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# A BILL FOR AN ACT

RELATING TO THE STATE FIRE COUNCIL.

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

1       SECTION 1. In 1979, the legislature abolished the state  
2 fire marshal's office and created the state fire council. The  
3 council, which is administratively attached to the department of  
4 labor and industrial relations, consists of the four county fire  
5 chiefs. The council is tasked with reviewing and adopting the  
6 state fire code, providing administrative oversight of the  
7 reduced ignition propensity cigarette program, providing  
8 assistance with the application and administration of federal  
9 grants for fire related projects, assisting and coordinating  
10 with the statewide delivery of fire training programs,  
11 coordinating the collection of fire data, supporting contingency  
12 planning needs for firefighters, and providing advice on fire  
13 prevention and protection and life safety, among other tasks.

14       From its inception until 2001, the state fire council had  
15 no funding to hire staff to fulfill its responsibilities. The  
16 council relied upon county personnel to perform its duties.  
17 These county personnel had to perform these added duties



1 alongside their normal functions within their respective fire  
2 departments. In 2001, the governor directed the department of  
3 labor and industrial relations to allocate \$35,000 of its budget  
4 to fund the first part-time employee for the council. In 2011,  
5 an additional \$71,000 was appropriated by the legislature to  
6 hire two additional personnel. The legislature finds that with  
7 money from the reduced ignition propensity cigarette special  
8 fund, the council could hire additional personnel to oversee the  
9 coordination of statewide fire data collection and analysis and  
10 to administer federal fire-related grants. The council would  
11 also be able to fund statewide educational efforts for the  
12 protection of life, property, and the environment, such as the  
13 firefighter safety guide program for Hawaii's youth and the  
14 residential smoke alarm installation program for Hawaii's at-  
15 risk senior population.

16 Hawaii enacted a reduced ignition propensity cigarette law,  
17 which took effect on September 30, 2009. The intent of this  
18 law, codified at section 132C-1, Hawaii Revised Statutes, is "to  
19 require that only reduced ignition propensity cigarettes be sold  
20 in the State". Section 132C-4, Hawaii Revised Statutes,  
21 requires that cigarette manufacturers submit written



1 certification attesting that each cigarette brand or style they  
2 wish to sell in Hawaii has been tested in accordance with the  
3 performance standard for reduced ignition propensity required  
4 under section 132C-3, Hawaii Revised Statutes. These  
5 certifications must be renewed every three years. A fee of \$375  
6 must be paid to the state fire council for each cigarette brand  
7 or style certification. These fees are deposited into the  
8 reduced ignition propensity cigarette special fund. From 2009  
9 through early 2014, this special fund was not utilized. On  
10 January 16, 2014, an administrative specialist was hired to help  
11 manage the reduced ignition propensity cigarette program. Wages  
12 for the reduced ignition propensity cigarette program  
13 administrator and other expenses directly attributed to the  
14 reduced ignition propensity cigarette program are paid for using  
15 money in the special fund.

16 The purpose of this Act is to:

- 17 (1) Authorize the use of the reduced ignition propensity  
18 cigarette program special fund to support the duties  
19 and responsibilities of the state fire council, in  
20 addition to administering and enforcing the reduced  
21 ignition propensity cigarette program; and



(2) Specify the testing procedures of the reduced ignition propensity cigarette program.

SECTION 2. Section 132C-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Testing performed or sponsored by the state fire council to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section. The following test process shall be followed by the state fire council:

(1) Fifty brand or style cigarette packs shall be selected by the state fire council for testing; provided that cigarettes shall be tested in accordance with the test method outlined in this section;

(2) Any brand or style test that has a failure rate of twenty-five per cent or greater shall be identified and designated for further testing; provided that the manufacturer shall be notified in writing of the failed brand or style test results;

(3) Forty packs of the failed brand or style cigarettes, consisting of two packs per test, shall be purchased and submitted for follow-up testing;



1       (4) If any of the follow-up tests has a failure rate of  
2       twenty-five per cent or greater, the manufacturer  
3       shall be informed of the second test failure and the  
4       manufacturer shall remove the failed brand or style  
5       cigarette from sale in the State within thirty days  
6       from the date the notification of test failure is  
7       received;

8       (5) The manufacturer may file a written appeal to the  
9       state fire council no more than ten days after the  
10      notification of the second test failure is received,  
11      and the manufacturer shall provide written  
12      justification or evidence to support its appeal; and

13      (6) No later than thirty days after an appeal has been  
14      received, the state fire council shall conduct an  
15      administrative hearing and render a decision based on  
16      the written justification or evidence submitted by the  
17      manufacturer to support the appeal."

