

**ASSEMBLY BILL**

**No. 178**

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**Introduced by Assembly Member Koretz**  
(Coauthor: Senator Ortiz)

January 24, 2005

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An act to add Part 8 (commencing with Section 14950) to Division 12 of the Health and Safety Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 178, as introduced, Koretz. California Cigarette Fire Safety Act.

Existing law requires the State Fire Marshal to adopt regulations that specify standards for the special design of cigarette lighters with respect to safety features that prevent operation of the lighters by children 5 years of age or younger.

This bill would prohibit the sale of cigarettes unless the manufacturer of those cigarettes certifies to the Attorney General that the cigarettes have been tested by the manufacturer in accordance with standards established by the American Society of Testing and Materials and no more than 25% of the cigarettes it manufactures exhibit full-length burns when tested. The bill would require cigarette manufacturers to mark packages of cigarettes to be sold in California to show compliance with these provisions and would require wholesale dealers, agents, and retail dealers to permit the State Fire Marshal to inspect these markings.

The bill would impose a civil penalty on wholesale dealers, agents, and others who knowingly sell or offer to sell cigarettes in violation of these provisions, on retailer dealers who knowingly sell or offer to sell cigarettes in violation of these provisions, and on manufactures that knowingly make false certifications in violation of these provisions.

The bill would become inapplicable when federal cigarette safety standards are adopted and become effective and the State Fire Marshal so notifies the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares as  
2 follows:

3 (1) Cigarettes are the leading cause of fire deaths in the United  
4 States each year, claiming 1,000 lives and causing nearly 2,500  
5 injuries and four billion dollars (\$4,000,000,000) in property  
6 damage.

7 (2) Technology exists to significantly reduce the number of  
8 fires caused by cigarettes.

9 (3) The state of New York as of June 28, 2004, requires that  
10 cigarettes for sale in that state meet cigarette fire safety  
11 standards.

12 (4) Cigarettes meeting fire safety standards do not increase the  
13 costs to consumers and do not create hardships for cigarette  
14 retailers, wholesalers, or manufacturers.

15 (b) The Legislature hereby determines that it is within the  
16 police powers of the state to protect the health and safety of the  
17 people of the state by establishing fire safety standards for  
18 cigarettes sold in this state.

19 SEC. 2. Part 8 (commencing with Section 14950) is added to  
20 Division 12 of the Health and Safety Code, to read:

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PART 8. CIGARETTES

24 14950. (a) This part shall be known and may be cited as the  
25 California Cigarette Fire Safety Act.

26 (b) As used in this part, the following terms have the following  
27 meanings:

28 (1) "Cigarette" means any product that contains nicotine,  
29 irrespective of size or shape and whether or not the tobacco or  
30 substance is flavored, adulterated, or mixed with any other  
31 ingredient, that is intended to be burned or heated under ordinary

1 conditions of use and consists of or contains any of the  
2 following:

3 (A) Any roll of tobacco wrapped in paper or in any substance  
4 not containing tobacco.

5 (B) Tobacco, in any form, that is functional in the product,  
6 which, because of its appearance, the type of tobacco used in the  
7 filler, or its packaging and labeling, is likely to be offered to, or  
8 purchased by, consumers as a cigarette.

9 (C) Any roll of tobacco wrapped in any substance containing  
10 tobacco which, because of its appearance, the type of tobacco  
11 used in the filler, or its packaging and labeling, is likely to be  
12 offered to, or purchased by, consumers as a cigarette.

13 (2) "Offer to sell" means to offer or agree to sell.

14 (3) "Retail dealer" means a person who sells or furnishes  
15 cigarettes or tobacco products, or both, in small quantities to  
16 consumers only, but not for the purpose of resale.

17 (4) "Sale" or "sell" means any transfer, exchange, or barter, in  
18 any manner or by any means whatever, of any cigarettes or  
19 tobacco products. The giving of cigarettes as samples, prizes, or  
20 gifts, and the exchanging of cigarettes for any consideration other  
21 than money are considered sales.

22 (5) "Wholesale dealer" or "agent" means a person who sells or  
23 furnishes cigarettes or tobacco products, or both, to wholesale or  
24 retail dealers for the purpose of resale, but not by the small  
25 quantity or parcel to consumers thereof.

26 14951. (a) Cigarettes shall not be sold, offered for sale, or  
27 manufactured in the state unless all of the following requirements  
28 are met:

29 (1) The cigarettes are tested by the manufacturer in accordance  
30 with the test method prescribed in subdivision (a) of Section  
31 14952.

32 (2) The cigarettes meet the performance standard specified in  
33 subdivision (b) of Section 14952 and bear the bands required  
34 pursuant to subdivision (c) of Section 14952.

35 (3) A written certification is filed by the manufacturer with the  
36 Attorney General in accordance with Section 14953.

37 (b) This section does not prohibit wholesale dealers or retail  
38 dealers from selling their inventory of cigarettes existing on  
39 January 1, 2006, if both of the following conditions are met:

1 (1) The wholesale dealer or retail dealer can establish that  
2 California tax stamps were affixed to the cigarettes pursuant to  
3 Section 30163 of the Revenue and Taxation Code before January  
4 1, 2006.

5 (2) The wholesale dealer or retail dealer can establish that the  
6 inventory was purchased before January 1, 2006 in comparable  
7 quantity to the inventory purchased during the same period of  
8 2005.

9 (c) This section does not prohibit a person or entity from  
10 selling cigarettes that are not certified by the manufacturer in  
11 accordance with this section if the cigarettes are or will be  
12 stamped for sale in another state or are packaged for sale outside  
13 the United States.

