

Fire-Safe Cigarette Act of 2002 (Introduced in House)

HR 5059 IH

107th CONGRESS

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H. R. 5059

To amend the Consumer Product Safety Act to provide for fire safety standards for cigarettes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2002

Mr. STEARNS (for himself, Mr. TOWNS, Mr. CLYBURN, Mr. HALL of Ohio, Mr. TAYLOR of North Carolina, Mr. CONDIT, Mr. SPRATT, Mr. GRAHAM, Mr. WATKINS of Oklahoma, and Mr. PITTS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Consumer Product Safety Act to provide for fire safety standards for cigarettes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Fire-Safe Cigarette Act of 2002'.

SEC. 2. FIRE SAFETY STANDARD.

The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended--

(1) in section 3(a)(1)(B) (15 U.S.C. 2052(a)(1)(B)), by inserting ', except as provided in section 7A' before the semicolon; and

(2) by adding after section 7 (15 U.S.C. 2056) the following new section:

'FIRE SAFETY STANDARD

'SEC. 7A. (a) CONSUMER PRODUCT SAFETY RULE- Not later than 18 months after the date of enactment of this section, the Commission shall issue a rule to implement the consumer product safety standard prescribed by this subsection for cigarettes to reduce the risk of fire. In establishing the standard, the following requirements shall be met:

(1) The testing and statistical methodology for determining ignition propensity of cigarettes shall be the methodology referenced in 'Relative Ignition Propensity of Test Market Cigarettes--National Institute of Standards and Technology--NIST Technical Note 1436, January, 2001--Appendix D: Cigarette Extinction Method', with the specifications described in this paragraph. Testing shall be conducted on 10 layers of filter paper, as described in the referenced test method. At least 40 replicate individual tests shall be required to comprise a complete test trial for each cigarette tested. Test results and the application of pass-fail criteria shall be derived only for complete test trials comprised of at least 40 replicate individual tests.

(2) The ignition propensity performance criteria for each brand style of cigarettes using such methodology shall be as follows: A test failure shall consist of more than 25 percent of the cigarettes tested in a test trial failing to self-extinguish prior to burning the full length of the tobacco column.

(3) For cigarette designs that cannot be tested using the specified method because of unique or nontraditional characteristics, the Commission shall accept test methods and performance criteria that are proposed by manufacturers when the cigarette with unique or nontraditional characteristics is found by the Commission, after review of the application of the test method and performance criteria, to have an equivalent or lesser ignition propensity.

In establishing the standard for cigarettes, the Commission shall have the authority to regulate the ignition propensity of cigarette paper for roll-your-own tobacco products.

(b) REVISION OF STANDARD- From and after the third anniversary of the effective date of the consumer product safety standard prescribed by subsection (a), the Consumer Product Safety Commission may by rule amend the testing methodology or the performance criteria of the consumer product safety standard prescribed by subsection (a) if the Commission determines that compliance with the amended standard is technically feasible for conventional cigarettes; will provide a higher degree of protection from fire ignited by cigarettes; and is reasonable, practicable and appropriate for each brand of cigarettes that the amended standard would apply to.

(c) MANUFACTURERS- Manufacturers of cigarettes shall identify for the Commission any measures the manufacturers will take to meet the consumer product safety standard for cigarettes promulgated by the Commission, and shall submit information regarding whether each such measure does or does not increase the toxicity of the cigarettes. No cigarette shall be deemed to meet such standard if the Commission has determined that the measures taken by the manufacturer of such cigarette to meet the standard will increase the toxicity of such cigarettes.

(d) PROCEDURES- The Commission shall promulgate standards under subsections (a) and (b) in accordance with section 553 of title 5, United States Code, and with respect to subsection (b) shall--

`(1) consult with the National Institute of Standards and Technology, the American Society of Testing and Materials, and the National Fire Protection Association, and seek the advice and expertise of other Federal and State agencies; and

`(2) take into account all findings in the final report to the Congress made by the Commission, in consultation with the Technical Advisory Group established under section 3 of the Fire Safe Cigarette Act of 1990 (15 U.S.C. 2054 note), in which it was found that cigarettes with a low ignition propensity are already on the market.

`(e) STOCKPILING- The Commission shall include in any standard a prohibition of stockpiling of cigarettes to which such standard will apply. For purposes of this subsection, the term 'stockpiling' means the manufacturing or importing of a cigarette which would not comply with such standard between the date such standard is promulgated and the date the standard is to take effect at a rate greater than the rate that cigarettes were manufactured or imported for the 1-year period ending on the date such standard was promulgated.

`(f) INAPPLICABLE- The following shall not apply to the promulgation of a standard under subsections (a) or (except as otherwise noted) (b):

`(1) Sections 7, 8, 9, 11 (except that section 11 shall apply to the promulgation of a standard under subsection (b)), and 12 of this Act.

`(2) Chapter 6 of title 5, United States Code.

`(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

`(4) The Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121) and the amendments made by such Act.

`(g) CONSUMER PRODUCT- The standard promulgated under this section shall be a consumer product safety standard promulgated under this Act. A cigarette shall be deemed a 'consumer product' under section 3(a)(1)(B) only for the purpose of implementing or enforcing compliance with this section and the standard promulgated under this section and with respect to sections 6, 17, 18, and 26(a) and (b) of this Act.

`(h) LIMIT ON JURISDICTION- Except as expressly provided in this section and in section 3(a)(1)(B), the Commission shall have no jurisdiction over tobacco or tobacco products.

`(i) DEFINITIONS- For purposes of this section:

`(1) The term 'cigarette' has the meaning prescribed by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)).

`(2) The term 'cigarette paper' has the meaning prescribed by section 5702(e) of the Internal Revenue Code of 1986.

`(j) RULE OF CONSTRUCTION- Nothing in this Act, or the application of this Act to tobacco products, may be construed to modify any provision of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.).

`(k) EFFECTIVE DATE- The Commission shall prescribe the effective date of any consumer product safety standard promulgated for cigarettes, except that--

`(1) such date shall be at least 180 days and no more than 1 year after the date of the promulgation of the standard unless the Commission, for good

cause shown, determines that an earlier effective date is in the public interest; and

`(2) notwithstanding paragraph (1), no such standard shall have an effective date prior to 30 months after the date of enactment of this section.'.