



General Assembly

Amendment

January Session, 2007

LCO No. 7411

SB0070307411SD0

Offered by:

SEN. STILLMAN, 20th Dist.

SEN. GAFFEY, 13th Dist.

REP. DARGAN, 115th Dist.

To: Subst. Senate Bill No. 703

File No. 665

Cal. No. 521

**"AN ACT CONCERNING FIRE SAFE CIGARETTES AND APPEALS
OF DECISIONS BY LOCAL TREE WARDENS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2008*) As used in sections 1 to 6,
4 inclusive, sections 9 and 10 of this act, and sections 12-302 and 12-303
5 of the general statutes, as amended by this act:

6 (1) "Cigarette manufacturer's license" means a cigarette
7 manufacturer's license issued pursuant to section 12-285b of the
8 general statutes;

9 (2) "Cigarette" means any roll for smoking made wholly or in part of
10 tobacco, irrespective of size or shape and irrespective of whether the
11 tobacco is flavored, adulterated or mixed with any other ingredient,
12 where such roll has a wrapper or cover made of paper or any other

13 substance or material except tobacco;

14 (3) "Quality control and quality assurance program" means the
15 laboratory procedures implemented to ensure that operator bias,
16 systematic and nonsystematic methodological errors and equipment-
17 related problems do not affect the results of the testing;

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

21 (5) "Brand family" has the same meaning as provided in section 4-
22 28k of the general statutes;

23 (6) "Holder" means the holder of a cigarette manufacturer's license;

24 (7) "Stamper" means a person licensed as a cigarette distributor
25 under chapter 214 of the general statutes and authorized to purchase
26 unstamped packages of cigarettes and required to affix Connecticut
27 cigarette tax stamps to such packages before such packages are
28 transferred out of such person's possession, unless such packages are
29 transferred to another stamper; and

30 (8) "Connecticut Tobacco Directory" means the directory described
31 in section 4-28m of the general statutes and maintained by the
32 Commissioner of Revenue Services pursuant to said section.

33 Sec. 2. (NEW) (*Effective July 1, 2008*) (a) On and after July 1, 2008, no
34 holder of a cigarette manufacturer's license shall sell cigarettes, or offer
35 cigarettes for sale, to consumers within this state, whether directly or
36 through a distributor, dealer, or similar intermediary or
37 intermediaries, unless such cigarettes comply with the requirements of
38 subsection (b) of this section.

39 (b) Cigarettes to be sold, or offered for sale, to consumers within this
40 state, whether directly or through a distributor, dealer, or similar
41 intermediary or intermediaries, shall: (1) Have been tested in
42 accordance with the test method specified in section 3 of this act and

43 meet the performance standard specified in section 3 of this act; (2)
44 have been listed in a written certification submitted to the Office of the
45 State Fire Marshal in accordance with section 4 of this act; and (3) be in
46 packages marked in accordance with section 6 of this act.

47 (c) Any violation of the provisions of subsection (a) of this section
48 shall be deemed an unfair and deceptive trade practice under section
49 42-110b of the general statutes.

50 (d) If any holder violates the provisions of subsection (a) of this
51 section, the Commissioner of Revenue Services may suspend or revoke
52 the holder's cigarette manufacturer's license in the same manner as
53 provided in section 12-295 of the general statutes for the suspension or
54 revocation of the license of a dealer or distributor.

55 (e) Nothing in this section shall be construed to prohibit any holder
56 or any stamper from selling or offering for sale cigarettes not meeting
57 the requirements of subsection (b) of this section if such cigarettes are
58 or will be stamped for sale in another state or are packaged for sale
59 outside the United States.

60 Sec. 3. (NEW) (*Effective July 1, 2008*) (a) All testing by or on behalf of
61 a holder of a cigarette manufacturer's license or by or on behalf of the
62 Office of the State Fire Marshal to determine a cigarette's compliance
63 with the performance standard specified in this section shall be
64 conducted in accordance with the following requirements:

65 (1) Testing of cigarettes shall be conducted in accordance with the
66 American Society of Testing and Materials or "ASTM" standard E2187-
67 04, "Standard Test Method for Measuring the Ignition Strength of
68 Cigarettes" or a subsequent ASTM Standard Test Method for
69 Measuring the Ignition Strength of Cigarettes upon a finding by the
70 State Fire Marshal that such subsequent method does not result in a
71 change in the percentage of full-length burns exhibited by any tested
72 cigarette when compared to the percentage of full-length burns the
73 same cigarette would exhibit when tested in accordance with ASTM
74 standard E2187-04 and the performance standard in subdivision (3) of

75 this subsection;

