

SS SCS HCS HB 205 -- FIRE SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT

This bill establishes the Fire Safety Standard and Firefighter Protection Act which prohibits the sale of or the offer to sell any cigarette in this state that has not been tested, certified, and marked that it has met certain performance standards. Performance standard tests will be conducted in accordance with the Standard Test Method for Measuring the Ignition Strength of Cigarettes of the American Society of Testing and Materials unless the State Fire Marshal determines that it is impossible for the cigarette manufacturer to use this test method. Alternative testing methods may be approved by the State Fire Marshal and implemented by a cigarette manufacturer. A manufacturer must maintain copies of all testing records for three years and make them available to the State Fire Marshal or the Attorney General within 60 days of receiving a written request or be fined up to \$10,000 per day after the sixtieth day.

Cigarette manufacturers must pay a certification fee of \$1,000 for each brand family of cigarettes, and the certification period will last for three years. Any manufacturer, wholesaler, or other person or entity who knowingly violates this requirement other than through retail sale may be fined up to \$100 per pack of cigarettes sold or offered for sale. No penalty against any person or entity can exceed \$100,000 during any 30-day period. A retail dealer may be fined up to \$100 per pack of cigarettes sold in violation of the act, but the penalty cannot exceed \$25,000 during any 30-day period. Any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification will be subject to a penalty of between \$75,000 and \$250,000. Any person who violates any other provision of the act will be subject to a fine of up to \$1,000 for a first violation and up to \$5,000 for a subsequent offense.

Certain exemptions for sales prior to the effective date of the bill and for cigarettes used for consumer testing are specified. The act preempts all local or state laws or state policy considerations to the contrary. The act will terminate if a federal cigarette ignition propensity standard is enacted.

To enforce the provisions of the bill, the Attorney General and the Department of Revenue are authorized to examine the business records related to cigarettes that are suspected of nonconformity with the act's requirements. Methods for an injunction prohibiting the sale of illegal cigarettes or obtaining damages and attorney fees resulting from the enforcement of the act are specified. All fines will be deposited into the newly created Cigarette Fire Safety Standard and Firefighter Protection Act

Fund which must be used by the State Fire Marshal to support fire safety and prevention programs.

The State Fire Marshal must review the effectiveness of the act and submit a report on his or her findings and, if appropriate, legislative recommendations to the General Assembly by June 30 every three years.

The bill becomes effective January 1, 2011.