

106TH CONGRESS
1ST SESSION

H. R. 1130

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mr. MOAKLEY (for himself, Mr. WAXMAN, Mr. MARKEY, Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mr. BARRETT of Wisconsin, Mr. DELAHUNT, Mr. MCGOVERN, Mr. OLVER, Mr. CAPUANO, Mr. NADLER, Ms. PELOSI, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. MEEHAN, Ms. SLAUGHTER, Mr. CUMMINGS, Mr. CARDIN, Mrs. MORELLA, Ms. JACKSON-LEE of Texas, Mr. BROWN of California, Mr. WEINER, Mr. GUTIERREZ, Ms. DELAURO, Mr. OWENS, Mrs. MCCARTHY of New York, Mr. TIERNEY, and Mr. FORD) 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 1999”.

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

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

3 (2) in 1996 there were 1,083 deaths from ciga-
4 rette ignited fires, 2,809 civilian injuries from such
5 fires, and \$420 million in property damage caused
6 by such fires,

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

9 (4) the results accomplished under the Ciga-
10 rette Safety Act of 1984 and the Fire Safe Cigarette
11 Act of 1990 complete the necessary technical work
12 for a cigarette fire safety standard,

13 (5) it is appropriate for the Congress to require
14 by law the establishment of a cigarette fire safety
15 standard for the manufacture and importation of
16 cigarettes,

17 (6) the most recent study by the Consumer
18 Product Safety Commission found that the cost of
19 the loss of human life and personal property from
20 not having a cigarette fire safety standard is
21 \$6,000,000,000 a year, and

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

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

2 (a) IN GENERAL.—Not later than 18 months after
3 the date of the enactment of this Act, the Consumer Prod-
4 uct Safety Commission shall by rule issue a cigarette fire
5 safety standard for cigarettes to reduce the risk of ignition
6 presented by cigarettes. In establishing the standard the
7 Commission shall—

8 (1) consult with the National Institute of
9 Standards and Technology and make use of its ca-
10 pabilities as it deems necessary and seek the advice
11 and expertise of other Federal and State agencies
12 engaged in fire safety, and

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

19 (b) STOCKPILING.—The Commission shall include in
20 the rule issued under subsection (a) a prohibition of stock-
21 piling of cigarettes to which the standard issued under
22 subsection (a) will apply. For purposes of this subsection,
23 the term “stockpiling” means the manufacturing or im-
24 porting of a cigarette between the date a standard is
25 issued under subsection (a) and the date the standard is
26 to take effect at a rate greater than the rate the cigarettes

1 were manufactured or imported for the one year period
2 ending on the date the standard was issued.

3 (c) PROCEDURE.—

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

7 (2) CONSTRUCTION.—None of the following
8 shall be construed to apply with respect to the pro-
9 mulgation of a rule under subsection (a):

10 (A) The Consumer Product Safety Act (15
11 U.S.C. 2051 et seq.).

12 (B) Chapter 6 of title 5, United States
13 Code.

14 (C) The National Environmental Policy
15 Act of 1969 (42 U.S.C. 4321 et seq.).

16 (D) The Small Business Regulatory En-
17 forcement Fairness Act of 1996 (Public Law
18 104–121) and the amendments made by such
19 Act.

20 (E) Any other Federal law or Executive
21 Order.

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

1 (e) JUDICIAL REVIEW.—

2 (1) GENERAL RULE.—Any person who is ad-
3 versely affected by a rule issued under subsection (a)
4 may, at any time before the 60th day after the Com-
5 mission issues the rule, file a petition with the
6 United States Court of Appeals for the District of
7 Columbia Circuit or for any other circuit in which
8 such person resides or has its principal place of busi-
9 ness to obtain judicial review of the rule. A copy of
10 the petition shall be forthwith transmitted by the
11 clerk of the court to the Secretary. The Commission
12 shall file in the court the record of the proceedings
13 on which the Commission based the rule as provided
14 in section 2112 of title 28, United States Code.

15 (2) ADDITIONAL EVIDENCE.—If the petitioner
16 applies to the court for leave to adduce additional
17 evidence, and shows to the satisfaction of the court
18 that such additional evidence is material and that
19 there was no opportunity to adduce such evidence in
20 the proceeding before the Commission, the court
21 may order such additional evidence (and evidence in
22 rebuttal thereof) to be taken before the Commission
23 in a hearing or in such other manner, and upon such
24 terms and conditions, as the court deems proper.
25 The Commission may modify the Commission's find-

1 ings as to the facts, or make new findings, by reason
2 of the additional evidence so taken, and the Commis-
3 sion shall file such modified or new findings, and the
4 Commission's recommendations, if any, for the
5 modification of the rule.

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

11 **SEC. 3. ENFORCEMENT.**

12 (a) PROHIBITION.—No person—

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

16 (2) shall fail to provide information as required
17 under this Act.

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

21 **SEC. 4. PREEMPTION.**

22 (a) IN GENERAL.—This Act and the cigarette fire
23 safety standard promulgated under section 2(a) do not
24 preempt or otherwise affect in any way any law of a State
25 or political subdivision which prescribes a fire safety

1 standard for cigarettes which is more stringent than the
2 standard promulgated under section 2(a).

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

6 **SEC. 5. DEFINITIONS.**

7 For purposes of this Act:

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

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

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