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HEALTH AND SAFETY CODE - HSC

DIVISION 12. FIRES AND FIRE PROTECTION [13000 - 14959] (*Division 12 enacted by Stats. 1939, Ch. 60.*)

PART 8. CIGARETTES [14950 - 14959] (*Part 8 added by Stats. 2005, Ch. 633, Sec. 2.*)

14950. (a) This part shall be known, and may be cited, as the California Cigarette Fire Safety and Firefighter Protection Act.

(b) As used in this part, the following terms have the following meanings:

(1) "Cigarette" means a cigarette as defined in Section 30003 of the Revenue and Taxation Code, but does not include a little cigar. "Little cigar" means any roll of tobacco wrapped in a leaf of tobacco or any substance containing tobacco and weighing not more than three pounds per thousand.

(2) "Department" means the California Department of Tax and Fee Administration.

(3) "Distributor" means a distributor as defined in Section 30011 of the Revenue and Taxation Code.

(4) "Manufacturer" means any of the following:

(A) An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in the 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.

(C) An entity that becomes a successor of an entity described in subparagraph (A) or (B).

(5) "Offer to sell" means to offer or agree to sell.

(6) "Package" means package as defined in Section 30015 of the Revenue and Taxation Code.

(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. This program ensures that the testing repeatability remains within the required repeatability values stated in paragraph (5) of subdivision (a) of Section 14952 for all test trials used to certify cigarettes in accordance with this part.

(8) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

(9) "Retailer" means a person who engages in the sale of cigarettes, but not for the purpose of resale.

(10) "Sale" or "sell" means any transfer, exchange, or barter, in any manner or by any means whatever, or any agreement for these purposes. The giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money are considered sales.

(11) "Stamp and meter impression" means stamp and meter impression as defined in Section 30018 of the Revenue and Taxation Code.

(12) "Wholesaler" means a wholesaler as defined in Section 30016 of the Revenue and Taxation Code.

(Amended by Stats. 2018, Ch. 613, Sec. 1. (SB 1408) Effective January 1, 2019.)

14951. A person shall not sell, offer, or possess for sale in this state cigarettes not in compliance with all of the following requirements:

- (a) The cigarettes are tested by the manufacturer in accordance with the test method prescribed in subdivision (a) of Section 14952.
- (b) The cigarettes meet the performance standard specified in subdivision (b) of Section 14952.
- (c) The cigarettes meet the marking requirement of Section 14954.
- (d) A written certification is filed by the manufacturer with the Attorney General in accordance with Section 14953.

(Amended by Stats. 2022, Ch. 454, Sec. 1. (AB 1742) Effective January 1, 2023.)

14952. (a) (1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes." However, a subsequent ASTM Standard Test Method may be adopted upon finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns that the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the testing requirements in paragraphs (2) to (5), inclusive, and the performance standard specified in subdivision (b).

(2) Testing shall be conducted on 10 layers of filter paper.

(3) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(4) The performance standard required by subdivision (b) shall only be applied to a complete test trial.

(5) Laboratories conducting testing in accordance with this subdivision shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19 pursuant to subdivision (b).

(b) When tested in accordance with subdivision (a), no more than 25 percent of the cigarettes tested in a test trial shall exhibit full-length burns.

(c) Each cigarette listed in a certification submitted pursuant to Section 14953 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subdivision (b) shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column or 10 millimeters from the labeled end of the tobacco column for a nonfiltered cigarette.

(d) A manufacturer or manufacturers of a cigarette that cannot be tested in accordance with the test method prescribed in subdivision (a) may employ a test method and performance standard for that cigarette that is equivalent to the performance standard prescribed in subdivision (b). The manufacturer or manufacturers may employ that test method and performance standard to certify that cigarette pursuant to Section 14953. All other applicable requirements of this part shall apply to the manufacturer or manufacturers of that cigarette.

(e) This section does not require additional testing if cigarettes are tested consistent with this section for any other purpose.

(f) In order to ensure compliance with the performance standard specified in subdivision (b), data from testing conducted by manufacturers to comply with this performance standard shall be kept on file by these manufacturers for a period of three years after the initial date of certification and for a period of three years after each recertification required by subdivision (c) of Section 14953 and shall be sent to the Attorney General upon the Attorney General's request.

(g) This section shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes that are effective on June 28, 2004.

(Amended by Stats. 2022, Ch. 454, Sec. 2. (AB 1742) Effective January 1, 2023.)

14953. (a) Each manufacturer shall submit a written certification to the Attorney General attesting that each cigarette listed in the certification has been tested in accordance with subdivision (a) of Section 14952 and meets the performance standard set forth in subdivision (b) of that section.

(b) Each certification shall be submitted in the form, manner, and detail required by the Attorney General and include, at a minimum, with respect to each cigarette listed in the certification, all of the following information:

- (1) Brand.
- (2) Style (for example, light, ultralight).
- (3) Length in millimeters.
- (4) Circumference in millimeters.
- (5) Flavor (for example, menthol, chocolate) if applicable.
- (6) Filter or nonfilter.
- (7) Package description (for example, soft pack, box).
- (8) Marking approved in accordance with Section 14954.

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

(d) The Attorney General may publish on its internet website the information submitted pursuant to this section.

