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## A BILL FOR AN ACT

RELATING TO CIGARETTES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. According to the National Fire Protection  
2 Association, cigarettes are the nation's leading cause of death  
3 by fire, resulting in about one thousand deaths, three thousand  
4 critical injuries, especially among firefighters, and about  
5 \$400,000,000 in direct property damage annually. Fire-safe, or  
6 "reduced ignition propensity", cigarettes are wrapped in a  
7 special paper with ultra-thin bands that work like speed bumps  
8 to slow the burning of the cigarette when the smoker is not  
9 taking puffs. This makes it less likely for an unattended  
10 cigarette to continue burning and thus lowers the risk of  
11 discarded cigarettes accidentally igniting bedding or  
12 upholstery. Left unsmoked, an abandoned or discarded reduced  
13 ignition cigarette would normally go out instead of causing a  
14 potentially fatal fire.

15           California, New York, Vermont, and Canada have implemented  
16 reduced ignition propensity cigarettes laws. Before California  
17 enacted its law, researchers at the Harvard School of Public  
18 Health found that, while not perfectly self-extinguishing,



1 reduced ignition propensity cigarettes sold in New York were far  
2 less likely to burn to the end than cigarettes of the same  
3 brands in California and Massachusetts. Only ten per cent of a  
4 sample of five major cigarette brands sold in New York had a  
5 "full burn" compared to 99.8 per cent of the California and  
6 Massachusetts cigarettes tested.

7 The purpose of this Act is to require only reduced ignition  
8 propensity cigarettes to be sold in the State.

9 SECTION 2. The Hawaii Revised Statutes is amended by  
10 adding a new chapter to be appropriately designated and to read  
11 as follows:

12 "CHAPTER

13 **REDUCED IGNITION PROPENSITY CIGARETTES LAW**

14 § -1 **Purpose.** It is the intent of this chapter to  
15 require that only reduced ignition propensity cigarettes be sold  
16 in the State. Although these cigarettes are not guaranteed to  
17 self-extinguish, they are expected to reduce accidental fires  
18 and related personal injury and property damage caused by  
19 cigarette smoking.

20 § -2 **Definitions.** For the purposes of this chapter,  
21 unless the context otherwise requires:

22 "Cigarette" has the meaning as defined in section 245-1.



1 "Dealer" has the meaning as defined in section 245-1.

2 "Manufacturer" means any person or a successor that  
3 manufactures or produces cigarettes or causes cigarettes to be  
4 manufactured or produced, whether in the State or outside of the  
5 State, and intends to sell the cigarettes in Hawaii directly or  
6 through an importer, including any first purchaser that intends  
7 to resell cigarettes.

8 "Quality control and quality assurance program" means  
9 laboratory procedures implemented to ensure that operator bias,  
10 systematic and nonsystematic methodological errors, and  
11 equipment-related problems do not affect the results of the  
12 testing and to ensure that the testing repeatability remains  
13 within the required repeatability value for any test trial used  
14 to certify cigarettes under this section.

15 "Repeatability" means the range of values within which the  
16 repeat results of cigarette test trials from a single laboratory  
17 will fall ninety-five per cent of the time.

18 "Sale" or "selling" means any transfer of title or  
19 possession, exchange, or barter, conditional or otherwise, and  
20 includes the giving of cigarettes as samples, prizes, or gifts  
21 and the exchange of cigarettes for any consideration.

22 "Wholesaler" has the meaning as defined in section 245-1.



1           §   -3   **Cigarettes; reduced ignition propensity;**  
2   **manufacturer testing.** No cigarettes may be manufactured in this  
3 State or sold or offered for sale to any person in this State  
4 unless the cigarettes have been tested in accordance with the  
5 test method and meet the performance standard specified in this  
6 section and the manufacturer has filed a written certification  
7 with the attorney general in accordance with section   -4. The  
8 performance standard for cigarettes sold or offered for sale in  
9 this State includes all the following:

10           (1) Testing of cigarettes shall be conducted in accordance  
11               with the American Society of Testing and Materials  
12               standard E2187-04 "Standard Test Method for Measuring  
13               the Ignition Strength of Cigarettes". The attorney  
14               general may adopt as rules under chapter 91, a  
15               subsequent American Society of Testing and Materials  
16               Standard Test Method for Measuring the Ignition  
17               Strength of Cigarettes upon a finding that the  
18               subsequent method does not result in a change in the  
19               percentage of full-length burns exhibited by any  
20               tested cigarette when compared to the percentage of  
21               full-length burns the same cigarette would exhibit  
22               when tested in accordance with American Society of



