

HOUSE BILL NO. HB0305

Reduced cigarette ignition.

Sponsored by: Representative(s) Lubnau

A BILL

for

1 AN ACT relating to fire safety and prevention; providing
2 requirements for the sale of cigarettes; providing testing
3 requirements; providing reporting requirements; providing
4 for enforcement; providing definitions; providing
5 penalties; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 35-9-801 through 35-9-810 are created
10 to read:

11

12 ARTICLE 9

13 REDUCED CIGARETTE IGNITION

14

15 **35-9-801. Short title.**

16

1 This article shall be known and may be cited as the
2 "Wyoming Reduced Cigarette Ignition Propensity Act".

3

4 **35-9-802. Definitions.**

5

6 (a) For the purposes of this article unless the
7 context otherwise requires:

8

9 (i) "Agent" means any person authorized by the
10 department of revenue to purchase and affix stamps on
11 packages of cigarettes;

12

13 (ii) "Cigarette" means:

14

15 (A) Any roll of tobacco wrapped in paper or
16 in any substance not containing tobacco; or

17

18 (B) Any roll of tobacco wrapped in any
19 substance containing tobacco which because of its
20 appearance, the type of tobacco used in the filler, or its
21 packaging and labeling, is likely to be offered to or
22 purchased by consumers as a cigarette as described in
23 subparagraph (A) of this paragraph.

24

1 (iii) "Manufacturer" means:

2

3 (A) Any entity that manufactures cigarettes
4 that are intended for sale in the United States including
5 cigarettes intended to be sold in the United States through
6 an importer;

7

8 (B) Any successor of any entity described
9 in subparagraph (A) of this paragraph.

10

11 (iv) "Quality control" means the testing of
12 products against specific standards to evaluate the
13 continuous compliance of the products with specified
14 requirements;

15

16 (v) "Repeatability" means the range of values
17 within which test trials from a single laboratory must fall
18 ninety-five percent (95%) of the time;

19

20 (vi) "Retail dealer" means any person, other
21 than a manufacturer or wholesale dealer, engaged in selling
22 cigarettes or tobacco products;

23

1 (vii) "Sale" means any transfer of title or
2 possession, exchange or barter in any manner, by any means,
3 or by any agreement, including cash and credit sales,
4 giving of cigarettes as samples, prizes or gifts, and the
5 exchange of cigarettes for any consideration other than
6 money;

7

8 (viii) "Sell" means to sell, or to offer or
9 agree to do the same;

10

11 (ix) "Wholesale dealer" means any person other
12 than a manufacturer who sells cigarettes or tobacco
13 products to retail dealers or others for resale and any
14 person who owns, operates or maintains one (1) or more
15 cigarette or tobacco product vending machines upon premises
16 owned or occupied by any other person.

17

18 **35-9-803. Requirements for sale; test method;**
19 **adoption of other state's testing method, if appropriate;**
20 **performance standards; and exceptions.**

21

22 (a) Except as provided herein, cigarettes may not be
23 sold or offered for sale in this state or offered for sale
24 or sold to persons located in this state unless they have

1 been tested and have met the required performance standard
2 as specified in this section, the manufacturer has filed a
3 written certification with the state fire marshal in
4 accordance with W.S. 35-9-804, and the cigarettes have been
5 marked in accordance with W.S. 35-9-805. The following
6 testing requirements shall apply:

7

8 (i) Cigarette testing shall be conducted in
9 accordance with standards outlined in the rules and
10 regulations adopted by the department of fire prevention
11 and electrical safety;

12

13 (ii) Testing shall be conducted on not less than
14 ten (10) layers of filter paper;

15

16 (iii) No more than twenty-five percent (25%) of
17 the cigarettes tested in accordance with this section shall
18 exhibit full length burns. Forty (40) replicate tests
19 shall comprise a complete test trial for each cigarette
20 tested;

21

22 (iv) The performance standard required by this
23 section shall only be applied to a complete test trial;

24

1 (v) Written certifications shall be based upon
2 testing conducted by a laboratory that has been accredited
3 pursuant to standard ISO/IEC 17025 of the International
4 Organization for Standardization ("ISO"), or other
5 comparable accreditation standard required by the state
6 fire marshal;

7
8 (vi) Laboratories conducting testing in
9 accordance with this section shall adhere to standards of
10 quality control and quality assurance that includes
11 repeatability of the testing results. The repeatability
12 value shall not be greater than 0.19;

13
14 (vii) Testing performed or sponsored by the
15 state fire marshal to determine a cigarette's compliance
16 with the performance standard required by this section
17 shall be conducted in accordance with this section.

