

BILL ANALYSIS

		<u>DATE:</u>	2/10/2008
<u>COMMITTEE:</u>	Consumer Protection and Professional Licensure	<u>BILL NO.:</u>	HB 1612
<u>PRIME SPONSOR:</u>	Rep. Solobay	<u>PRINTER NO.</u>	2657

House Bill 1612 establishes the Cigarette Fire Safety and Firefighter Protection Act and requires testing and safety standards for cigarettes, and certification of compliance by manufacturers. The bill establishes the Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund which is derived from certification and recertification fees for testing, enforcement and oversight of the act. The bill also creates the Fire Prevention and Public Safety Fund from penalties established under this act for fire safety and prevention programs.

Standards for Fire Safety

Cigarettes are required to be tested in accordance with the American Society of Testing and Materials, the Standard Test Method for Measuring the Ignition Strength of Cigarettes and in accordance with New York Fire Safety Standards for Cigarettes. The State Fire Commissioner may approve an alternative test method and performance standard for a manufacturer if the Commissioner determines the manufacturer can not comply with the method and standard prescribed by this act.

Manufacturers are required to maintain records for three years. The Commissioner is required to review the performance standard of this act and report his finding to the General Assembly.

Certification of Compliance

Each manufacturer is required to submit written certification to the Commissioner affirming their compliance with testing and performance standards and approved package description and markings. There is a \$250 fee for certification and recertification which occurs every three years.

Package Markings

Cigarettes in compliance are required to use a uniform markings. The Fire Commissioner is required to approve the use of the letters FSC (Fire Standards Compliant) to be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code. The marking must be approved by the Commissioner.

Establishment of Special Funds

The Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund will consist of all certification fees and used for processing, testing, enforcement and oversight.

The Fire Prevention and Public Safety Fund will consist of all money recovered as penalties and available to the Commissioner to support fire safety and prevention programs.

Enforcement and Penalties

The Commissioner is authorized to enforce this act and to promulgate regulation. The Commissioner shall work consultation with the Secretary of Revenue and the Attorney General to conduct random inspections of wholesale dealers, agents and retail dealers to ensure that only cigarettes complying with this act are sold in the Commonwealth. Any cigarettes that have been sold or offered for sale that does not comply with the safety standard required under section 4 shall be deemed contraband and subject to seizure and disposal by the Commonwealth.

A cigarette manufacturer that knowingly makes a false certification shall face a civil penalty of \$75,000 to \$250,000. A manufacturer, wholesale dealer, agent or any other entity who knowingly sells cigarettes, other than through retail sale, who violates section 4 shall for a first offense be subject to a civil penalty not to exceed \$10,000 per each sale of cigarettes and for a subsequent offense be subject to a civil penalty not to exceed \$25,000 per each sale of cigarettes. The penalty for noncompliance may not exceed \$100,000 during any 30 day period.

The legislation would take effect in January 1, 2009

Amendment

The amendment would make changes to the definition of “Cigarette.”

It would take authority from the Fire Commissioner and give it to the Department of Revenue for state processing, testing, enforcement, and oversight activities related to the act.

It would change the certification fee submitted by the manufacturers to \$1000 per brand family of cigarettes. Any additional brand family submitted would require an additional \$500 fee. The fee may be increased by regulation by the Department of Revenue.

It would allow the fund consisting of the certification fees to be appropriated by the General Assembly to the Department of Revenue and to the Office of Attorney General to support state processing, testing, enforcement, and oversight activities.

The fund consisting of all moneys recovered as penalties under this act shall be appropriated by the General Assembly to the Fire Commissioner to support fire safety and prevention programs.

It would prohibit wholesale dealers or retail dealers to sell or offer for sale a cigarette that does not comply with this act after July 1, 2009.

It would change the effective date:

- Section 7(b), (c), and (d) would take effect immediately
- The remainder of the act would take effect on January 1, 2009.

There are also some technical amendments.