-length burns exhibited by any tested
55 cigarette;

56 (2) Testing shall be conducted on ten layers of filter paper;

57 (3) Not more than twenty-five per cent of the cigarettes tested in a
58 test trial in accordance with this section shall exhibit full-length burns.
59 Forty replicate tests shall comprise a complete test trial for each
60 cigarette tested;

61 (4) The performance standard required by this section shall only be
62 applied to a complete test trial;

63 (5) Written certifications shall be based upon testing conducted by a
64 laboratory that has been accredited pursuant to standard ISO or IEC
65 17025 of the International Organization for Standardization or other
66 comparable accreditation standard required by the Office of the State
67 Fire Marshal;

68 (6) Laboratories conducting testing in accordance with this section
69 shall implement a quality control and quality assurance program that
70 includes a procedure that will determine the repeatability of the testing
71 results. The repeatability value shall be no greater than 0.19; and

72 (7) No additional testing is required if cigarettes are tested
73 consistent with this section for any other purpose.

74 (b) Each cigarette that uses lowered permeability bands in the
75 cigarette paper to achieve compliance with the performance standard
76 set forth in this section shall have not less than two nominally identical
77 bands on the paper surrounding the tobacco column. At least one
78 complete band shall be located not less than fifteen millimeters from
79 the lighting end of the cigarette. For cigarettes on which the bands are

80 positioned by design, there shall be not less than two bands fully
81 located at least fifteen millimeters from the lighting end and ten
82 millimeters from the filter end of the tobacco column, or ten
83 millimeters from the labeled end of the tobacco column for nonfiltered
84 cigarettes.

85 (c) A manufacturer of a cigarette that the State Fire Marshal
86 determines cannot be tested in accordance with the test method
87 prescribed in subdivision (1) of subsection (a) of this section may
88 propose an alternate test method and performance standard for the
89 cigarette to the State Fire Marshal. Upon approval and a determination
90 by the State Fire Marshal that the performance standard proposed by
91 the manufacturer is equivalent to the performance standard prescribed
92 in subdivision (3) of subsection (a) of this section, the manufacturer
93 may employ such test method and performance standard to certify
94 such cigarette pursuant to section 3 of this act.

95 (d) Each manufacturer shall maintain copies of the reports of all
96 tests conducted on all cigarettes offered for sale for a period of three
97 years, and shall provide copies of these reports to the State Fire
98 Marshal and the Attorney General upon written request. Any
99 manufacturer who fails to provide such copies on or before the sixtieth
100 day following receipt of a written request shall be subject to a civil
101 penalty not to exceed ten thousand dollars for each day after the
102 sixtieth day that the manufacturer does not make such copies
103 available.

104 (e) The State Fire Marshal shall review the effectiveness of the
105 testing methods employed and shall submit a report to the joint
106 standing committee of the General Assembly having cognizance of
107 matters relating to public safety, in accordance with section 11-4a of
108 the general statutes, containing the State Fire Marshal's findings and, if
109 appropriate, recommendations for legislation to improve the
110 effectiveness of the testing methods employed. Such report shall be
111 submitted not later than June 30, 2011, and every three years
112 thereafter.

113 (f) Nothing in this section shall be construed to prohibit: (1)
114 Wholesale or retail dealers from selling their existing inventory of
115 cigarettes on or after January 1, 2008, if the wholesale or retail dealer
116 can establish that state tax stamps were affixed to the cigarettes prior
117 to the effective date of this section and the wholesale or retail dealer
118 can establish that the inventory was purchased prior to January 1,
119 2008, in comparable quantity to the inventory purchased during the
120 same period of the prior year; or (2) the sale of cigarettes solely for the
121 purpose of consumer testing. For purposes of this subsection,
122 "consumer testing" means an assessment of cigarettes that is conducted
123 by or under the control of a manufacturer for the purpose of
124 evaluating consumer acceptance of such cigarettes, utilizing only the
125 quantity of cigarettes that is reasonably necessary for such assessment,
126 and in a controlled setting where the cigarettes are either consumed
127 on-site or returned to the testing administrators at the conclusion of
128 the testing.