14 14952. (a) (1) Testing of cigarettes shall be conducted in  
15 accordance with the American Society of Testing and Materials  
16 (ASTM) standard E2187-02b “Standard Test Method for  
17 Measuring the Ignition Strength of Cigarettes.”

18 (2) This section does not require additional testing if cigarettes  
19 are tested in accordance with this standard for any other purpose.

20 (b) When tested in accordance with subdivision (a), no more  
21 than 25 percent of the cigarettes tested in a test trial shall exhibit  
22 full length burns.

23 (c) Each cigarette listed in a certification submitted pursuant to  
24 Section 14953 that uses lowered permeability bands in the  
25 cigarette paper to achieve compliance with the performance  
26 standard set forth in subdivision (b) shall have at least two  
27 nominally identical bands on the paper surrounding the tobacco  
28 column. At least one complete band shall be located at least 15  
29 millimeters from the lighting end of the cigarette. For cigarettes  
30 on which the bands are positioned by design, there shall be at  
31 least two bands fully located at least 15 millimeters from the  
32 lighting end and 10 millimeters from the filter end of the tobacco  
33 column or 10 millimeters from the labeled end of the tobacco  
34 column for a nonfiltered cigarette.

35 14953. (a) Each manufacturer shall submit a written  
36 certification to the Attorney General attesting that each cigarette  
37 listed in the certification has been tested in accordance with  
38 subdivision (a) of Section 14952 and meets the performance  
39 standard set forth in subdivision (b) of that section.

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

- 3 (1) Brand.
- 4 (2) Style (for example, light, ultra light).
- 5 (3) Length in millimeters.
- 6 (4) Circumference in millimeters.
- 7 (5) Flavor (for example, menthol, chocolate) if applicable.
- 8 (6) Filter or nonfilter.
- 9 (7) Package description (for example, soft pack, box).
- 10 (8) Marking approved in accordance with Section 14954.

11 (c) Each cigarette certified under this section shall be  
12 recertified every three years.

13 (d) Manufacturers certifying cigarettes in accordance with this  
14 section shall provide a copy of the certifications to all wholesale  
15 dealers and agents to which they sell cigarettes and shall also  
16 provide sufficient copies of an illustration of the cigarette  
17 package marking utilized by the manufacturer pursuant to  
18 Section 14954 for each retailer to which the wholesale dealers  
19 and agents sell cigarettes. Wholesale dealers and agents shall  
20 provide a copy of these cigarette package markings received  
21 from manufacturers to all retail dealers to which they sell  
22 cigarettes. Wholesale dealers, agents, and retail dealers shall  
23 permit the State Fire Marshal to inspect cigarette packages to  
24 ensure they are marked in accordance with Section 14954.

25 14954. (a) Cigarettes that are certified by a manufacturer in  
26 accordance with Section 14953 shall be marked to indicate  
27 compliance with the requirements of this part. Marking shall be  
28 in eight-point type or larger and consist of one of the following:

29 (1) Modification of the universal product code to include a  
30 visible mark printed at or around the area of that code. The mark  
31 may consist of alphanumeric or symbolic characters permanently  
32 stamped, engraved, embossed or printed in conjunction with the  
33 universal product code.

34 (2) Any visible combination of alphanumeric or symbolic  
35 characters permanently stamped, engraved, or embossed upon the  
36 cigarette package or cellophane wrap.

37 (3) Printed, stamped, engraved, or embossed text on the  
38 cigarette package that indicates that the cigarettes meet  
39 California standards.

1 (b) A manufacturer may meet the requirements of this section  
2 by submitting for approval any marking in use and approved for  
3 sale in New York State pursuant to its cigarette fire safety  
4 regulations.

5 (c) A manufacturer must use only one marking and must apply  
6 this marking uniformly for all packages, including but not limited  
7 to packs, cartons, and cases, and brands marketed by that  
8 manufacturer.

9 14955. (a) Any wholesale dealer, agent, or any other person  
10 or entity that knowingly sells or offers to sell cigarettes  
11 wholesale in violation of this part is subject to a civil penalty not  
12 to exceed ten thousand dollars (\$10,000) for each sale.

13 (b) Any retail dealer that knowingly sells or offers to sell  
14 cigarettes in violation of this part shall be subject to the  
15 following:

16 (1) A civil penalty not to exceed five hundred dollars (\$500)  
17 for each sale or offer for sale in which the total number of  
18 cigarettes sold or offered for sale does not exceed 1,000.

19 (2) A civil penalty not to exceed one thousand dollars (\$1,000)  
20 for each sale or offer for sale in which the total number of  
21 cigarettes sold or offered for sale exceeds 1,000.

22 (c) In addition to any other penalty prescribed by law, any  
23 corporation, partnership, sole proprietor, limited partnership, or  
24 association engaged in the manufacture of cigarettes that  
25 knowingly makes a false certification pursuant to Section 14953  
26 shall be subject to a civil penalty not to exceed ten thousand  
27 dollars (\$10,000) for each false certification.

28 (d) The Attorney General may bring an action on behalf of the  
29 people of the state to restrain further violations of this part and  
30 for any other relief that may be appropriate.

31 (e) It shall be a defense in any action for civil penalties, that a  
32 wholesaler, retailer, or any person in the stream of commerce  
33 relied in good faith on the manufacturer's certificate that the  
34 cigarettes meet the State Fire Marshal's fire safety standards.

35 14956. This chapter shall no longer be applicable to retail  
36 dealers, wholesale dealers or agents, or manufacturers of  
37 cigarettes after federal cigarette safety standards are adopted and  
38 become effective and the State Fire Marshal so notifies the  
39 Secretary of State.

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