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

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

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

83 (5) Written certifications shall be based upon testing conducted by a
84 laboratory that has been accredited pursuant to standard ISO or IEC
85 17025 of the International Organization for Standardization or such
86 other comparable accreditation standard as the Office of the State Fire
87 Marshal may require by regulation;

88 (6) Laboratories conducting testing in accordance with this section
89 shall implement a quality control and quality assurance program that
90 includes a procedure that will determine the repeatability of the testing
91 results. The repeatability value shall be no greater than 0.19. Such
92 program ensures that the testing repeatability remains within the
93 required repeatability value set forth in this subdivision for all test
94 trials used to certify cigarettes in accordance with this section and
95 section 4 of this act; and

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

98 (b) Each cigarette that uses lowered permeability bands in the
99 cigarette paper to achieve compliance with the performance standard
100 set forth in this section shall have not less than two nominally identical
101 bands on the paper surrounding the tobacco column. At least one
102 complete band shall be located not less than fifteen millimeters from
103 the lighting end of the cigarette. For cigarettes on which the bands are
104 positioned by design, there shall be not less than two bands fully

105 located at least fifteen millimeters from the lighting end and ten
106 millimeters from the filter end of the tobacco column, or ten
107 millimeters from the labeled end of the tobacco column for nonfiltered
108 cigarettes.

109 (c) A holder of a cigarette manufacturer's license that manufactures
110 a cigarette that the State Fire Marshal determines cannot be tested in
111 accordance with the test method prescribed in subdivision (1) of
112 subsection (a) of this section may propose an alternate test method and
113 performance standard for the cigarette to the State Fire Marshal. Upon
114 approval and a determination by the State Fire Marshal that the
115 performance standard proposed by the holder is equivalent to the
116 performance standard prescribed in subdivision (3) of subsection (a) of
117 this section, the holder may employ such test method and performance
118 standard to certify such cigarette pursuant to section 4 of this act. If the
119 State Fire Marshal determines that another state has enacted reduced
120 cigarette ignition propensity standards that include a test method and
121 performance standard that are the same as those contained in this
122 section, and the State Fire Marshal finds that the officials responsible
123 for implementing those requirements have approved the proposed
124 alternative test method and performance standard for a particular
125 cigarette proposed by a holder as meeting the reduced cigarette
126 ignition propensity standards of that state's law or regulations under a
127 legal provision comparable to this section, then the State Fire Marshal
128 shall authorize that holder to employ the alternative test method and
129 performance standard to certify that cigarette for sale in this state,
130 unless the State Fire Marshal has a reasonable basis for deciding that
131 the alternative test should not be accepted under said sections. All
132 other applicable requirements of this section shall apply to the holder.

133 (d) Each holder of a cigarette manufacturer's license shall maintain
134 copies of the reports of all tests conducted on all cigarettes with respect
135 to which such holder has submitted written certification in accordance
136 with the provisions of section 4 of this act. Such holder shall provide
137 copies of the reports available to the Office of the State Fire Marshal
138 and to the office of the Attorney General upon written request. Any

139 holder that fails to provide such copies not later than sixty days after
140 receiving a written request shall be subject to a civil penalty not to
141 exceed ten thousand dollars for each day after the sixtieth day that the
142 holder does not make such copies available.

143 (e) The State Fire Marshal shall review the effectiveness of the
144 implementation of this section and shall submit a report to the joint
145 standing committee of the General Assembly having cognizance of
146 matters relating to public safety, in accordance with section 11-4a of
147 the general statutes, containing the State Fire Marshal's findings and, if
148 appropriate, recommendations for legislation to improve the
149 effectiveness of this section. Such report shall be submitted not later
150 than June 30, 2011, and every three years thereafter.

151 Sec. 4. (NEW) (*Effective July 1, 2008*) (a) Each holder of a cigarette
152 manufacturer's license shall submit to the Office of the State Fire
153 Marshal a written certification every three years attesting that: (1) Each
154 cigarette listed in the certification has been tested in accordance with
155 section 3 of this act; and (2) each cigarette listed in the certification
156 meets the performance standard set forth in section 3 of this act.

157 (b) The certification shall list the following information for each
158 cigarette listed: (1) Brand or trade name on the package; (2) style, such
159 as light or ultra light; (3) length in millimeters; (4) circumference in
160 millimeters; (5) flavor, if applicable; (6) filter or nonfilter; (7) package
161 description, such as a soft package or box; (8) marking pursuant to
162 section 6 of this act; (9) the name, address and telephone number of the
163 laboratory, if different than the holder that conducted the test; and (10)
164 the date that the testing occurred.