18       SECTION 3. Section 132C-6, Hawaii Revised Statutes, is  
19      amended as follows:

20       1. By amending subsection (a) to read:

21       "(a) The following civil penalties may be assessed:



- 1           (1) Against a manufacturer, wholesaler, or any other  
2           person or entity that knowingly sells cigarettes,  
3           except by licensed retail sales, in violation of  
4           section 132C-3, a civil penalty not to exceed \$100 for  
5           each pack of cigarettes sold or offered for sale;  
6           provided that in no case shall the penalty exceed  
7           \$100,000 during any thirty-day period;
- 8           (2) Against a manufacturer that knowingly makes a false  
9           certification pursuant to section 132C-4, a civil  
10          penalty of at least \$75,000 and not to exceed \$250,000  
11          for each false certification;
- 12          (3) Against a dealer that knowingly sells or offers for  
13          sale cigarettes in violation of section 132C-3, a  
14          civil penalty not to exceed \$100 for each pack of  
15          cigarettes sold or offered for sale; provided that in  
16          no case shall the penalty exceed \$25,000 for sales or  
17          offers to sell during any thirty-day period; and
- 18          (4) Against any other person that violates this chapter, a  
19          civil penalty for a first offense not to exceed  
20          \$1,000, and for a subsequent offense not to exceed  
21          \$5,000 for each violation. Entities subject to this



1        paragraph may include manufacturers whose brand or  
2        style cigarette has a failure rate of twenty-five per  
3        cent of the first fifty pack test and twenty-five per  
4        cent or greater of the second forty pack test."

5        2. By amending subsection (d) to read:

6        "(d) In addition to any other remedy provided by law, the  
7        attorney general may file an action for a violation of this  
8        section, including petitioning for injunctive relief, recovery  
9        of costs or damages suffered by the State as the result of a  
10       violation of this section, including testing and enforcement  
11       costs relating to the specific violation and attorney fees.  
12       Each violation of this chapter or of any rule adopted pursuant  
13       to this chapter shall constitute a separate civil violation for  
14       which the attorney general may obtain relief. Testing performed  
15       or sponsored by the state fire council to determine a  
16       cigarette's compliance with the performance standard required by  
17       this section shall be exempt from chapter 103D."

18       SECTION 4. Section 132C-9, Hawaii Revised Statutes, is  
19       amended to read as follows:

20       "[+]§132C-9[+] Reduced ignition propensity cigarette  
21       program special fund. (a) There is established in the state



1 treasury a reduced ignition propensity cigarette program special  
2 fund, into which shall be deposited all moneys collected by the  
3 state fire council from the reduced ignition propensity  
4 cigarette program pursuant to section 132C-4. All interest  
5 earned or accrued on moneys deposited in the fund shall become  
6 part of the fund.

7 (b) Moneys in the reduced ignition propensity cigarette  
8 program special fund shall be administered and expended by the  
9 state fire council to defray the actual cost of activities and  
10 requirements of section 132C-4, including employing ~~[one full-~~  
11 ~~time]~~ a full- or part-time administrator [and one full-time], an  
12 administrative assistant [whose], or other staff personnel  
13 without regard to chapter 76 or 89. The duties of the  
14 administrator, administrative assistant, or other staff  
15 personnel shall include:

- 16 (1) Adopting administrative rules for program  
17 implementation, establishing compliance inspections,  
18 and approving forms and enforcement procedures and  
19 guidelines;





1 (2) Receiving certifications for approximately six hundred  
2 different brands and styles of cigarettes from the  
3 manufacturers;

4 (3) Compiling a list of the cigarette brands and styles  
5 for which manufacturers have submitted certifications,  
6 verifying tax stamp compliance with the department of  
7 the attorney general, and posting the list of  
8 certified brands and styles on a state website for  
9 informational purposes only;

10 (4) Reviewing and approving, as needed, any alternative  
11 test methods or fire standard compliance markings  
12 submitted by the manufacturer; and

13 (5) If needed, submitting certified cigarettes to an  
14 accredited laboratory for testing to verify that  
15 performance standards have been met.

16 (c) Money in the special fund may also be expended by the  
17 state fire council to:

18 (1) Defray the cost of community fire education, safety,  
19 and prevention programs, especially as they relate to  
20 youth and seniors;

21 (2) Preparedness and life safety programs; and



1        (3) Administrative duties of the state fire council,  
2                including the hiring of additional personnel."

3        SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5        SECTION 6. This Act shall take effect on June 18, 2050.



**Report Title:**

State Fire Council Package; Reduced Ignition Propensity  
Cigarette Certification Fees; Cigarette Testing; Civil Penalties

**Description:**

Authorizes the State Fire Council to use moneys in the reduced ignition propensity cigarette program special fund to support the duties and responsibilities of the state fire council. Specifies the testing procedures of the reduced ignition propensity cigarette program. Provides that a manufacturer of cigarettes that fail certain testing may be subject to civil penalties. Takes effect 6/18/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

