

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 08-0625.01 Duane Gall

**SENATE BILL 08-026**

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**SENATE SPONSORSHIP**

**Hagedorn,**

**HOUSE SPONSORSHIP**

**White and Frangas,**

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**Senate Committees**

Health and Human Services  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A REQUIREMENT THAT CIGARETTES SOLD IN COLORADO**  
102 **MEET SPECIFIED STANDARDS FOR REDUCED IGNITION**  
103 **PROPENSITY, AND MAKING AN APPROPRIATION IN CONNECTION**  
104 **THEREWITH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires all cigarettes sold in Colorado on or after July 31, 2009, to be tested for, and to meet, specified standards for reduced ignition propensity. Specifies labeling to identify complying cigarettes. Prescribes the testing methods to be used. Requires manufacturers to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 25, 2008

SENATE  
Amended 2nd Reading  
February 22, 2008

certify in writing that their cigarettes have been tested and meet the standards.

Prescribes penalties for failure to properly test cigarettes, to maintain records of such tests for at least 3 years, or to sell cigarettes that do not meet the standards. Grants primary authority over the administration and enforcement of the testing and certification program to the division of fire safety in the department of public safety (division). Gives additional enforcement authority to the attorney general and the department of revenue.

Imposes certification fees on cigarette manufacturers to defray the costs of the program. Creates a fund, known as the reduced cigarette ignition propensity standards and firefighter protection act enforcement fund, into which such fees and penalty assessments are to be deposited and from which the division may support processing, testing, enforcement, and oversight activities.

Designates noncomplying cigarettes sold or offered for sale after July 31, 2009, as contraband under the criminal forfeiture statutes. Exempts cigarettes intended only for sale outside the state. Preempts conflicting local regulations.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 24-33.5-1202, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF THE FOLLOWING NEW  
4 SUBSECTIONS to read:

5 **24-33.5-1202. Definitions.** As used in this part 12, unless the  
6 context otherwise requires:

7 (1.4) "AGENT" MEANS A PERSON LICENSED BY THE DEPARTMENT  
8 OF REVENUE TO PURCHASE AND AFFIX ADHESIVE OR METER STAMPS ON  
9 PACKAGES OF CIGARETTES.

10 (1.7) "ASTM INTERNATIONAL" MEANS THE AMERICAN SOCIETY  
11 FOR TESTING AND MATERIALS OR ITS SUCCESSOR ORGANIZATION.

12 (3.3) "CIGARETTE" MEANS ANY ROLL FOR SMOKING, WHETHER  
13 MADE WHOLLY OR PARTLY OF TOBACCO OR ANY OTHER SUBSTANCE,  
14 IRRESPECTIVE OF SIZE OR SHAPE, AND WHETHER OR NOT SUCH TOBACCO OR

1 SUBSTANCE IS FLAVORED, ADULTERATED, OR MIXED WITH ANY OTHER  
2 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR ANY  
3 OTHER SUBSTANCE OR MATERIAL EXCEPT TOBACCO.

4 (7.7) "MANUFACTURER" MEANS ANY ONE OR MORE OF THE  
5 FOLLOWING:

6 (a) AN ENTITY THAT MANUFACTURES OR OTHERWISE PRODUCES  
7 CIGARETTES OR CAUSES CIGARETTES TO BE MANUFACTURED WITH THE  
8 INTENT THAT SUCH CIGARETTES BE SOLD IN COLORADO, REGARDLESS OF  
9 WHERE THE CIGARETTES ARE MANUFACTURED OR PRODUCED AND  
10 REGARDLESS OF WHETHER THEY ARE IMPORTED FROM OUTSIDE THE  
11 UNITED STATES;

12 (b) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL,  
13 IN THE UNITED STATES, CIGARETTES MANUFACTURED ANYWHERE  
14 THAT THE ORIGINAL MANUFACTURER OR PRODUCER DOES NOT INTEND TO  
15 BE SOLD IN THE UNITED STATES; OR

16 (c) AN ENTITY THAT BECOMES A SUCCESSOR TO AN ENTITY  
17 DESCRIBED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (7.7).

