

## BILL ANALYSIS

		<b><u>DATE:</u></b>	12/6/2007
<b><u>COMMITTEE:</u></b>	Consumer Protection and Professional Licensure	<b><u>BILL NO.:</u></b>	HB 1612
<b><u>PRIME SPONSOR:</u></b>	Rep. Solobay	<b><u>PRINTER NO.</u></b>	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 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 specified.

The bill would require cigarettes offered for sale or sold in the Commonwealth to be tested and meet fire safety and performance standards. The bill also creates a fund for enforcement and oversight and a fund for fire safety and prevention programs.

Cigarettes are required to be tested in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, the Standard Test Method for Measuring the Ignition Strength of Cigarettes and implemented in accordance with the implementation and substance of the 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 of their performance standard compliance on file for three years and must provide the records to the Attorney General's office upon request. The Commissioner is required to review the performance standard of this act and report his finding to the General Assembly and submit recommendations beginning three years from the effective date of this section and at least every three years following.

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

Cigarettes that are certified by a manufacturer are required to use a uniformed marking to indicate standard and performance compliance. 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 and is deemed approved if the Commissioner fails to act within ten business days of receiving the approval request.

The Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund is established under the jurisdiction of the State Treasurer and will consist of all certification fees and will be used by the State Treasurer only for processing, testing, enforcement and oversight.

The Fire Prevention and Public Safety Fund is established under the jurisdiction of the State Treasurer and will consist of all money recovered as penalties under this act and will be made available to the Commissioner to support fire safety and prevention programs.

The Commissioner is authorized to enforce this act and to promulgate regulation as necessary to implement and administer this act and 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 do 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 offence 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.

Any cigarettes that have been sold or offered for sale that do not comply with the safety standard required under section 4 shall be deemed contraband and subject to seizure and disposal by the Commonwealth.

This act shall take effect January 1, 2009