165 (c) For each cigarette listed in a certification, a holder shall pay to
166 the State Fire Marshal a fee of two hundred fifty dollars. The State Fire
167 Marshal may annually adjust such fee, in regulations adopted in
168 accordance with chapter 54 of the general statutes, to ensure that such
169 fee defrays the actual costs of the processing, testing, enforcement and
170 oversight activities of the State Fire Marshal in accordance with

171 sections 1 to 6, inclusive, of this act.

172 (d) If a holder has certified a cigarette pursuant to this section, and
173 thereafter makes any change to such cigarette that is likely to alter its
174 compliance with the reduced cigarette ignition propensity standards
175 required by section 3 of this act, the holder shall not sell that cigarette,
176 or offer that cigarette for sale, to consumers within this state, whether
177 directly or through a distributor, dealer or similar intermediary or
178 intermediaries, until the holder (1) retests the cigarette, in accordance
179 with the testing standards set forth in section 3 of this act, (2) maintains
180 records of such retesting as required by section 3 of this act, and (3)
181 finds that the cigarette meets the performance standards set forth in
182 section 3 of this act.

183 Sec. 5. (NEW) (*Effective July 1, 2008*) (a) Not later than July 1, 2008,
184 the Office of the State Fire Marshal shall develop and make available
185 for public inspection, on its web site and in such other forms as the
186 State Fire Marshal deems appropriate, a Connecticut Fire Safe
187 Cigarette Directory listing of all holders that have provided current
188 certifications conforming to the requirements of section 4 of this act
189 and all cigarettes that are listed in such certifications. The State Fire
190 Marshal shall update the directory as necessary in order to correct
191 mistakes and to add or remove a holder or cigarette to keep the
192 directory current and in conformity with the requirements of sections 1
193 to 6, inclusive, of this act.

194 (b) The State Fire Marshal shall not include or retain in such
195 directory the cigarette of any holder if the holder: (1) Has failed to
196 provide the required certification, (2) has failed to provide copies of
197 reports, as required by subsection (d) of section 3 of this act, and more
198 than sixty days have elapsed since the holder received the written
199 request therefor, or (3) has provided a certification that the State Fire
200 Marshal determines is not in compliance with the provisions of section
201 4 of this act, unless such violation has been remedied to the satisfaction
202 of the State Fire Marshal.

203 (c) Any holder aggrieved by a determination by the State Fire
204 Marshal not to include a cigarette in the directory maintained pursuant
205 to this section or to remove such cigarette from the directory may
206 apply, not later than thirty days after such determination, to the
207 superior court for the judicial district of Hartford, which court may
208 grant appropriate relief.

209 (d) If the State Fire Marshal determines that a holder of a cigarette
210 manufacturer's license has violated a provision of this section or
211 section 4 of this act, the Attorney General, upon referral from the State
212 Fire Marshal, may bring a civil action in the superior court for the
213 judicial district of Hartford to recover a civil penalty of not more than
214 ten thousand dollars per violation and such injunctive and equitable
215 relief as the court deems appropriate.

216 Sec. 6. (NEW) (*Effective July 1, 2008*) No holder of a cigarette
217 manufacturer's license shall sell cigarettes, or offer to sell cigarettes, to
218 consumers within this state, whether directly or through a distributor,
219 dealer or similar intermediary or intermediaries, unless the holder has
220 placed on each individual package of such cigarettes the letters "FSC",
221 which signifies Fire Standards Compliant. Such letters shall appear in
222 eight-point type and be permanently printed, stamped, engraved or
223 embossed on the package at or near the UPC Code, if such code is
224 present.

225 Sec. 7. Subsection (b) of section 12-302 of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective July*
227 *1, 2008*):

228 (b) No distributor shall affix, or cause to be affixed, to a package of
229 cigarettes sold or distributed by such distributor, stamps, if the
230 package (1) is not labeled in conformity with the requirements of the
231 federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC
232 1331 et seq., or any other federal requirement for the placement of
233 labels, warnings and other information, applicable to packages of
234 cigarettes that are intended to be sold within the United States; (2)

