

107TH CONGRESS  
2D SESSION

# H. R. 5059

To amend the Consumer Product Safety Act to provide for fire safety standards for cigarettes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2002

Mr. STEARNS (for himself, Mr. TOWNS, Mr. CLYBURN, Mr. HALL of Ohio, Mr. TAYLOR of North Carolina, Mr. CONDIT, Mr. SPRATT, Mr. GRAHAM, Mr. WATKINS of Oklahoma, and Mr. PITTS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Consumer Product Safety Act to provide for 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       SECTON 1. SHORT TITLE.**

4       This Act may be cited as the “Fire-Safe Cigarette  
5       Act of 2002”.

**6       SEC. 2. FIRE SAFETY STANDARD.**

7       The Consumer Product Safety Act (15 U.S.C. 2051  
8       et seq.) is amended—

4 (2) by adding after section 7 (15 U.S.C. 2056)  
5 the following new section:

“(1) The testing and statistical methodology for determining ignition propensity of cigarettes shall be the methodology referenced in ‘Relative Ignition Propensity of Test Market Cigarettes—National Institute of Standards and Technology—NIST Technical Note 1436, January, 2001—Appendix D: Cigarette Extinction Method’, with the specifications described in this paragraph. Testing shall be conducted on 10 layers of filter paper, as described in the referenced test method. At least 40 replicate individual tests shall be required to comprise a complete test trial for each cigarette tested. Test results and the application of pass-fail criteria shall be derived only

1 for complete test trials comprised of at least 40 rep-  
2 licate individual tests.

3 “(2) The ignition propensity performance cri-  
4 teria for each brand style of cigarettes using such  
5 methodology shall be as follows: A test failure shall  
6 consist of more than 25 percent of the cigarettes  
7 tested in a test trial failing to self-extinguish prior  
8 to burning the full length of the tobacco column.

9 “(3) For cigarette designs that cannot be tested  
10 using the specified method because of unique or non-  
11 traditional characteristics, the Commission shall ac-  
12 cept test methods and performance criteria that are  
13 proposed by manufacturers when the cigarette with  
14 unique or nontraditional characteristics is found by  
15 the Commission, after review of the application of  
16 the test method and performance criteria, to have an  
17 equivalent or lesser ignition propensity.

18 In establishing the standard for cigarettes, the Commis-  
19 sion shall have the authority to regulate the ignition pro-  
20 pensity of cigarette paper for roll-your-own tobacco prod-  
21 ucts.

22 “(b) REVISION OF STANDARD.—From and after the  
23 third anniversary of the effective date of the consumer  
24 product safety standard prescribed by subsection (a), the  
25 Consumer Product Safety Commission may by rule amend

1 the testing methodology or the performance criteria of the  
2 consumer product safety standard prescribed by sub-  
3 section (a) if the Commission determines that compliance  
4 with the amended standard is technically feasible for con-  
5 ventional cigarettes; will provide a higher degree of protec-  
6 tion from fire ignited by cigarettes; and is reasonable,  
7 practicable and appropriate for each brand of cigarettes  
8 that the amended standard would apply to.

9       “(c) MANUFACTURERS.—Manufacturers of cigarettes  
10 shall identify for the Commission any measures the manu-  
11 facturers will take to meet the consumer product safety  
12 standard for cigarettes promulgated by the Commission,  
13 and shall submit information regarding whether each such  
14 measure does or does not increase the toxicity of the ciga-  
15 rettes. No cigarette shall be deemed to meet such standard  
16 if the Commission has determined that the measures  
17 taken by the manufacturer of such cigarette to meet the  
18 standard will increase the toxicity of such cigarettes.

19       “(d) PROCEDURES.—The Commission shall promul-  
20 gate standards under subsections (a) and (b) in accord-  
21 ance with section 553 of title 5, United States Code, and  
22 with respect to subsection (b) shall—

23           “(1) consult with the National Institute of  
24 Standards and Technology, the American Society of  
25 Testing and Materials, and the National Fire Pro-

1 tection Association, and seek the advice and exper-  
2 tise of other Federal and State agencies; and

3 “(2) take into account all findings in the final  
4 report to the Congress made by the Commission, in  
5 consultation with the Technical Advisory Group es-  
6 tablished under section 3 of the Fire Safe Cigarette  
7 Act of 1990 (15 U.S.C. 2054 note), in which it was  
8 found that cigarettes with a low ignition propensity  
9 are already on the market.

10 “(e) STOCKPILING.—The Commission shall include in  
11 any standard a prohibition of stockpiling of cigarettes to  
12 which such standard will apply. For purposes of this sub-  
13 section, the term ‘stockpiling’ means the manufacturing  
14 or importing of a cigarette which would not comply with  
15 such standard between the date such standard is promul-  
16 gated and the date the standard is to take effect at a rate  
17 greater than the rate that cigarettes were manufactured  
18 or imported for the 1-year period ending on the date such  
19 standard was promulgated.

20 “(f) INAPPLICABLE.—The following shall not apply  
21 to the promulgation of a standard under subsections (a)  
22 or (except as otherwise noted) (b):

23 “(1) Sections 7, 8, 9, 11 (except that section 11  
24 shall apply to the promulgation of a standard under  
25 subsection (b)), and 12 of this Act.

1           “(2) Chapter 6 of title 5, United States Code.

2           “(3) The National Environmental Policy Act of  
3           1969 (42 U.S.C. 4321 et seq.).

4           “(4) The Small Business Regulatory Enforcement  
5           Fairness Act of 1996 (Public Law 104–121)  
6           and the amendments made by such Act.

7           “(g) CONSUMER PRODUCT.—The standard promul-  
8           gated under this section shall be a consumer product safe-  
9           ty standard promulgated under this Act. A cigarette shall  
10           be deemed a ‘consumer product’ under section 3(a)(1)(B)  
11           only for the purpose of implementing or enforcing compli-  
12           ance with this section and the standard promulgated  
13           under this section and with respect to sections 6, 17, 18,  
14           and 26(a) and (b) of this Act.

15           “(h) LIMIT ON JURISDICTION.—Except as expressly  
16           provided in this section and in section 3(a)(1)(B), the  
17           Commission shall have no jurisdiction over tobacco or to-  
18           bacco products.

19           “(i) DEFINITIONS.—For purposes of this section:

20           “(1) The term ‘cigarette’ has the meaning pre-  
21           scribed by section 3(1) of the Federal Cigarette La-  
22           beling and Advertising Act (15 U.S.C. 1332(1)).

23           “(2) The term ‘cigarette paper’ has the mean-  
24           ing prescribed by section 5702(e) of the Internal  
25           Revenue Code of 1986.

1       “(j) RULE OF CONSTRUCTION.—Nothing in this Act,  
2 or the application of this Act to tobacco products, may  
3 be construed to modify any provision of the Federal Ciga-  
4 rette Labeling and Advertising Act (15 U.S.C. 1331 et  
5 seq.).

6       “(k) EFFECTIVE DATE.—The Commission shall pre-  
7 scribe the effective date of any consumer product safety  
8 standard promulgated for cigarettes, except that—

9           “(1) such date shall be at least 180 days and  
10 no more than 1 year after the date of the promulga-  
11 tion of the standard unless the Commission, for good  
12 cause shown, determines that an earlier effective  
13 date is in the public interest; and

14           “(2) notwithstanding paragraph (1), no such  
15 standard shall have an effective date prior to 30  
16 months after the date of enactment of this section.”.