(e) The Attorney General may adopt rules and regulations to implement this section. The Attorney General may adopt initial emergency regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and these regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(f) A manufacturer certifying cigarettes in accordance with this section shall provide a copy of the certifications to all distributors and wholesalers to which the manufacturer sells cigarettes and shall also provide sufficient copies of an illustration of the cigarette packaging marking utilized by the manufacturer pursuant to Section 14954 for each retailer to which the distributors and wholesalers sell cigarettes. Distributors and wholesalers shall provide a copy of these cigarette packaging markings received from manufacturers to all retailers to whom they sell cigarettes.

(Amended by Stats. 2022, Ch. 454, Sec. 3. (AB 1742) Effective January 1, 2023.)

14954. (a) Cigarettes that are certified by a manufacturer in accordance with Section 14953 shall be marked on the packaging and case to indicate compliance with the requirements of this part. The marking shall be in 8-point type or larger and consist of any of the following:

- (1) Modification of the universal product code to include a visible mark printed at or around the area of that code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the universal product code.
- (2) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette packaging or cellophane wrap.
- (3) Printed, stamped, engraved, or embossed text on the cigarette packaging that indicates that the cigarettes meet California standards.

(b) Before a certified cigarette can be sold in the state, a manufacturer shall submit its proposed marking to the Attorney General. The Attorney General shall approve the marking upon a finding that it is compliant with the criteria outlined in subdivision (a). Proposed markings shall be deemed approved if the Attorney General fails to act within 30 business days of receiving a proposed marking. A marking in use and approved for the sale of cigarettes in the State of New York shall be deemed approved.

(c) A manufacturer must use only one marking and must apply this marking uniformly for all packagings, including, but not limited to, packages, cartons, and cases, and brands marketed by that manufacturer.

(d) A manufacturer who modifies its marking shall notify the Attorney General of this change and submit to the Attorney General a copy of the new marking that shall comply with subdivisions (a) and (b).

(e) The Attorney General may adopt rules and regulations to implement this section. The Attorney General may adopt initial emergency regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and these regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(Amended by Stats. 2022, Ch. 454, Sec. 4. (AB 1742) Effective January 1, 2023.)

14955. (a) A manufacturer or any other person or entity that knowingly sells or offers to sell cigarettes other than through retail sale in violation of this part is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each sale.

(b) A retailer, distributor, or wholesaler that knowingly sells or offers to sell cigarettes in violation of this part shall be subject to the following:

(1) A civil penalty not to exceed five hundred dollars (\$500) for each sale or offer for sale in which the total number of cigarettes sold or offered for sale does not exceed 50 packages of cigarettes.

(2) A civil penalty not to exceed one thousand dollars (\$1,000) for each sale or offer for sale in which the total number of cigarettes sold or offered for sale exceeds 50 packages of cigarettes.

(c) The civil penalties imposed pursuant to subdivisions (a) and (b) shall be deposited in the Cigarette Fire Safety and Firefighter Protection Fund.

(d) In addition to any other penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 14953 is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each false certification.

(e) A person who violates any other provision in this part is subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each violation. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by Section 14952 shall be deemed contraband per se and subject to seizure and disposal by the department or a law enforcement agency.

(f) The Attorney General may bring an action on behalf of the people of the state to restrain further violations of this part and for any other relief that may be appropriate. In any action by the Attorney General to enforce this act, the Attorney General shall be entitled to recover costs of investigation, expert witness fees, costs of the action, and reasonable attorney's fees.

(g) It is a defense in any action for civil penalties that a distributor, wholesaler, retailer, or a person in the stream of commerce relied in good faith on the manufacturer's certificate or marking that the cigarettes comply with this part.

(Amended by Stats. 2019, Ch. 497, Sec. 158. (AB 991) Effective January 1, 2020.)

14956. (a) Inspections may be made at any place where cigarettes are sold, offered for sale, or stored or at any site where there is evidence of a violation of subdivision (a) of Section 14951.

(b) Manufacturers, distributors, wholesalers, and retailers shall permit an employee of the department, upon presentation of the appropriate identification and credentials, to enter into, and to conduct an inspection of, any building, facility, site, or place described in subdivision (a).

(c) Any person that refuses to allow an inspection authorized under this section is subject to the penalty imposed by Section 14958.

(Amended by Stats. 2018, Ch. 613, Sec. 4. (SB 1408) Effective January 1, 2019.)

14957. Upon discovery by the department or a law enforcement agency that a person offers or possesses for sale, or has made a sale of, cigarettes in violation of subdivision (a) of Section 14951, the department or that law enforcement agency may seize and dispose of those cigarettes possessed in violation of this part as contraband per se.

(Amended by Stats. 2018, Ch. 613, Sec. 5. (SB 1408) Effective January 1, 2019.)

14958. Any person who knowingly fails or refuses to allow an inspection by the department, pursuant to Section 14956, is subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each failure or refusal.

(Amended by Stats. 2018, Ch. 613, Sec. 6. (SB 1408) Effective January 1, 2019.)

14959. This part shall cease to be applicable if federal fire safety standards for cigarettes that preempt this act are enacted and take effect subsequent to the effective date of this act and the Attorney General so notifies the Secretary of State.

(Amended by Stats. 2022, Ch. 454, Sec. 5. (AB 1742) Effective January 1, 2023.)