

By: Gallego

H.B. No. 1976

A BILL TO BE ENTITLED

AN ACT

1
2 relating to fire safety standards for cigarettes; providing civil
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter H, Chapter 161, Health and Safety
6 Code, is amended by adding Section 161.091 to read as follows:

7 Sec. 161.091. FIRE SAFETY STANDARDS. (a) In this section:

8 (1) "Bonded agent" has the meaning assigned by Section
9 154.001 or 155.001, Tax Code, as applicable.

10 (2) "Executive commissioner" means the executive
11 commissioner of the Health and Human Services Commission.

12 (b) The executive commissioner shall adopt rules relating
13 to fire safety standards for cigarettes offered for sale in this
14 state requiring that:

15 (1) a cigarette, if ignited, will stop burning within
16 a period established by rule if the cigarette is not smoked during
17 that period; and

18 (2) a cigarette meets performance standards
19 prescribed by the department to limit the risk that the cigarette
20 will ignite upholstered furniture, mattresses, or other household
21 furnishings.

22 (c) In adopting rules under Subsection (b), the executive
23 commissioner may consider whether a cigarette manufactured in
24 accordance with the rules may reasonably result in an increased

1 health risk to a consumer.

2 (d) The department, with the assistance of local law
3 enforcement agencies, shall administer this section. The
4 department may enter into an interagency contract with the
5 comptroller under Section 161.088(c) to facilitate enforcement of
6 this section.

7 (e) A person may not sell or give or direct the sale or gift
8 of a cigarette unless the manufacturer of the cigarette has
9 certified to the department and to the attorney general that the
10 cigarette meets the performance standards adopted by the executive
11 commissioner under Subsection (b). The certifying manufacturer
12 shall provide a copy of the manufacturer's certification to all
13 wholesalers and bonded agents. The executive commissioner shall
14 adopt rules prescribing standards for the notification of retailers
15 as to which cigarettes have been certified by the manufacturer
16 under this section.

17 (f) A wholesaler who knowingly sells cigarettes wholesale
18 in violation of Subsection (e) is subject to a civil penalty not to
19 exceed \$10,000 for each sale in violation of Subsection (e).

20 (g) A retailer who knowingly sells cigarettes in violation
21 of Subsection (e) is subject to a civil penalty not to exceed:

22 (1) \$500 for each sale if the total number of
23 cigarettes in the sale is less than 1,000 cigarettes; or

24 (2) \$1,000 for each sale if the total number of
25 cigarettes in the sale is 1,000 or more.

26 (h) A manufacturer who knowingly makes a false
27 certification under Subsection (e) is subject to a civil penalty

1 not to exceed \$10,000 for each false certification.

2 (i) A civil penalty under this section may be collected in a
3 suit by the attorney general.

4 (j) This section does not apply to a person selling
5 cigarettes that have not been certified by the manufacturer under
6 Subsection (e) if the cigarettes are or will be stamped for sale in
7 another state or are packaged for sale outside the United States.

8 (k) Proceeds from the assessment of civil penalties under
9 this section shall be deposited to the credit of the cigarette fire
10 safety account. The cigarette fire safety account is an account in
11 the general revenue fund. Money in the account may be used only by
12 the department for:

13 (1) making grants to fund fire safety and education
14 programs; and

15 (2) administering this section.

16 SECTION 2. (a) The executive commissioner of the Health and
17 Human Services Commission shall adopt rules relating to cigarette
18 fire safety standards as required by Section 161.091(b), Health and
19 Safety Code, as added by this Act, not later than March 1, 2006.

20 (b) The fire safety standards adopted by the executive
21 commissioner under Section 161.091(b), Health and Safety Code, as
22 added by this Act, shall take effect on the earliest practicable
23 date that a manufacturer of cigarettes is able to comply with the
24 standards, provided that that date is not later than six months
25 after the date the executive commissioner adopts the standards.

26 (c) Sections 161.091(e), (f), and (g), Health and Safety
27 Code, as added by this Act, apply only to the sale of cigarettes

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1 beginning on or after the 30th day after the date the fire safety
2 standards take effect in accordance with Subsection (b) of this
3 section.

4 SECTION 3. This Act takes effect September 1, 2005.