129 Sec. 3. (NEW) (*Effective January 1, 2008*) (a) Each manufacturer shall
130 submit to the Office of the State Fire Marshal a written certification on
131 a form prescribed by the State Fire Marshal every three years attesting
132 that: (1) Each cigarette listed in the certification has been tested in
133 accordance with section 2 of this act; and (2) each cigarette listed in the
134 certification meets the performance standard set forth in section 2 of
135 this act.

136 (b) The certification shall list the following information for each
137 cigarette listed: (1) Brand, or trade name on the package; (2) style, such
138 as light or ultra light; (3) length in millimeters; (4) circumference in
139 millimeters; (5) flavor, such as menthol or chocolate, if applicable; (6)
140 filter or nonfilter; (7) package description, such as soft pack or box; (8)
141 marking pursuant to section 4 of this act; (9) the name, address and
142 telephone number of the laboratory, if different than the manufacturer
143 that conducted the test; and (10) the date that the testing occurred.

144 (c) Each certification may be provided to the Attorney General for
145 the purposes of ensuring compliance with this section.

146 (d) For each certification, a manufacturer shall pay to the State Fire
147 Marshal a fee of two hundred fifty dollars. The State Fire Marshal may
148 annually adjust the fee, in regulations adopted in accordance with
149 chapter 54 of the general statutes, to ensure that such fee defrays the
150 actual costs of the processing, testing, enforcement and oversight
151 activities of the State Fire Marshal.

152 (e) If a manufacturer has certified a cigarette pursuant to this
153 section, and thereafter makes any change to such cigarette that is likely
154 to alter its compliance with the reduced cigarette ignition propensity
155 standards required by section 2 of this act, that cigarette shall not be
156 sold or offered for sale in the state until the manufacturer retests the
157 cigarette, in accordance with the testing and recording requirements
158 set forth in section 2 of this act, and finds that the cigarette meets such
159 standards.

160 Sec. 4. (NEW) (*Effective January 1, 2008*) (a) Prior to the certification
161 of a cigarette, a manufacturer shall present its proposed marking to the
162 State Fire Marshal for approval. Proposed markings shall be deemed
163 approved if the State Fire Marshal fails to act on or before the tenth
164 business day following receipt of a request for approval. The marking
165 shall be in eight-point type or larger and consist of: (1) Modification of
166 the product UPC Code to include a visible mark printed at or around
167 the area of the UPC Code. The mark may consist of alphanumeric or
168 symbolic characters permanently stamped, engraved, embossed or
169 printed in conjunction with the UPC; (2) any visible combination of
170 alphanumeric or symbolic characters permanently stamped, engraved
171 or embossed upon the cigarette package or cellophane wrap; (3)
172 printed, stamped, engraved or embossed text that indicates that the
173 cigarettes meet the standards of sections 1 to 3, inclusive, of this act; or
174 (4) the letters "FSC", which signifies Fire Standards Compliant
175 appearing in eight-point type or larger and be permanently printed,
176 stamped, engraved or embossed on the package at or near the UPC
177 code.

178 (b) A manufacturer shall use only one marking, and shall apply this

179 marking uniformly for all packages, including, but not limited to,
180 packs, cartons, and cases, and brands marketed by that manufacturer.
181 No manufacturer shall modify its approved marking unless the
182 modification has been approved by the State Fire Marshal in
183 accordance with this section.

184 (c) Manufacturers shall provide a copy of the certifications to all
185 wholesale dealers and agents to which they sell cigarettes, and shall
186 also provide sufficient copies of an illustration of the package marking
187 utilized by the manufacturer pursuant to this section for each retail
188 dealer to which the wholesale dealers or agents sell cigarettes.
189 Wholesale dealers and agents shall provide a copy of these package
190 markings received from manufacturers to all retail dealers to which
191 they sell cigarettes. Wholesale dealers, agents and retail dealers shall
192 permit the State Fire Marshal, the Commissioner of Revenue Services,
193 the Attorney General and their employees to inspect markings of
194 cigarette packaging marked in accordance with this section.