18
19 (b) Each cigarette listed in a certification
20 submitted pursuant to W.S. 35-9-804 that uses lowered
21 permeability bands in the cigarette paper to achieve
22 compliance with the performance standard set forth in this
23 section shall have at least two (2) nominally identical
24 bands on the paper surrounding the tobacco column. One (1)

1 complete band shall be located not less than fifteen (15)
2 millimeters from the lighting end of the cigarette.
3 Cigarettes on which the bands are positioned by design
4 shall have at least two (2) bands fully located not less
5 than fifteen (15) millimeters from the lighting end and ten
6 (10) millimeters from the filter end of the tobacco column.
7 For nonfiltered cigarettes the bands shall be not less than
8 ten (10) millimeters from the labeled end of the tobacco
9 column.

10

11 (c) If the state fire marshal determines that a
12 cigarette cannot be tested in accordance with paragraph
13 (a)(i) of this section, the manufacturer shall propose a
14 test method and performance standard. If the state fire
15 marshal determines the proposed test method and performance
16 standard proposed by the manufacturer is equivalent to the
17 performance standard prescribed in paragraph (a)(iii) of
18 this section the test method may be used to certify the
19 cigarette pursuant to W.S. 35-9-804.

20

21 (d) If the state fire marshal determines that another
22 state has enacted reduced cigarette ignition propensity
23 standards that include testing methods and performance
24 standards that are at least as stringent as those adopted

1 under W.S. 35-9-803(a)(i), and further determines that the
2 officials responsible for implementing those requirements
3 have approved the proposed alternative test method and
4 performance standard for a particular cigarette proposed by
5 a manufacturer as meeting the fire safety standards of that
6 state's law or regulation under a legal provision
7 comparable to this section, then the state fire marshal
8 shall authorize that manufacturer to employ the alternative
9 test method and performance standard to certify that
10 cigarette for sale in this state, unless the state fire
11 marshal determines a reasonable basis to reject the
12 alternative testing method.

13

14 (e) Manufacturers shall maintain copies of reports of
15 all tests conducted on all cigarettes offered for sale for
16 not less than three (3) years and shall make copies
17 available upon written request by the state fire marshal or
18 attorney general. Any manufacturer failing to provide
19 copies of the requested reports available within sixty (60)
20 days of receipt of the request shall be subject to a civil
21 penalty not to exceed ten thousand dollars (\$10,000.00) for
22 each day after the sixtieth day that the manufacturer fails
23 to make copies available.

24

1 (f) The state fire marshal shall review the
2 effectiveness of this section and report every three (3)
3 years to the labor, health and social services interim
4 committee the state fire marshal's findings and recommend
5 improvements if appropriate. The report and legislative
6 recommendations shall be submitted no later than June 30.

7
8 (g) The requirements of subsection (a) of this
9 section shall not prohibit:

10
11 (i) Wholesale or retail dealers from selling
12 existing inventory of cigarettes on or after the effective
13 date of this act if the wholesale or retail dealer
14 establishes that state tax stamps were affixed to the
15 cigarettes prior to the effective date and the wholesale or
16 retail dealer establishes that the inventory was purchased
17 prior to the effective date; or

18
19 (ii) The sale of cigarettes solely for the
20 purpose of consumer testing using only the quantity of
21 cigarettes that is reasonably necessary for the testing.
22 For purposes of this paragraph the term "consumer testing"
23 means evaluating consumer acceptance of the cigarettes.

24

1 **35-9-804. Certification and product change.**

2

3 (a) Each manufacturer shall certify in writing to the
4 state fire marshal:

5

6 (i) Each cigarette listed in the certification
7 has been tested pursuant to W.S. 35-9-803; and

8

9 (ii) Each cigarette listed in the certification
10 meets the performance standard set forth in W.S. 35-9-803.

11

12 (b) For each cigarette listed in the certification
13 the following information shall be included:

14

15 (i) Brand or trade name on the packaging;

16

17 (ii) Style, such as light or ultra light;

18

19 (iii) Length in millimeters;

20

21 (iv) Circumference in millimeters;

22

23 (v) Flavor such as menthol or chocolate if
24 applicable;

1

2 (vi) Filter or nonfilter;

3

4 (vii) Package description such as soft pack or
5 box;

6

7 (viii) Marking pursuant to W.S. 35-9-805;

8

9 (ix) Contact information for the entity that
10 conducted the testing, including name, address and
11 telephone number; and

12

13 (x) The date of testing and the method used.

14

15 (c) The state fire marshal shall make the
16 certifications available to the attorney general and
17 department of revenue for purposes consistent with this
18 article.

19

20 (d) Cigarettes certified pursuant to this section
21 shall be recertified every three (3) years.

22

23 (e) For each cigarette listed in a certification, a
24 manufacturer shall pay a fee of two hundred fifty dollars

1 (\$250.00) payable to the state fire marshal for processing,
2 testing, enforcement and oversight activities required by
3 this article.