- 1           Testing and Materials standard E2187-04 and the  
2           performance standard of this section;
- 3           (2) Testing of cigarettes shall be conducted on ten layers  
4           of filter paper;
- 5           (3) No more than twenty-five per cent of the cigarettes  
6           tested in a test trial shall exhibit full-length  
7           burns. Forty replicate tests shall constitute a  
8           complete test trial for each cigarette tested;
- 9           (4) The performance standard required by this section  
10          shall only be applied to a complete test trial;
- 11          (5) Laboratories that conduct tests in accordance with  
12          this section shall implement a quality control and  
13          quality assurance program that includes a procedure to  
14          determine the repeatability of the testing results.  
15          The repeatability value shall be no greater than 0.19;
- 16          (6) Each cigarette listed in a certification that uses  
17          lowered permeability bands in the cigarette paper to  
18          achieve compliance with the performance standard in  
19          this section shall have at least two nominally  
20          identical bands on the paper surrounding the tobacco  
21          column. At least one complete band shall be located  
22          at least fifteen millimeters from the lighting end of



1 the cigarette. For cigarettes on which the bands are  
2 positioned by design, there shall be at least two  
3 bands located at least fifteen millimeters from the  
4 lighting end and ten millimeters from the filter end  
5 of the tobacco column. In the case of an unfiltered  
6 cigarette, the two complete bands shall be located at  
7 least fifteen millimeters from the lighting end and  
8 ten millimeters from the labeled end of the tobacco  
9 column;

10 (7) The manufacturer of a cigarette that the attorney  
11 general determines cannot be tested in accordance with  
12 the test method required by this section shall propose  
13 to the attorney general a test method and performance  
14 standard for that cigarette. The attorney general may  
15 approve a test method and performance standard that  
16 the attorney general determines is equivalent to the  
17 requirement of this section, and the manufacturer may  
18 use that test method and performance standard for  
19 certification pursuant to section -4; and

20 (8) A manufacturer shall retain all data from testing  
21 conducted under this section for a period of three  
22 years. The manufacturer shall provide that data to



1           the attorney general upon request in order to ensure  
2           compliance with the performance standard required by  
3           this section.

4        §   -4   **Certification; marking.**   (a)   Each manufacturer  
5   shall submit to the attorney general written certification  
6   attesting that each cigarette has been tested in accordance with  
7   and has met the performance standard required under section  
8       -3. The description of each cigarette listed in the  
9   certification shall include:

- 10       (1)   The brand;
- 11       (2)   Style;
- 12       (3)   Length in millimeters;
- 13       (4)   Circumference in millimeters;
- 14       (5)   Flavor, if applicable;
- 15       (6)   Filter or nonfilter;
- 16       (7)   Package description, such as a soft pack or box; and
- 17       (8)   The mark approved pursuant to subsection (b).

18   Upon request, this certification shall be made available to the  
19   attorney general. Each cigarette certified under this  
20   subsection shall be recertified every three years.



1 (b) Cigarettes that have been certified pursuant to  
2 subsection (a) shall be marked pursuant to the following  
3 requirements:

4 (1) The marking shall be in a font of at least eight-point  
5 type and shall include one of the following:

6 (A) Modification of the product's universal product  
7 code to include a visible mark printed at or  
8 around the area of the universal product code.

9 The mark may consist of one or more alphanumeric  
10 or symbolic characters permanently stamped,  
11 engraved, embossed, or printed in conjunction  
12 with the universal product code;

13 (B) Any visible combination of alphanumeric or  
14 symbolic characters permanently printed, stamped,  
15 engraved, or embossed on the cigarette package or  
16 the cellophane wrap; and

17 (C) Printed, stamped, engraved, or embossed text that  
18 indicates that the cigarettes meet the standards  
19 of this section; and

20 (2) A manufacturer shall request approval of a proposed  
21 marking from the attorney general. Any marking  
22 approved and in use for the sale of cigarettes in the



1 states of New York, California, or Vermont shall be  
2 approved. A marking shall be deemed approved if the  
3 attorney general fails to act within business  
4 days of receiving a request for approval. A  
5 manufacturer shall not use a modified marking unless  
6 the modification has been approved in accordance with  
7 this chapter. A manufacturer shall use only one  
8 marking on all brands that the manufacturer markets.  
9 A marking or modified marking approved by the attorney  
10 general shall be applied uniformly on all brands  
11 marketed and on all packages, including packs,  
12 cartons, and cases, marketed by that manufacturer.

13 (c) A manufacturer shall provide a copy of certifications  
14 to all wholesalers to which the manufacturer sells cigarettes  
15 and shall provide sufficient copies of an illustration of the  
16 packaging marking approved and used by the manufacturer pursuant  
17 to subsection (b) for each of the dealers that purchases  
18 cigarettes from any of those wholesalers. Wholesalers shall  
19 provide a copy of the illustration to all dealers to which they  
20 sell cigarettes. Wholesalers and dealers shall permit the  
21 attorney general to inspect markings on cigarette packaging at  
22 any time.



