

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-101
HOUSE BILL 1905**

AN ACT TO AMEND THE FIRE-SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-92-10 reads as rewritten:

"§ 58-92-10. Definitions.

For the purposes of this Article:

- (1) "Agent" means any person authorized by the Department of Revenue to pay the excise tax on packages of cigarettes.
- (1a) "Brand style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging.
- (2) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, other than leaf tobacco.
- (3) "Commissioner" means the Commissioner of Insurance.
- (4) "Consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer), for the purpose of evaluating consumer acceptance of such cigarettes.
- (5) "Distributor" means any person other than a manufacturer who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person, or a distributor as defined in G.S. 105-113.4(3)a.
- (6) "Manufacturer" means:
 - a. Any entity ~~which~~that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that ~~such~~the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer;
 - b. The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
 - c. Any entity that becomes a successor of an entity described in sub-subdivision a. or b. of this subdivision.



- (7) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in G.S. 58-92-15(g) for all test trials used to certify cigarettes in accordance with this Article.
- (8) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.
- (9) "Retail dealer" means any person, other than a manufacturer or distributor, engaged in selling cigarettes or tobacco products.
- (10) "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.
- (11) "Sell" means to sell, or to offer or agree to do the same."

SECTION 2. G.S. 58-92-20 reads as rewritten:

"§ 58-92-20. Certification and product change.

(a) Each manufacturer shall submit to the Commissioner a written certification attesting both of the following:

- (1) Each cigarette listed in the certification has been tested in accordance with G.S. 58-92-15.
- (2) Each cigarette listed in the certification meets the performance standard set forth in G.S. 58-92-15.

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

- (1) Brand or trade name on the package.
- (2) ~~Style, such as light or ultralight.~~ Brand style, as defined in G.S. 58-92-10(1a).
- (3) Length in millimeters.
- (4) Circumference in millimeters.
- (5) Flavor, such as menthol or chocolate, if applicable.
- (6) Filter or nonfilter.
- (7) Package description, such as soft pack or box.
- (8) Marking pursuant to G.S. 58-92-25.
- (9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.
- (10) The date that the testing occurred.

(c) Certifications shall be made available to the Attorney General for purposes consistent with this Article and the Commissioner for the purposes of ensuring compliance with this section.

(d) Each cigarette certified under this section shall be recertified every three years.

(e) For each ~~certification form~~, brand style listed in a certification, a manufacturer shall pay to the Commissioner a fee of two hundred fifty dollars (\$250.00). The Commissioner may annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this Article.

(f) There is established in the State treasury a separate, nonreverting fund to be known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund." The fund shall consist of all certification fees submitted by manufacturers and shall, in addition to any other

monies made available for such purpose, be available to the Commissioner solely to support processing, testing, enforcement, and oversight activities under this Article.

(g) If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Article, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in G.S. 58-92-15 and maintains records of that retesting as required by G.S. 58-92-15. Any altered cigarette ~~which~~ that does not meet the performance standard set forth in G.S. 58-92-15 ~~may~~ shall not be sold in this State."

SECTION 3. This act becomes effective July 1, 2010.
In the General Assembly read three times and ratified this the 9th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 3:13 p.m. this 20th day of July, 2010