18 (9) "QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM"  
19 MEANS A SET OF LABORATORY PROCEDURES IMPLEMENTED TO ENSURE  
20 THAT:

21 (a) OPERATOR BIAS, SYSTEMATIC AND NONSYSTEMATIC  
22 METHODOLOGICAL ERRORS, AND EQUIPMENT-RELATED PROBLEMS DO NOT  
23 AFFECT THE RESULTS OF CIGARETTE TESTING; AND

24 (b) THE TESTING REPEATABILITY REMAINS WITHIN THE REQUIRED  
25 REPEATABILITY VALUES STATED IN SECTION 24-33.5-1212 (2) (a) (II) (F)  
26 FOR ALL TEST TRIALS USED TO CERTIFY CIGARETTES IN ACCORDANCE WITH  
27 SECTION 24-33.5-1212 (3).

1 (10) "REPEATABILITY", WITH RESPECT TO A CIGARETTE TEST  
2 TRIAL, REFERS TO THE RANGE OF VALUES WITHIN WHICH THE REPEAT  
3 RESULTS OF CIGARETTE TEST TRIALS FROM A SINGLE LABORATORY WILL  
4 FALL NINETY-FIVE PERCENT OF THE TIME.

5 (11) "RETAIL DEALER" MEANS ANY PERSON, OTHER THAN A  
6 MANUFACTURER OR WHOLESALE DEALER, ENGAGED IN SELLING  
7 CIGARETTES OR TOBACCO PRODUCTS.

8 (12) "SALE" MEANS ANY TRANSFER OF TITLE, POSSESSION, OR  
9 BOTH, OR EXCHANGE OR BARTER, CONDITIONAL OR OTHERWISE, IN ANY  
10 MANNER OR BY ANY MEANS OR ANY AGREEMENT. IN ADDITION TO CASH  
11 AND CREDIT SALES, THE GIVING OF CIGARETTES AS SAMPLES, PRIZES, OR  
12 GIFTS, AND THE EXCHANGING OF CIGARETTES FOR ANY CONSIDERATION  
13 OTHER THAN MONEY, ARE CONSIDERED SALES.

14 (13) "SELL" MEANS TO SELL OR TO OFFER OR AGREE TO SELL.

15 (14) "UPC SYMBOL" MEANS THE SYMBOL SIGNIFYING THE  
16 UNIVERSAL PRODUCT CODE.

17 (15) "WHOLESALE DEALER" MEANS:

18 (a) ANY PERSON, OTHER THAN A MANUFACTURER, WHO SELLS  
19 CIGARETTES OR TOBACCO PRODUCTS TO RETAIL DEALERS OR OTHER  
20 PERSONS FOR PURPOSES OF RESALE; AND

21 (b) ANY PERSON WHO OWNS, OPERATES, OR MAINTAINS ONE OR  
22 MORE CIGARETTE OR TOBACCO PRODUCT VENDING MACHINES IN, AT, OR  
23 UPON PREMISES OWNED OR OCCUPIED BY ANY OTHER PERSON.

24 **SECTION 2.** Part 12 of article 33.5 of title 24, Colorado Revised  
25 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
26 read:

27 **24-33.5-1212. Cigarettes - reduced ignition propensity**

1 **standards - repeal.** (1) **Short title.** THIS SECTION SHALL BE KNOWN  
2 AND MAY BE CITED AS THE "REDUCED CIGARETTE IGNITION PROPENSITY  
3 STANDARDS AND FIREFIGHTER PROTECTION ACT".

4 (2) **Testing - performance standard.** (a) (I) EXCEPT AS  
5 OTHERWISE PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (2), NO  
6 CIGARETTES SHALL BE SOLD OR OFFERED FOR SALE IN THIS STATE, OR  
7 OFFERED FOR SALE OR SOLD TO PERSONS LOCATED IN THIS STATE, AFTER  
8 JULY 31, 2009, UNLESS:

9 (A) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH  
10 THE TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN  
11 THIS SUBSECTION (2);

12 (B) A WRITTEN CERTIFICATION HAS BEEN FILED BY THE  
13 MANUFACTURER WITH THE DIRECTOR IN ACCORDANCE WITH SUBSECTION  
14 (3) OF THIS SECTION; AND

15 (C) THE CIGARETTES HAVE BEEN MARKED IN ACCORDANCE WITH  
16 SUBSECTION (4) OF THIS SECTION.

