

109TH CONGRESS  
1ST SESSION

# H. R. 1850

To provide for fire safety standards for cigarettes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2005

Mr. MARKEY (for himself and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Cigarette Fire Safety  
5 Act of 2005”.

6 **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8           (1) Cigarette ignited fires are the leading cause  
9           of fire deaths in the United States.

10           (2) In 1999 there were 807 deaths from ciga-  
11           rette ignited fires, 2,193 civilian injuries from such

1       fires, and \$559,100,000 in property damage caused  
2       by such fires.

3               (3) Nearly 100 children are killed each year  
4       from cigarette related fires.

5               (4) For over 20 years former Member of Con-  
6       gress Joseph Moakley worked on behalf of burn vic-  
7       tims, firefighters, and every individual who has lost  
8       a loved one in a fire. By securing enactment of the  
9       Cigarette Safety Act of 1984 and the Fire Safe Cig-  
10       arette Act of 1990, Joseph Moakley completed the  
11       necessary technical work for a cigarette fire safety  
12       standard and paved the way for a national 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) A recent study by the Consumer Product  
18       Safety Commission found that the cost of the loss of  
19       human life and personal property from not having a  
20       cigarette fire safety standard is \$4,600,000,000 per  
21       year.

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. 3. CIGARETTE FIRE SAFETY STANDARD.**

## 2 (a) IN GENERAL.—

3 (1) REQUIREMENT FOR STANDARD.—Not later  
4 than 18 months after the date of the enactment of  
5 this Act, the Commission shall, by rule, prescribe  
6 one or more fire safety standards for cigarettes that,  
7 except as is provided in this Act, are substantively  
8 the same as the standards set forth by the State of  
9 New York in part 429 of Title 18 of the Official  
10 Compilation of Codes, Rules and Regulations of the  
11 State of New York, as promulgated on December  
12 31, 2003 (in this Act referred to as the “New York  
13 standard”), including the Appendix to such part.

14 (2) CIGARETTES WITH UNIQUE CHARACTERIS-  
15 TICS.—For purposes of this subsection, in con-  
16 struing section 4(c) of the New York standard, after  
17 “The manufacturer or manufacturers of a cigarette  
18 that the Office of Fire Prevention and Control deter-  
19 mines cannot be tested in accordance with the test  
20 method prescribed in section 3 of this Part” there  
21 shall be inserted “because of unique or nontradi-  
22 tional characteristics”.

23 (3) ADDITIONAL DEFINITIONS.—For purposes  
24 of this subsection, in construing section 2 of the  
25 New York standard, there shall be added at the end  
26 thereof the following:

1       “(j) COMMISSION.—The term ‘Commission’ shall  
2 mean the Consumer Product Safety Commission.”.

3       (b) PROCEDURE.—

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

8           (2) MODIFICATIONS.—

9               (A) MODIFICATION BY SPONSOR.—If the  
10 sponsor of the testing methodology used under  
11 subsection (a)(2) modifies the testing methodology  
12 in any material respect, the sponsor shall  
13 notify the Commission of the modification, and  
14 the Commission may incorporate the modification  
15 in the rule prescribed under subsection (a)  
16 if the Commission determines that the modification  
17 will enhance a fire safety standard established  
18 under subsection (a)(2).

19               (B) MODIFICATION BY COMMISSION.—The  
20 Commission may modify the rule prescribed  
21 under subsection (a), including the test requirements  
22 specified in subsection (a)(2), in whole or  
23 in part, only if the Commission determines that  
24 compliance with such modification is technically  
25 feasible and will enhance a fire safety standard

5 (3) INAPPLICABILITY OF CERTAIN LAWS.—

6 (A) IN GENERAL.—No Federal law or Ex-  
7 ecutive order, including the laws listed in sub-  
8 paragraph (B) but not including chapters 5, 6,  
9 7, and 8 of title 5, United States Code, com-  
10 monly referred to as the Administrative Proce-  
11 dures Act, may be construed to apply to the  
12 promulgation of the rule required by subsection  
13 (a), or a modification of the rule under para-  
14 graph (2) of this subsection.

15 (B) INCLUDED LAWS.—The Federal laws  
16 referred to in subparagraph (A) include the fol-  
17 lowing:

18 (i) The Consumer Product Safety Act

19 (15 U.S.C. 2051 et seq.).

20 (ii) Chapter 6 of title 5, United States  
21 Code.

22 (iii) The National Environmental Pol-  
23 icy Act of 1969 (42 U.S.C. 4321 et seq.).

24 (iv) The Small Business Regulatory  
25 Enforcement Fairness Act of 1996 (Public

1 Law 104–121), and the amendments made  
2 by that Act.

3 (c) EFFECTIVE DATE.—The Commission shall speci-  
4 fy in the rule prescribed under subsection (a) the effective  
5 date of the rule. The effective date may not be later than  
6 24 months after the date of the enactment of this Act.

7 (d) TREATMENT OF STANDARD.—

## 19 SEC. 4. PREEMPTION.

20 (a) IN GENERAL.—This Act, and any cigarette fire  
21 safety standard established or modified pursuant to sec-  
22 tion 3, may not be construed to preempt or otherwise af-  
23 fect in any way any law or regulation that prescribes a  
24 fire safety standard for cigarettes—

6 (b) PRIVATE REMEDIES.—The provisions of section  
7 25 of the Consumer Product Safety Act (15 U.S.C. 2074)  
8 shall apply with respect to the fire safety standard promul-  
9 gated under section 3(a) of this Act.

10 SEC. 5. SCOPE OF JURISDICTION OF CONSUMER PRODUCT  
11 SAFETY COMMISSION.

12        Except as otherwise provided in this Act, the Com-  
13 mission shall have no jurisdiction over tobacco or tobacco  
14 products.

## 15 SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

16 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
17 authorized to be appropriated to the Consumer Product  
18 Safety Commission \$2,000,000 for fiscal year 2006 to  
19 carry out this Act.

20 (b) AVAILABILITY.—Amounts appropriated under  
21 subsection (a) shall remain available until expended.

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