

Senate Bill 314

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Consumer Protection for Fire Safe Cigarette Coalition)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates standard for fire-safe cigarettes. Requires State Fire Marshal to determine whether cigarette variety meets standard for fire-safe cigarettes. Requires State Fire Marshal to publish and distribute list of fire-safe cigarette varieties beginning no later than January 1, 2008.

Prohibits distribution or offer to sell cigarette unless cigarette is of variety State Fire Marshal has determined to be fire-safe. Makes violation by person distributing or offering to sell cigarettes to wholesaler or retailer subject to civil penalty not to exceed greater of \$10,000 or five times value of cigarettes. Makes civil penalty applicable to distributions or offers to sell occurring on or after March 1, 2008. Makes violations by person distributing or offering to sell cigarettes to public subject to civil penalty not to exceed \$500 for violation involving not more than 1,000 cigarettes and not to exceed greater of \$1,000 or five times value of cigarettes for violation involving more than 1,000 cigarettes. Makes civil penalty applicable to distributions or offers to sell occurring on or after July 1, 2008.

Prohibits cigarette packages or cartons that bear device indicating cigarettes are fire-safe if cigarettes are not variety determined by State Fire Marshal to be fire-safe. Makes prohibition operative March 1, 2008.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to cigarettes; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in this section and sections 2 and 3 of this 2007 Act:**

5 (1) **"Cigarette" means a product that contains nicotine, is intended to be burned or**
6 **heated under ordinary conditions of use and consists of or contains:**

7 (a) **A roll of tobacco wrapped in paper or in any substance not containing tobacco;**

8 (b) **Tobacco, in any form, that is functional in the product and that, because of its ap-**
9 **pearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be**
10 **offered to or purchased by consumers as a cigarette; or**

11 (c) **Any roll of tobacco that is wrapped in a substance containing tobacco and that, be-**
12 **cause of its appearance, the type of tobacco used in the filler or its packaging and labeling,**
13 **is likely to be offered to or purchased by consumers as a cigarette described in paragraph**
14 **(a) of this subsection.**

15 (2) **"Distribute" means to do any of the following:**

16 (a) **Sell cigarettes or deliver cigarettes for sale by another person to consumers.**

17 (b) **Receive or retain more than 199 cigarettes at a place of business where the person**
18 **receiving or retaining the cigarettes customarily sells cigarettes or offers cigarettes for sale**
19 **to consumers.**

20 (c) **Place cigarettes in vending machines.**

21 (d) **Sell or accept orders for cigarettes that are to be transported from a point outside**
22 **this state to a consumer within this state.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) Buy cigarettes directly from a manufacturer or wholesaler for resale in this state.

2 (3) "Fire-safe" means meeting the fire-safety performance standard described in section
3 2 (3) of this 2007 Act.

4 (4) "Variety" means a type of cigarette marketed by the manufacturer as being distinct
5 from other types of cigarettes on the basis of brand name, length, filter, wrapping, flavoring
6 or other characteristics that the State Fire Marshal may provide by rule.

7 **SECTION 2.** (1) The State Fire Marshal shall determine for each variety of cigarette sold
8 or proposed for sale in this state whether that variety of cigarette is fire-safe. The State Fire
9 Marshal may make the determination by conducting ignition propensity testing or by ac-
10 cepting the results of ignition propensity testing conducted by any source the State Fire
11 Marshal recognizes as reliable.

12 (2) Except as provided in this subsection, ignition propensity testing conducted or relied
13 upon under subsection (1) of this section must be performed using the Standard Test Method
14 for Measuring the Ignition Strength of Cigarettes, E2187-04, developed by ASTM Interna-
15 tional. The State Fire Marshal may conduct or rely upon an ignition propensity testing
16 method developed by ASTM International as a modification or replacement of the method
17 designated by this subsection if the State Fire Marshal, by rule, deems the modified or re-
18 placement method acceptable.

19 (3) The State Fire Marshal shall declare a variety of cigarette to be fire-safe if not more
20 than 25 percent of the cigarettes of that variety tested burned along the full length of the
21 tobacco portion of the cigarette when subjected to the ignition propensity testing.

22 (4) The State Fire Marshal shall issue, keep current and make available to the public a
23 list of the varieties of cigarettes determined by the State Fire Marshal to be fire-safe.

24 (5) The State Fire Marshal, by rule or upon application, may approve cigarette package
25 or carton markings, stickers, labeling or other devices that identify a variety of cigarette
26 as fire-safe.

27 **SECTION 3.** (1) A person may not distribute or offer to sell a cigarette within this state
28 unless the cigarette is of a variety the State Fire Marshal has listed as a fire-safe cigarette
29 under section 2 of this 2007 Act. This subsection does not apply to a distribution of, or offer
30 to sell, cigarettes exempted from state taxation under ORS 323.040, 323.050 or 323.055.

31 (2) A cigarette package or carton may not bear markings, stickers, labeling or other de-
32 vices identifying cigarettes contained in the package or carton as fire-safe cigarettes unless
33 the cigarettes are of a variety the State Fire Marshal has listed as fire-safe under section 2
34 of this 2007 Act. This subsection does not apply if the cigarettes are in interstate commerce
35 and not intended for distribution in this state.

36 (3) The State Fire Marshal, an authorized representative of the State Fire Marshal or
37 any law enforcement agency may immediately seize and subject to forfeiture any cigarettes
38 distributed or offered for sale in violation of subsection (1) of this section and any cigarettes
39 contained in packages or cartons bearing markings, stickers, labeling or other devices in vi-
40 olation of subsection (2) of this section. The State Fire Marshal shall destroy cigarettes
41 seized and forfeited under this subsection.

42 (4) The State Fire Marshal may enter into a cooperative agreement with any state or
43 local agency that allows the agency to act as an authorized representative of the State Fire
44 Marshal for enforcement purposes under subsection (3) of this section.

45 **SECTION 4.** The State Fire Marshal may impose a civil penalty for a violation of section

1 **3 (1) of this 2007 Act. The civil penalty may not exceed:**

2 **(1) For a person who distributes or offers to sell cigarettes to a wholesaler or retailer,**
3 **\$10,000 or five times the value of the cigarettes involved in the violation, whichever is**
4 **greater.**

5 **(2) For a person who distributes or offers to sell cigarettes to the public:**

6 **(a) For a distribution or offer of not more than 1,000 cigarettes, \$500.**

7 **(b) For a distribution or offer of more than 1,000 cigarettes, \$1,000 or five times the retail**
8 **value of the cigarettes involved in the violation, whichever is greater.**

9 **SECTION 5. (1) The State Fire Marshal shall publish an initial list of varieties of ciga-**
10 **rettes declared to be fire-safe under section 2 of this 2007 Act no later than January 1, 2008.**

11 **(2) Notwithstanding section 2 of this 2007 Act, the State Fire Marshal, without conduct-**
12 **ing ignition propensity testing under section 2 of this 2007 Act, shall include in the fire-safe**
13 **cigarette list published by the State Fire Marshal any variety of cigarette sold in this state**
14 **that was certified prior to the effective date of this 2007 Act by the Office of Fire Prevention**
15 **and Control, Department of State, New York State, or a successor to that office, as com-**
16 **plying with cigarette fire safety performance standards required for cigarettes sold in New**
17 **York State after June 28, 2004.**

18 **SECTION 6. (1) Sections 3 (2) and 4 (1) of this 2007 Act become operative March 1, 2008.**

19 **(2) Section 4 (2) of this 2007 Act becomes operative July 1, 2008.**

20 **SECTION 7. This 2007 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
22 **on its passage.**