17         
18 **(II) THE** FOLLOWING CONDITIONS SHALL APPLY TO TESTING AND  
19 CERTIFICATION:

20 (A) TESTING OF CIGARETTES SHALL BE CONDUCTED IN  
21 ACCORDANCE WITH ASTM INTERNATIONAL STANDARD E2187-04,  
22 "STANDARD TEST METHOD FOR MEASURING THE IGNITION STRENGTH OF  
23 CIGARETTES.

24 (B) TESTING SHALL BE CONDUCTED ON TEN LAYERS OF FILTER  
25 PAPER.

26 (C) NO MORE THAN TWENTY-FIVE PERCENT OF THE CIGARETTES  
27 TESTED IN A TEST TRIAL IN ACCORDANCE WITH THIS SUBSECTION (2) SHALL

1 EXHIBIT FULL-LENGTH BURNS. FORTY REPLICATE TESTS SHALL  
2 CONSTITUTE A COMPLETE TEST TRIAL FOR EACH CIGARETTE TESTED.

3 (D) THE PERFORMANCE STANDARD REQUIRED BY THIS SUBSECTION  
4 (2) SHALL BE APPLIED ONLY TO A COMPLETE TEST TRIAL.

5 (E) WRITTEN CERTIFICATIONS SHALL BE BASED UPON TESTING  
6 CONDUCTED BY A LABORATORY THAT HAS BEEN ACCREDITED PURSUANT  
7 TO STANDARD ISO/IEC 17025 OF THE INTERNATIONAL ORGANIZATION FOR  
8 STANDARDIZATION OR ANOTHER COMPARABLE ACCREDITATION STANDARD  
9 SPECIFIED BY THE DIVISION.

10 (F) A LABORATORY CONDUCTING TESTING IN ACCORDANCE WITH  
11 THIS SUBSECTION (2) SHALL IMPLEMENT A QUALITY CONTROL AND  
12 QUALITY ASSURANCE PROGRAM THAT INCLUDES A PROCEDURE THAT WILL  
13 DETERMINE THE REPEATABILITY OF THE TESTING RESULTS AND LIMIT THE  
14 REPEATABILITY VALUE TO NO GREATER THAN NINETEEN PERCENT.

15 (G) THIS SUBSECTION (2) SHALL NOT REQUIRE ADDITIONAL  
16 TESTING OF CIGARETTES THAT HAVE BEEN TESTED FOR OTHER PURPOSES  
17 IN A MANNER CONSISTENT WITH THIS SECTION.

18 (H) TESTING PERFORMED OR SPONSORED BY THE DIVISION IN  
19 ORDER TO DETERMINE A CIGARETTE'S COMPLIANCE WITH THE  
20 PERFORMANCE STANDARD REQUIRED BY THIS SUBSECTION (2) SHALL BE  
21 CONDUCTED IN ACCORDANCE WITH THIS SUBSECTION (2).

22 (b) EACH CIGARETTE LISTED IN A CERTIFICATION SUBMITTED  
23 PURSUANT TO SUBSECTION (3) OF THIS SECTION THAT USES LOWERED  
24 PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE COMPLIANCE  
25 WITH THE PERFORMANCE STANDARD SET FORTH IN THIS SUBSECTION (2)  
26 SHALL HAVE AT LEAST TWO NOMINALLY IDENTICAL BANDS ON THE PAPER  
27 SURROUNDING THE TOBACCO COLUMN. AT LEAST ONE COMPLETE BAND

1 SHALL BE LOCATED AT LEAST FIFTEEN MILLIMETERS FROM THE LIGHTING  
2 END OF THE CIGARETTE. FOR CIGARETTES ON WHICH THE BANDS ARE  
3 POSITIONED BY DESIGN, THERE SHALL BE AT LEAST TWO BANDS FULLY  
4 LOCATED AT LEAST FIFTEEN MILLIMETERS FROM THE LIGHTING END AND  
5 TEN MILLIMETERS FROM THE FILTER END OF THE TOBACCO COLUMN OR TEN  
6 MILLIMETERS FROM THE LABELED END OF THE TOBACCO COLUMN FOR  
7 NONFILTERED CIGARETTES.