1           §   -5   **Attorney general; testing, certification, marking,**  
2 **and random inspections; rules.**   The attorney general:

3           (1)   May adopt rules under chapter 91 necessary to  
4                implement and administer the testing, certification,  
5                and marking of cigarettes under this chapter;

6           (2)   May adopt rules under chapter 91 regarding the conduct  
7                of random inspections of wholesalers and dealers to  
8                ensure compliance with this section; and

9           (3)   Shall ensure that the rules adopted under this section  
10               are in accordance with the implementation and  
11               substance of the New York fire safety standards for  
12               cigarettes.

13          §   -6   **Penalties; enforcement; attorney general.**   (a)   The  
14 following civil penalties may be assessed:

15           (1)   Against a manufacturer, wholesaler, retailer, or any  
16                other person that knowingly sells cigarettes, except  
17                by licensed retail sales, in violation of section  
18                -3, a civil penalty not to exceed \$10,000 for each  
19                sale;

20           (2)   Against a manufacturer that knowingly makes a false  
21                certification pursuant to section   -4, a civil



1 penalty not to exceed \$10,000 for each false  
2 certification;

3 (3) Against a dealer that knowingly sells or offers for  
4 sale cigarettes in violation of section -3, a civil  
5 penalty not to exceed \$500 for each sale or offer of  
6 sale of one thousand or fewer cigarettes;

7 (4) Against a dealer that knowingly sells or offers for  
8 sale cigarettes in violation of section -3, a civil  
9 penalty not to exceed \$1,000 for each sale or offer of  
10 sale of more than one thousand cigarettes; and

11 (5) Against any other person that violates any provision  
12 of this section, a civil penalty not to exceed \$1,000  
13 for each violation. Any cigarettes sold or offered  
14 for sale that do not comply with the safety standard  
15 required by section -3 shall be ordered forfeited.

16 (b) In addition to any other remedy provided by law, the  
17 attorney general may file an action for a violation of this  
18 section, including petitioning for injunctive relief, recovery  
19 of costs or damages suffered by the State as the result of a  
20 violation of this section, including enforcement costs relating  
21 to the specific violation and attorney fees. In any such  
22 action, the attorney general shall have the same authority to



1 investigate and obtain remedies, except civil penalties under  
2 subsection (a), as if the action were brought pursuant to  
3 section 708-870 relating to deceptive business practices. Each  
4 violation of this chapter or of any rule adopted under this  
5 chapter shall constitute a separate civil violation for which  
6 the attorney general may obtain relief.

7 (c) Enforcement of this chapter shall be under the  
8 jurisdiction of the attorney general. The attorney general may  
9 seek assistance in the enforcement of this chapter from other  
10 law enforcement agencies. Notwithstanding the existence of  
11 other remedies at law, the attorney general may apply for a  
12 temporary or permanent injunction restraining any person from  
13 violating or continuing to violate this chapter. The injunction  
14 shall be issued without bond.

15 § -7 **Exemption.** Nothing in this chapter shall be  
16 construed to prohibit any person from manufacturing or selling  
17 cigarettes that do not meet the requirements of this chapter, if  
18 the cigarettes are stamped for sale in another state or are to  
19 be sold outside the United States.

20 § -8 **Existing inventories.** The requirement that  
21 cigarettes sold in Hawaii must be in compliance with this  
22 chapter shall not prohibit wholesalers or dealers from selling



1 existing cigarette inventories on or after July 1, 2008;  
2 provided the wholesaler or dealer can establish both of the  
3 following to the satisfaction of the attorney general:

4 (1) The Hawaii tax stamps were affixed to the cigarettes  
5 pursuant to chapter 245, Hawaii Revised Statutes,  
6 prior to July 1, 2008; and

7 (2) The inventory was purchased prior to July 1, 2008, and  
8 the purchased inventory is comparable to the amount of  
9 inventory purchased during the same period the  
10 previous year."

11 SECTION 3. Chapter 28, Hawaii Revised Statutes, is amended  
12 by adding a new section to be appropriately designated and to  
13 read as follows:

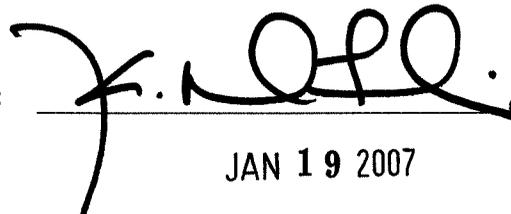
14 "§28- Reduced ignition propensity cigarettes law;  
15 enforcement. The attorney general shall adopt rules under  
16 chapter 91 to implement the enforcement of the reduced ignition  
17 propensity cigarettes law pursuant to chapter \_\_\_\_\_."

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2008.

21

INTRODUCED BY:

  
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**Report Title:**

Reduced Ignition Propensity "Fire-Safe" Cigarettes

**Description:**

Prohibits sale of cigarettes in Hawaii that are not reduced ignition propensity "fire-safe" beginning 7/1/2008. Sets civil fines and requires attorney general to adopt rules to enforce law.

