

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH50871-SQfz-26\* (04/12)

Short Title: Fire Safe Cigarettes.

(Public)

Sponsors: Representative England.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE FIRE-SAFETY STANDARD AND FIREFIGHTER  
3 PROTECTION ACT, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY  
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 58-92-10 reads as rewritten:

7 **"§ 58-92-10. Definitions.**

8 For the purposes of this Article:

9 (1) "Agent" means any person authorized by the Department of Revenue to pay  
10 the excise tax on packages of cigarettes.

11 (1a) "Brand style" means a variety of cigarettes distinguished by the tobacco  
12 used, tar and nicotine content, flavoring used, size of the cigarette, filtration  
13 on the cigarette, or packaging.

14 (2) "Cigarette" means any roll for smoking, whether made wholly or in part of  
15 tobacco or any other substance, irrespective of size or shape, and whether or  
16 not such tobacco or substance is flavored, adulterated, or mixed with any  
17 other ingredient, the wrapper or cover of which is made of paper or any  
18 other substance or material, other than leaf tobacco.

19 (3) "Commissioner" means the Commissioner of Insurance.

20 (4) "Consumer testing" means an assessment of cigarettes that is conducted by a  
21 manufacturer (or under the control and direction of a manufacturer), for the  
22 purpose of evaluating consumer acceptance of such cigarettes.

23 (5) "Distributor" means any person other than a manufacturer who sells  
24 cigarettes or tobacco products to retail dealers or other persons for purposes  
25 of resale, any person who owns, operates, or maintains one or more cigarette  
26 or tobacco product vending machines in, at, or upon premises owned or  
27 occupied by any other person, or a distributor as defined in  
28 G.S. 105-113.4(3)a.

29 (6) "Manufacturer" means:

30 a. Any entity ~~which that~~ manufactures or otherwise produces cigarettes  
31 or causes cigarettes to be manufactured or produced anywhere that  
32 ~~such the~~ manufacturer intends to be sold in this State, including  
33 cigarettes intended to be sold in the United States through an  
34 importer;



1 b. The first purchaser anywhere that intends to resell in the United  
2 States cigarettes manufactured anywhere that the original  
3 manufacturer or maker does not intend to be sold in the United  
4 States; or

5 c. Any entity that becomes a successor of an entity described in  
6 sub-subdivision a. or b. of this subdivision.

7 (7) "Quality control and quality assurance program" means the laboratory  
8 procedures implemented to ensure that operator bias, systematic and  
9 nonsystematic methodological errors, and equipment-related problems do  
10 not affect the results of the testing. Such a program ensures that the testing  
11 repeatability remains within the required repeatability values stated in  
12 G.S. 58-92-15(g) for all test trials used to certify cigarettes in accordance  
13 with this Article.

14 (8) "Repeatability" means the range of values within which the repeat results of  
15 cigarette test trials from a single laboratory will fall ninety-five percent  
16 (95%) of the time.

17 (9) "Retail dealer" means any person, other than a manufacturer or distributor,  
18 engaged in selling cigarettes or tobacco products.

19 (10) "Sale" means any transfer of title or possession or both, exchange or barter,  
20 conditional or otherwise, in any manner or by any means whatever or any  
21 agreement therefor. In addition to cash and credit sales, the giving of  
22 cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for  
23 any consideration other than money, are considered sales.

24 (11) "Sell" means to sell, or to offer or agree to do the same."

25 **SECTION 2.** G.S. 58-92-20 reads as rewritten:

26 **"§ 58-92-20. Certification and product change.**

27 (a) Each manufacturer shall submit to the Commissioner a written certification attesting  
28 both of the following:

29 (1) Each cigarette listed in the certification has been tested in accordance with  
30 G.S. 58-92-15.

31 (2) Each cigarette listed in the certification meets the performance standard set  
32 forth in G.S. 58-92-15.

33 (b) Each cigarette listed in the certification shall be described with the following  
34 information:

35 (1) Brand or trade name on the package.

36 (2) ~~Style, such as light or ultralight.~~ Brand style, as defined in  
37 G.S. 58-92-10(1a).

38 (3) Length in millimeters.

39 (4) Circumference in millimeters.

40 (5) Flavor, such as menthol or chocolate, if applicable.

41 (6) Filter or nonfilter.

42 (7) Package description, such as soft pack or box.

43 (8) Marking pursuant to G.S. 58-92-25.

44 (9) The name, address, and telephone number of the laboratory, if different than  
45 the manufacturer that conducted the test.

46 (10) The date that the testing occurred.

47 (c) Certifications shall be made available to the Attorney General for purposes  
48 consistent with this Article and the Commissioner for the purposes of ensuring compliance with  
49 this section.

50 (d) Each cigarette certified under this section shall be recertified every three years.

1 (e) For each ~~certification form~~, brand style listed in a certification, a manufacturer shall  
2 pay to the Commissioner a fee of two hundred fifty dollars (\$250.00). The Commissioner may  
3 annually adjust this fee to ensure it defrays the actual costs of the processing, testing,  
4 enforcement, and oversight activities required by this Article.

5 (f) There is established in the State treasury a separate, nonreverting fund to be known  
6 as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund." The fund shall  
7 consist of all certification fees submitted by manufacturers and shall, in addition to any other  
8 monies made available for such purpose, be available to the Commissioner solely to support  
9 processing, testing, enforcement, and oversight activities under this Article.

10 (g) If a manufacturer has certified a cigarette pursuant to this section, and thereafter  
11 makes any change to such cigarette that is likely to alter its compliance with the reduced  
12 cigarette ignition propensity standards required by this Article, that cigarette shall not be sold  
13 or offered for sale in this State until the manufacturer retests the cigarette in accordance with  
14 the testing standards set forth in G.S. 58-92-15 and maintains records of that retesting as  
15 required by G.S. 58-92-15. Any altered cigarette ~~which~~ that does not meet the performance  
16 standard set forth in G.S. 58-92-15 ~~may~~ shall not be sold in this State."

17 **SECTION 3.** This act becomes effective July 1, 2010.