8 (c) A MANUFACTURER OF A CIGARETTE THAT THE DIVISION  
9 DETERMINES CANNOT BE TESTED IN ACCORDANCE WITH THE TEST METHOD  
10 PRESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL PROPOSE A  
11 TEST METHOD AND PERFORMANCE STANDARD FOR THE CIGARETTE TO THE  
12 DIVISION. UPON APPROVAL OF THE PROPOSED TEST METHOD AND A  
13 DETERMINATION BY THE DIVISION THAT THE PERFORMANCE STANDARD  
14 PROPOSED BY THE MANUFACTURER IS EQUIVALENT TO THE PERFORMANCE  
15 STANDARD PRESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS  
16 SUBSECTION (2), THE MANUFACTURER MAY EMPLOY SUCH TEST METHOD  
17 AND PERFORMANCE STANDARD TO CERTIFY SUCH CIGARETTE PURSUANT  
18 TO THIS SUBSECTION (2). IF THE DIVISION DETERMINES THAT ANOTHER  
19 STATE HAS ENACTED REDUCED CIGARETTE IGNITION PROPENSITY  
20 STANDARDS THAT INCLUDE A TEST METHOD AND PERFORMANCE  
21 STANDARD THAT ARE SUBSTANTIALLY SIMILAR TO THOSE CONTAINED IN  
22 THIS SUBSECTION (2), AND THE DIVISION FINDS THAT THE OFFICIALS  
23 RESPONSIBLE FOR IMPLEMENTING THOSE REQUIREMENTS HAVE APPROVED  
24 THE PROPOSED ALTERNATIVE TEST METHOD AND PERFORMANCE  
25 STANDARD FOR A PARTICULAR CIGARETTE PROPOSED BY A  
26 MANUFACTURER AS MEETING THE REDUCED CIGARETTE IGNITION  
27 PROPENSITY STANDARDS OF SUCH STATE'S LAWS OR RULES UNDER A LEGAL

1 PROVISION COMPARABLE TO THIS SUBSECTION (2), THEN THE DIVISION  
2 SHALL AUTHORIZE THE MANUFACTURER TO EMPLOY THE ALTERNATIVE  
3 TEST METHOD AND PERFORMANCE STANDARD TO CERTIFY SUCH  
4 CIGARETTE FOR SALE IN COLORADO UNLESS THE DIVISION DEMONSTRATES  
5 A REASONABLE BASIS WHY THE ALTERNATIVE TEST SHOULD NOT BE  
6 ACCEPTED. ALL OTHER APPLICABLE REQUIREMENTS OF THIS SUBSECTION  
7 (2) SHALL APPLY TO THE MANUFACTURER.

8 (d) EACH MANUFACTURER SHALL MAINTAIN COPIES OF THE  
9 REPORTS OF ALL TESTS CONDUCTED ON ALL CIGARETTES OFFERED FOR  
10 SALE FOR A PERIOD OF THREE YEARS AND SHALL MAKE COPIES OF THESE  
11 REPORTS AVAILABLE TO THE DIVISION AND THE ATTORNEY GENERAL UPON  
12 WRITTEN REQUEST. ANY MANUFACTURER WHO FAILS TO MAKE COPIES OF  
13 SUCH REPORTS AVAILABLE WITHIN SIXTY DAYS AFTER RECEIVING A  
14 WRITTEN REQUEST SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED  
15 TEN THOUSAND DOLLARS FOR EACH DAY AFTER THE SIXTIETH DAY THAT  
16 THE MANUFACTURER DOES NOT MAKE SUCH COPIES AVAILABLE.

17 (e) THE DIVISION MAY ADOPT A SUBSEQUENT ASTM  
18 INTERNATIONAL STANDARD TEST METHOD FOR MEASURING THE IGNITION  
19 STRENGTH OF CIGARETTES UPON A FINDING THAT SUCH SUBSEQUENT  
20 METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF  
21 FULL-LENGTH BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN  
22 COMPARED TO THE PERCENTAGE OF FULL-LENGTH BURNS THE SAME  
23 CIGARETTE WOULD EXHIBIT WHEN TESTED IN ACCORDANCE WITH ASTM  
24 INTERNATIONAL STANDARD E2187-04 AND THE PERFORMANCE STANDARD  
25 IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2).