195 (d) Nothing in this section shall be construed to prohibit any person
196 or entity from manufacturing or selling cigarettes that do not meet the
197 requirements of this section if the cigarettes are or will be stamped for
198 sale in another state or are packaged for sale outside the United States
199 and that person or entity has taken reasonable steps to ensure that
200 such cigarettes will not be sold or offered for sale to persons located in
201 this state.

202 Sec. 5. Section 12-302 of the general statutes is repealed and the
203 following is substituted in lieu thereof (*Effective January 1, 2008*):

204 (a) Except as otherwise provided in subsection (b) of this section,
205 each distributor shall affix, or cause to be affixed, at the location for
206 which such distributor's license is issued, in such manner as the
207 commissioner may specify in regulations issued pursuant to this
208 chapter, to each individual package of cigarettes sold or distributed by
209 the distributor, stamps of the proper denomination, as required by
210 section 12-296. Such stamps may be affixed by a distributor at any time

211 before the cigarettes are transferred out of the distributor's possession.

212 (b) No distributor shall affix, or cause to be affixed, to a package of
213 cigarettes sold or distributed by such distributor, stamps, if the
214 package (1) is not labeled in conformity with the requirements of the
215 federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC
216 1331 et seq., or any other federal requirement for the placement of
217 labels, warnings and other information, applicable to packages of
218 cigarettes that are intended to be sold within the United States; (2)
219 bears any label or notice prescribed by the United States Department
220 of Treasury to identify cigarettes intended for export and exempt from
221 tax by the United States pursuant to 26 USC 5704(b), including "For
222 export only", "U.S. Tax-exempt", "For use outside U.S." or similar
223 wording indicating that the manufacturer did not intend that the
224 product be sold within the United States, including any notice or label
225 described in 27 CFR 290.185; (3) has been imported into the United
226 States after January 1, 2000, in violation of 26 USC 5754 or regulations
227 adopted thereunder; (4) in any way violates federal trademark or
228 copyright law or if all federal taxes due have not been paid on the
229 cigarettes; (5) has been modified or altered by a person other than the
230 manufacturer or person specifically authorized by the manufacturer,
231 including modification or alteration by the placement of a sticker or
232 label to cover information, including the wording, labels or warnings
233 described in subdivision (1) or (2) of this subsection, on the package;
234 [or] (6) has been manufactured or sold by a tobacco product
235 manufacturer that is in violation of subdivision (2) of subsection (a) of
236 section 4-28i or section 4-28j and the distributor has been notified by
237 the commissioner of such violation; or (7) that has not been marked in
238 accordance with section 4 of this act. Notwithstanding the provisions
239 of section 12-15, the commissioner may disclose to the public the name
240 of any person who has violated the provisions of section 4-28i or 4-28j.

241 Sec. 6. (NEW) (*Effective January 1, 2008*) (a) A manufacturer,
242 wholesale dealer, agent or any other person or entity who knowingly
243 sells or offers to sell cigarettes, other than through retail sale, in
244 violation of section 2 of this act, shall be subject to a civil penalty not to

245 exceed one hundred dollars for each pack of such cigarettes sold or
246 offered for sale provided that in no case shall the penalty against any
247 such person or entity exceed one hundred thousand dollars during any
248 thirty-day period.

249 (b) A retail dealer who knowingly sells or offers to sell cigarettes in
250 violation of section 2 of this act shall be subject to a civil penalty not to
251 exceed one hundred dollars for each pack of such cigarettes sold or
252 offered for sale, provided the total penalty against any retail dealer
253 shall not exceed twenty-five thousand dollars for sales or offers to sell
254 during any thirty-day period.

255 (c) In addition to any penalty prescribed by law, any corporation,
256 partnership, sole proprietor, limited partnership or association
257 engaged in the manufacture of cigarettes that knowingly makes a false
258 certification pursuant to section 2 of this act shall be subject to a civil
259 penalty of not less than seventy-five thousand dollars and not to
260 exceed two hundred fifty thousand dollars for each such false
261 certification.