235 bears any label or notice prescribed by the United States Department
236 of Treasury to identify cigarettes intended for export and exempt from
237 tax by the United States pursuant to 26 USC 5704(b), including "For
238 export only", "U.S. Tax-exempt", "For use outside U.S." or similar
239 wording indicating that the manufacturer did not intend that the
240 product be sold within the United States, including any notice or label
241 described in 27 CFR 290.185; (3) has been imported into the United
242 States after January 1, 2000, in violation of 26 USC 5754 or regulations
243 adopted thereunder; (4) in any way violates federal trademark or
244 copyright law or if all federal taxes due have not been paid on the
245 cigarettes; (5) has been modified or altered by a person other than the
246 manufacturer or person specifically authorized by the manufacturer,
247 including modification or alteration by the placement of a sticker or
248 label to cover information, including the wording, labels or warnings
249 described in subdivision (1) or (2) of this subsection, on the package;
250 [or (6) has been manufactured or sold by a tobacco product
251 manufacturer that is in violation of subdivision (2) of subsection (a) of
252 section 4-28i or section 4-28j and the distributor has been notified by
253 the commissioner of such violation. Notwithstanding the provisions of
254 section 12-15, the commissioner may disclose to the public the name of
255 any person who has violated the provisions of section 4-28i or 4-28j]
256 (6) is of a brand family or of a tobacco product manufacturer not
257 included in the Connecticut Tobacco Directory maintained by the
258 Commissioner of Revenue Services pursuant to section 4-28m; or (7) is
259 of cigarettes not included in the Connecticut Fire Safe Cigarette
260 Directory maintained by the State Fire Marshal pursuant to section 5 of
261 this act.

262 Sec. 8. Subsection (b) of section 12-303 of the general statutes is
263 repealed and the following is substituted in lieu thereof (*Effective July*
264 *1, 2008*):

265 (b) No dealer shall affix, or cause to be affixed, to a package of
266 cigarettes sold or distributed by such dealer, stamps, if the package (1)
267 is not labeled in conformity with the requirements of the federal
268 Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC 1331 et

269 seq., or any other federal requirement for the placement of labels,
270 warnings and other information, applicable to packages of cigarettes
271 that are intended to be sold within the United States; (2) bears any
272 label or notice prescribed by the United States Department of Treasury
273 to identify cigarettes intended for export and exempt from tax by the
274 United States pursuant to 26 USC 5704(b), including "For export only",
275 "U.S. Tax-exempt", "For use outside U.S." or similar wording indicating
276 that the manufacturer did not intend that the product be sold within
277 the United States, including any notice or label described in 27 CFR
278 290.185; (3) has been imported into the United States after January 1,
279 2000, in violation of 26 USC 5754 or regulations adopted thereunder;
280 (4) in any way violates federal trademark or copyright law or if all
281 federal taxes due have not been paid on the cigarettes; (5) has been
282 modified or altered by a person other than the manufacturer or person
283 specifically authorized by the manufacturer, including modification or
284 alteration by the placement of a sticker or label to cover information,
285 including the wording, labels or warnings described in subdivision (1)
286 or (2) of this subsection, on the package; [or (6) has been manufactured
287 or sold by a tobacco product manufacturer that is in violation of
288 subdivision (2) of subsection (a) of section 4-28i or section 4-28j and the
289 dealer has been notified by the commissioner of such violation.
290 Notwithstanding the provisions of section 12-15, the commissioner
291 may disclose to the public the name of any person who has violated
292 the provisions of section 4-28i or 4-28j] (6) is of a brand family or of a
293 tobacco product manufacturer not included in the Connecticut
294 Tobacco Directory maintained by the Commissioner of Revenue
295 Services pursuant to section 4-28m; or (7) contains cigarettes not
296 included in the Connecticut Fire Safe Cigarette Directory maintained
297 by the State Fire Marshal pursuant to section 5 of this act.

298 Sec. 9. (NEW) (*Effective July 1, 2008*) The State Fire Marshal may
299 adopt regulations, in accordance with the provisions of chapter 54 of
300 the general statutes, to implement the provisions of sections 3 to 5,
301 inclusive, of this act, and such regulations may be consistent with the
302 New York fire safety standards.

303 Sec. 10. (NEW) (*Effective July 1, 2008*) There is established, within the
 304 General Fund, a separate, nonlapsing account to be known as the fire
 305 safety standard and firefighter protection act enforcement account. The
 306 account shall contain all certification fees submitted by holders in
 307 accordance with section 4 of this act, any civil penalties imposed in
 308 accordance with subsection (d) of section 3 of this act or subsection (d)
 309 of section 5 of this act, and any other moneys required by law to be
 310 deposited in the account. The proceeds of the account shall be used by
 311 the State Fire Marshal solely to fund the processing, testing and
 312 administrative activities specified in sections 3, 4 and 5 of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	New section
Sec. 3	<i>July 1, 2008</i>	New section
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>July 1, 2008</i>	New section
Sec. 6	<i>July 1, 2008</i>	New section
Sec. 7	<i>July 1, 2008</i>	12-302(b)
Sec. 8	<i>July 1, 2008</i>	12-303(b)
Sec. 9	<i>July 1, 2008</i>	New section
Sec. 10	<i>July 1, 2008</i>	New section