

By: West, Royce

S.B. No. 1179

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 or drawn
17 upon during 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) Rules adopted under Subsection (b) may not result in an
23 increased health risk to a consumer.

24 (d) The department, with the assistance of local law

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

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

15 (f) A person who knowingly sells cigarettes wholesale in
16 violation of Subsection (e) is subject to a civil penalty not to
17 exceed \$10,000 for each 10,000 cigarettes sold or fraction of
18 10,000 cigarettes sold in violation of Subsection (e).

19 (g) A retailer, vending machine operator, or transportation
20 company who knowingly sells cigarettes in violation of Subsection
21 (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 \$100,000 for each false certification.

2 (i) The attorney general may file suit:

3 (1) to collect a civil penalty under this section; or

4 (2) for injunctive relief to restrain a person from
5 continuing a violation or threatening a violation of this section.

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

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

15 (1) making grants to fund fire safety and education
16 programs; and

17 (2) administering this section.

18 SECTION 2. (a) The executive commissioner of the Health and
19 Human Services Commission shall adopt rules relating to cigarette
20 fire safety standards as required by Section 161.091(b), Health and
21 Safety Code, as added by this Act, not later than March 1, 2007.

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

1 (c) Sections 161.091(e), (f), and (g), Health and Safety
2 Code, as added by this Act, apply only to the sale of cigarettes
3 beginning on or after the 30th day after the date the fire safety
4 standards take effect in accordance with Subsection (b) of this
5 section.

6 (d) Not later than March 1, 2006, the executive commissioner
7 of the Health and Human Services Commission shall report to the
8 governor, lieutenant governor, and speaker of the house of
9 representatives on the status of developing and implementing the
10 fire safety standards required by Section 161.091, Health and
11 Safety Code, as added by this Act.

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