262 (d) Any person violating any provision of sections 3 and 4,
263 inclusive, of this act shall be subject to a civil penalty for a first offense
264 not to exceed one thousand dollars, and for a subsequent offense
265 subject to a civil penalty not to exceed five thousand dollars for each
266 such violation.

267 (e) In addition to any other remedy provided by law, the Attorney
268 General may file an action in the superior court for the judicial district
269 of Hartford for a violation of any provision of sections 1 to 4, inclusive,
270 of this act including petitioning for injunctive relief or to recover any
271 costs or damages suffered by the state due to a violation, including
272 enforcement costs relating to the specific violation and attorney's fees.
273 Each violation constitutes a separate and distinct civil offense for
274 which the Attorney General may obtain relief.

275 (f) Whenever any member of law enforcement personnel or duly
276 authorized local or state fire marshal discovers any cigarettes that have

277 not been tested in accordance with section 2 of this act or marked in
278 the manner required by section 4 of this act, such member or fire
279 marshal may seize and take possession of such cigarettes. Such
280 cigarettes shall be turned over to the Commissioner of Revenue
281 Services and shall be forfeited to the state. Cigarettes seized pursuant
282 to this section shall be destroyed, provided prior to such destruction,
283 the true holder of the trademark rights in the cigarette brand may
284 inspect the cigarette.

285 Sec. 7. (NEW) (*Effective January 1, 2008*) The State Fire Marshal, in
286 consultation with the Commissioner of Revenue Services, may adopt
287 regulations, in accordance with chapter 54 of the general statutes, as
288 necessary to effectuate the purposes of sections 1 to 4, inclusive, and
289 sections 6 to 9, inclusive, of this act.

290 Sec. 8. (NEW) (*Effective January 1, 2008*) (a) The Commissioner of
291 Revenue Services in the regular course of conducting inspections of
292 wholesale dealers, agents and retail dealers, as authorized under
293 chapter 214a of the general statutes, may inspect cigarettes to
294 determine if the cigarettes are marked as required by section 4 of this
295 act. If the cigarettes are not marked as required, the Commissioner of
296 Revenue Services shall notify the State Fire Marshal.

297 (b) The Attorney General, the Commissioner of Revenue Services
298 and the State Fire Marshal, their duly authorized representatives and
299 other law enforcement personnel may examine the books, papers,
300 invoices and other records of any person in possession, control or
301 occupancy of any premises where cigarettes are placed, stored, sold or
302 offered for sale, as well as the stock of cigarettes on the premises.
303 Every person in the possession, control or occupancy of any premises
304 where cigarettes are placed, sold or offered for sale, shall give the
305 Attorney General, the Commissioner of Revenue Services and the State
306 Fire Marshal, their duly authorized representatives and other law
307 enforcement personnel the means, facilities and opportunity for the
308 examinations authorized by this section.

309 Sec. 9. (NEW) (*Effective July 1, 2007*) There is established an account
310 to be known as the "fire safety standard and firefighter protection act
311 enforcement account", which shall be a separate, nonlapsing account
312 within the General Fund. The account shall contain all certification fees
313 submitted by manufacturers in accordance with section 2 of this act,
314 any penalties collected pursuant to section 6 of this act and any other
315 moneys required by law to be deposited in the account. The proceeds
316 of the account shall be used by the State Fire Marshal solely to fund the
317 processing, testing, enforcement and oversight activities specified in
318 sections 1 to 4, inclusive, and sections 6 to 8, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2008</i>	New section
Sec. 2	<i>January 1, 2008</i>	New section
Sec. 3	<i>January 1, 2008</i>	New section
Sec. 4	<i>January 1, 2008</i>	New section
Sec. 5	<i>January 1, 2008</i>	12-302
Sec. 6	<i>January 1, 2008</i>	New section
Sec. 7	<i>January 1, 2008</i>	New section
Sec. 8	<i>January 1, 2008</i>	New section
Sec. 9	<i>July 1, 2007</i>	New section

PS

Joint Favorable Subst. C/R

JUD