

**2007 Regular Legislative Session**  
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**  
**Prepared by the Oregon Legislative Fiscal Office**

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**MEASURE NUMBER:** HB 2163

**STATUS:** A Engrossed

**SUBJECT:** Prohibits distribution or sale of cigarettes within state unless the cigarette is listed as fire-safe and declares emergency.

**GOVERNMENT UNIT AFFECTED:** Oregon State Police, Department of Justice

**PREPARED BY:** Tim Walker

**REVIEWED BY:** Doug Wilson

**DATE:** February 14, 2007

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	<u>2007-2009</u>	<u>2009-2011</u>
<b>EXPENDITURES:</b>		
Services and Supplies (Other Fund)	\$ 25,200	\$ 25,200

**EFFECTIVE DATE:** On passage.

**GOVERNOR'S BUDGET:** This bill is anticipated by the Governor's recommended budget.

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**COMMENTS:** This bill will require that all cigarettes sold in the state be fire-safe. For a cigarette to be considered fire-safe, no more than 25% of the cigarettes tested in a sample can burn the full length of the cigarette. A typical sample size is 40 or more cigarettes. The testing protocol is in accordance with American Society for Testing and Materials International (ASTM) specification E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes. The Oregon State Fire Marshall (OSFM) may accept a modified or replacement testing protocol as long as the modified or replacement protocol does not consistently result in a smaller percentage of cigarettes burning along the full length than the percentage produced using ASTM E2187-04.

Laboratories that conduct testing must be accredited under International Standards Organization/International Electrotechnical Commission ISO/IEC 17025 which specifies the general requirements for the competence to carry out tests and/or calibrations, including sampling. It covers testing and calibration performed using standard methods, non-standard methods, and laboratory-developed methods. There are two laboratories in the United States qualified to perform this type testing on cigarettes. OSFM anticipates 1 or 2 tests per month. The tests cost between \$500 and \$800 each. The total costs per month would be between \$500 and \$1600 per month and an average cost per month of \$1050 was used to calculate the biennial costs for testing. Testing would be done on a random sample or in cases where OSFM suspects that a brand being sold does not meet the requirements of this bill. The cost of conducting these tests would be paid out of the Fire Insurance Premium Tax funds. Any staffing requirements will be accommodated with currently existing resources.

Currently, there are three other states that have instituted same or similar laws, New York (2004), Vermont (2006) and California (2007). Instead of testing all brands of cigarettes for ignition strength, OSFM will accept as fire-safe all cigarettes certified, prior to the effective date of this 2007 Act, by the Office of Fire Prevention and Control, Department of State, New York State. This list currently has 222 fire-safe brands in 883 varieties.

The Department of Justice (DOJ) will have authority to prosecute violations of this bill. It is anticipated that any costs incurred by DOJ will be recovered through fines and civil penalties. Based on the experiences of New York, OSFM does not anticipate many civil enforcement actions, instead relying upon voluntary compliance and educating the distributors.

The bill also establishes the Cigarette Fire Safety Fund. This fund will be separate and distinct from the General Fund and will consist of money recovered from the imposition of civil penalties. All interest earned by this fund will be credited to the fund.