

105TH CONGRESS
2D SESSION

H. R. 3935

To direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1998

Mr. MOAKLEY introduced the following bill; which was referred to the Committee on Commerce

A BILL

To direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as “Fire
5 Safe Cigarette Act of 1998”.

6 (b) FINDINGS.—The Congress finds that—

7 (1) cigarette ignited fires are the leading cause
8 of fire deaths in the United States,

9 (2) in 1995 there were 1,122 deaths from ciga-
10 rette ignited fires, 2,667 civilian injuries from such

1 fires, and \$507 million in property damage caused
2 by such fires,

3 (3) over 100 children are killed each year from
4 cigarette related fires,

5 (4) the results accomplished under the Ciga-
6 rette Safety Act of 1984 and the Fire Safe Cigarette
7 Act of 1990 complete the necessary technical work
8 for a cigarette fire safety standard,

9 (5) it is appropriate for the Congress to require
10 by law the establishment of a cigarette fire safety
11 standard for the manufacture and importation of
12 cigarettes,

13 (6) the most recent study by the Consumer
14 Product Safety Commission found that the cost of
15 the loss of human life and personal property from
16 not having a cigarette fire safety standard is
17 \$4,000,000,000 a year, and

18 (7) it is appropriate that the regulatory exper-
19 tise of the Consumer Product Safety Commission be
20 used to implement a cigarette fire safety standard.

21 **SEC. 2. CIGARETTE FIRE SAFETY STANDARD.**

22 (a) IN GENERAL.—Not later than 18 months after
23 the date of the enactment of this Act, the Consumer Prod-
24 uct Safety Commission shall by rule issue a cigarette fire
25 safety standard for cigarettes to reduce the risk of ignition

1 presented by cigarettes. In establishing the standard the
2 Commission shall—

3 (1) consult with the National Institute of
4 Standards and Technology and make use of its ca-
5 pabilities as it deems necessary and seek the advice
6 and expertise of other Federal and State agencies
7 engaged in fire safety, and

8 (2) take into account the final report to the
9 Congress made by the Commission and the Tech-
10 nical Advisory Group established under section 3 of
11 the Fire Safe Cigarette Act of 1990 in which it was
12 found that cigarettes with a low ignition propensity
13 are already on the market.

14 (b) STOCKPILING.—The Commission shall include in
15 the rule issued under subsection (a) a prohibition of stock-
16 piling of cigarettes to which the standard issued under
17 subsection (a) will not apply. For purposes of this sub-
18 section, the term “stockpiling” means the manufacturing
19 or importing of a cigarette between the date a standard
20 is issued under subsection (a) and the date the standard
21 is to take effect at a rate greater than the rate the ciga-
22 rettes were manufactured or imported for the one year pe-
23 riod ending on the date the standard was issued.

24 (c) PROCEDURE.—

1 (1) IN GENERAL.—The rule under subsection
2 (a) shall be issued in accordance with section 553 of
3 title 5, United States Code.

4 (2) OTHER PROVISIONS.—Sections 7, 9, and
5 30(d) of the Consumer Product Safety Act (15
6 U.S.C. 2056,2058,2079(d)) do not apply to the pro-
7 ceedings under this subsection and section 11 of
8 such Act (15 U.S.C. 2060) shall not apply with re-
9 spect to any standard issued under such proceed-
10 ings.

11 (d) EFFECTIVE DATE.—The Commission shall pre-
12 scribe the effective date of the rule issued under subsection
13 (a), except that such date may not be later than 30
14 months after the date of the enactment of this Act.

15 (e) JUDICIAL REVIEW.—

16 (1) GENERAL RULE.—Any person who is ad-
17 versely affected by a rule issued under subsection (a)
18 may, at any time before the 60th day after the Com-
19 mission issues the rule, file a petition with the
20 United States Court of Appeals for the District of
21 Columbia Circuit or for any other circuit in which
22 such person resides or has its principal place of busi-
23 ness to obtain judicial review of the rule. A copy of
24 the petition shall be forthwith transmitted by the
25 clerk of the court to the Secretary. The Commission

1 shall file in the court the record of the proceedings
2 on which the Commission based the rule as provided
3 in section 2112 of title 28, United States Code.

4 (2) ADDITIONAL EVIDENCE.—If the petitioner
5 applies to the court for leave to adduce additional
6 evidence, and shows to the satisfaction of the court
7 that such additional evidence is material and that
8 there was no opportunity to adduce such evidence in
9 the proceeding before the Commission, the court
10 may order such additional evidence (and evidence in
11 rebuttal thereof) to be taken before the Commission
12 in a hearing or in such other manner, and upon such
13 terms and conditions, as the court deems proper.
14 The Commission may modify the Commission's find-
15 ings as to the facts, or make new findings, by reason
16 of the additional evidence so taken, and the Commis-
17 sion shall file such modified or new findings, and the
18 Commission's recommendations, if any, for the
19 modification of the rule.

20 (3) COURT JURISDICTION.—Upon the filing of
21 a petition under paragraph (1), the court shall have
22 jurisdiction to review the rule of the Commission, as
23 modified, in accordance with chapter 7 of title 5,
24 United States Code.

1 **SEC. 3. ENFORCEMENT.**

2 (a) PROHIBITION.—No person—

3 (1) may manufacture or import a cigarette un-
4 less the cigarette is in compliance with a cigarette
5 fire safety standard issued under section 2(a); or

6 (2) shall fail to provide information as required
7 under this Act.

8 (b) PENALTY.—A violation of subsection (a) shall be
9 considered a violation of section 19 of the Consumer Prod-
10 uct Safety Act.

11 **SEC. 4. PREEMPTION.**

12 (a) IN GENERAL.—This Act and the cigarette fire
13 safety standard promulgated under section 2(a) do not
14 preempt or otherwise affect in any way any law of a State
15 or political subdivision which prescribes a fire safety
16 standard for cigarettes which is more stringent than the
17 standard promulgated under section 2(a).

18 (b) DEFENSES.—In any civil action for damages
19 compliance with the fire safety standard promulgated
20 under section 2(a) may not be admitted as a defense.

21 **SEC. 5. DEFINITIONS.**

22 For purposes of this Act:

23 (1) The term “Commission” means the Con-
24 sumer Product Safety Commission.

1 (2) The term “cigarette” has the meaning pre-
2 scribed by section 3 of the Federal Cigarette Label-
3 ing and Advertising Act.

○