26 (f) ON OR BEFORE JUNE 30, 2012, AND ON OR BEFORE JUNE 30 OF  
27 EVERY THIRD YEAR THEREAFTER, THE DIVISION SHALL REVIEW THE

1 EFFECTIVENESS OF THIS SUBSECTION (2) AND REPORT TO THE GENERAL  
2 ASSEMBLY THE DIVISION'S FINDINGS AND, IF APPROPRIATE,  
3 RECOMMENDATIONS FOR LEGISLATION TO IMPROVE THE EFFECTIVENESS OF  
4 THIS SECTION.

5 (g) THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION  
6 (2) SHALL NOT BE CONSTRUED TO PROHIBIT:

7 (I) WHOLESALE OR RETAIL DEALERS FROM SELLING THEIR  
8 EXISTING INVENTORY OF CIGARETTES ON OR AFTER JULY 31, 2009, IF A  
9 WHOLESALE OR RETAILER DEALER CAN ESTABLISH THAT STATE TAX  
10 STAMPS WERE AFFIXED TO THE CIGARETTES BEFORE SAID DATE AND THAT  
11 THE INVENTORY WAS PURCHASED BEFORE SAID DATE IN COMPARABLE  
12 QUANTITY TO THE INVENTORY PURCHASED DURING THE SAME PERIOD OF  
13 THE IMMEDIATELY PRECEDING YEAR; OR

14 (II) THE SALE OF CIGARETTES SOLELY FOR THE PURPOSE OF  
15 CONSUMER TESTING. AS USED IN THIS SUBPARAGRAPH (II), "CONSUMER  
16 TESTING" MEANS AN ASSESSMENT OF CIGARETTES THAT IS CONDUCTED BY,  
17 OR UNDER THE CONTROL AND DIRECTION OF, A MANUFACTURER FOR THE  
18 PURPOSE OF EVALUATING CONSUMER ACCEPTANCE OF SUCH CIGARETTES,  
19 UTILIZING ONLY THE QUANTITY OF CIGARETTES THAT IS REASONABLY  
20 NECESSARY FOR SUCH ASSESSMENT.

21 (h) THE DIVISION SHALL IMPLEMENT THIS SECTION SUBSTANTIALLY  
22 IN ACCORDANCE WITH THE IMPLEMENTATION IN NEW YORK OF THE NEW  
23 YORK FIRE SAFETY STANDARDS FOR CIGARETTES.

24 (3) **Certification.** (a) EACH MANUFACTURER SHALL SUBMIT TO  
25 THE DIRECTOR A WRITTEN CERTIFICATION ATTESTING THAT EACH  
26 CIGARETTE LISTED IN THE CERTIFICATION:

27 (I) HAS BEEN TESTED IN ACCORDANCE WITH SUBSECTION (2) OF

1 THIS SECTION; AND

2 (II) MEETS THE PERFORMANCE STANDARD SET FORTH IN  
3 SUBSECTION (2) OF THIS SECTION.

4 (b) EACH CIGARETTE LISTED IN THE CERTIFICATION SUBMITTED  
5 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE  
6 DESCRIBED WITH THE FOLLOWING INFORMATION:

7 (I) BRAND OR TRADE NAME ON THE PACKAGE;

8 (II) STYLE, SUCH AS LIGHT OR ULTRA LIGHT;

9 (III) LENGTH IN MILLIMETERS;

10 (IV) CIRCUMFERENCE IN MILLIMETERS;

11 (V) FLAVOR, SUCH AS MENTHOL OR CHOCOLATE IF APPLICABLE;

12 (VI) FILTER OR NONFILTER;

13 (VII) PACKAGE DESCRIPTION, SUCH AS SOFT PACK OR BOX;

14 (VIII) MARKING PURSUANT TO SUBSECTION (4) OF THIS SECTION;

15 (IX) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
16 LABORATORY THAT CONDUCTED THE TESTS, IF DIFFERENT FROM THAT OF  
17 THE MANUFACTURER; AND

18 (X) THE DATE THAT THE TESTING OCCURRED.

19 (c) CERTIFICATIONS UNDER THIS SUBSECTION (3) SHALL BE MADE  
20 AVAILABLE TO THE ATTORNEY GENERAL FOR PURPOSES CONSISTENT WITH  
21 THIS SECTION AND TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF  
22 ENSURING COMPLIANCE WITH THIS SUBSECTION (3).

23 (d) EACH CIGARETTE CERTIFIED UNDER THIS SUBSECTION (3)  
24 SHALL BE SUBJECT TO   RECERTIFICATION EVERY THREE YEARS.