4
5 (f) If a cigarette is certified and is subsequently
6 changed it shall not be sold or offered for sale in this
7 state until the manufacturer retests the cigarette in
8 accordance with the testing standards consistent with the
9 provisions of this article.

10
11 **35-9-805. Cigarette packaging.**

12
13 (a) Cigarettes certified by a manufacturer in
14 accordance with W.S. 35-9-804 shall be marked to indicate
15 compliance with the requirements of W.S. 35-9-803. The
16 marking shall include the letters "FSC" (Fire Standard
17 Compliant) and shall not be less than eight (8) point type
18 and shall be permanently printed, stamped, engraved or
19 embossed on the package at or near the UPC Code.

20
21 (b) A manufacturer shall use only one (1) marking
22 applied uniformly for all packages including packs,
23 cartons, cases and brands marketed by the manufacturer.

1 (c) Manufacturers certifying cigarettes in accordance
2 with W.S. 35-9-804 shall submit copies of the certification
3 to all wholesale dealers and agents selling their
4 cigarettes.

5

6 **35-9-806. Penalties.**

7

8 (a) A manufacturer, wholesale dealer, agent or any
9 other person or entity who knowingly sells or offers for
10 sale cigarettes, other than through retail sale, in
11 violation of W.S. 35-9-803 shall be subject to a civil
12 penalty not to exceed one hundred dollars (\$100.00) for
13 each pack of such cigarettes sold or offered for sale. In
14 no case shall the penalty against any such person or entity
15 exceed one hundred thousand dollars (\$100,000.00) during
16 any thirty (30) day period.

17

18 (b) A retail dealer who knowingly sells or offers for
19 sale cigarettes in violation of any provision of this act
20 shall be subject to a civil penalty not to exceed one
21 hundred dollars (\$100.00) for each pack of such cigarettes
22 sold or offered for sale. In no case shall the penalty
23 against any retail dealer exceed twenty-five thousand
24 dollars (\$25,000.00) during any thirty (30) day period.

1

2 (c) In addition to any penalty prescribed by law any
3 corporation, partnership, sole proprietor, limited
4 partnership or association engaged in the manufacture of
5 cigarettes that knowingly makes a false certification
6 pursuant to W.S. 35-9-804 shall be subject to a civil
7 penalty of at least seventy-five thousand dollars
8 (\$75,000.00) but not to exceed two hundred fifty thousand
9 dollars (\$250,000.00) for each false certification.

10

11 (d) Any person violating any other provision of this
12 article shall be subject to a civil penalty for a first
13 offense not to exceed one thousand dollars (\$1,000.00) and
14 for each subsequent offense a penalty not to exceed five
15 thousand dollars (\$5,000.00) for each violation.

16

17 (e) Law enforcement personnel or authorized
18 representative of the state fire marshal may seize
19 cigarettes for which no certification has been filed as
20 required by W.S. 35-9-804 and 35-9-805. Cigarettes seized
21 pursuant to this section shall be destroyed not less than
22 thirty (30) days after the trademark holder has been given
23 an opportunity to inspect the cigarette.

24

1 **35-9-807. Inspection and enforcement.**

2

3 (a) The department of revenue may inspect cigarettes
4 to determine if the cigarettes are marked as required by
5 W.S. 35-9-805. If the cigarettes are not marked as
6 required, the department of revenue shall notify the state
7 fire marshal.

8

9 (b) To enforce the provisions of this article, the
10 attorney general, the department of revenue and the state
11 fire marshal, their agent and other law enforcement
12 personnel are authorized to examine books, papers, invoices
13 and other records of any person or entity possessing,
14 controlling or occupying any premises where cigarettes are
15 placed, held, stored, sold or offered for sale.

16

17 **35-9-808. Reduced cigarette ignition propensity**
18 **standard fund.**

19

20 The reduced cigarette ignition propensity standard fund is
21 created. All certification fees paid under W.S. 35-9-804
22 and all monies recovered as penalties under W.S. 35-9-806
23 shall be deposited in the state treasury to the credit of
24 this account. Subject to legislative appropriation, the

1 fund shall be made available to support fire safety and
2 prevention programs.

3

4 **35-9-809. Sale in other states.**

5

6 Nothing in this article shall be construed to prohibit any
7 person or entity from manufacturing or selling cigarettes
8 that do not meet the requirements of W.S. 35-9-803 if the
9 cigarettes are or will be stamped for sale in another state
10 or are packaged for sale outside the United States and that
11 person or entity has taken reasonable steps to ensure that
12 such cigarettes will not be sold or offered for sale to
13 persons located in this state.

14

15 **35-9-810. Preemption of local law.**

16

17 This article preempts any local law, ordinance or
18 regulation conflicting with any provision of this article.

19

20 **Section 2.** This act is effective July 1, 2009.

21

22 (END)