25 (e) AT THE TIME IT SUBMITS A WRITTEN CERTIFICATION UNDER  
26 THIS SUBSECTION (3), A MANUFACTURER SHALL PAY TO THE DEPARTMENT  
27 OF PUBLIC SAFETY A FEE OF ONE THOUSAND DOLLARS FOR EACH BRAND

1 FAMILY OF CIGARETTES LISTED IN THE CERTIFICATION. THE FEE PAID  
2 SHALL APPLY TO ALL CIGARETTES WITHIN THE BRAND FAMILY CERTIFIED  
3 AND SHALL INCLUDE ANY NEW CIGARETTE CERTIFIED WITHIN THE BRAND  
4 FAMILY DURING THE THREE-YEAR CERTIFICATION PERIOD.

5 (f) THERE IS HEREBY ESTABLISHED, IN THE STATE TREASURY, THE  
6 REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS AND FIREFIGHTER  
7 PROTECTION ACT ENFORCEMENT FUND, ALSO REFERRED TO IN THIS  
8 SECTION AS THE "FUND". THE FUND SHALL CONSIST OF ALL CERTIFICATION  
9 FEES AND CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION AND  
10 SHALL, IN ADDITION TO ANY OTHER MONEYS MADE AVAILABLE FOR SUCH  
11 PURPOSE, BE AVAILABLE TO THE DIVISION      TO SUPPORT PROCESSING,  
12 TESTING, ENFORCEMENT, AND OVERSIGHT ACTIVITIES UNDER THIS  
13 SECTION. ANY MONEYS IN THE FUND IN EXCESS OF THE AMOUNTS NEEDED  
14 FOR SUCH PURPOSES MAY BE USED BY THE DIVISION, SUBJECT TO ANNUAL  
15 APPROPRIATION, FOR FIRE SAFETY AND PREVENTION PROGRAMS,  
16 INCLUDING WITHOUT LIMITATION FIREFIGHTER TRAINING AND  
17 CERTIFICATION.

18 (g) IF A MANUFACTURER HAS CERTIFIED A CIGARETTE PURSUANT  
19 TO THIS SUBSECTION (3), AND THEREAFTER MAKES ANY CHANGE TO SUCH  
20 CIGARETTE THAT IS LIKELY TO ALTER ITS COMPLIANCE WITH THE REDUCED  
21 CIGARETTE IGNITION PROPENSITY STANDARD REQUIRED BY THIS SECTION,  
22 SUCH CIGARETTE SHALL NOT BE SOLD OR OFFERED FOR SALE IN THIS STATE  
23 UNTIL THE MANUFACTURER RETESTS THE CIGARETTE IN ACCORDANCE  
24 WITH THE TESTING STANDARDS SET FORTH IN SUBSECTION (2) OF THIS  
25 SECTION AND MAINTAINS RECORDS OF THE RETESTING AS REQUIRED BY  
26 SAID SUBSECTION (2). ANY ALTERED CIGARETTE THAT DOES NOT MEET  
27 THE PERFORMANCE STANDARD SET FORTH IN SAID SUBSECTION (2) MAY

1 NOT BE SOLD IN THIS STATE.

2 (4) **Labeling.** (a) CIGARETTES THAT ARE CERTIFIED BY A  
3 MANUFACTURER IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION  
4 SHALL BE MARKED TO INDICATE COMPLIANCE WITH THE REQUIREMENTS OF  
5 THIS SECTION. SUCH MARKING SHALL BE IN EIGHT-POINT TYPE OR LARGER  
6 AND SHALL CONSIST OF ONE OR MORE OF THE FOLLOWING:

7 (I) MODIFICATION OF THE PACKAGE'S UPC SYMBOL TO INCLUDE  
8 A VISIBLE MARK PRINTED AT OR AROUND THE AREA OF THE UPC SYMBOL.  
9 THE MARK MAY CONSIST OF ALPHANUMERIC OR SYMBOLIC CHARACTERS  
10 PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR PRINTED IN  
11 CONJUNCTION WITH THE UPC SYMBOL.

12 (II) ANY VISIBLE COMBINATION OF ALPHANUMERIC OR SYMBOLIC  
13 CHARACTERS PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR  
14 PRINTED ON THE CIGARETTE PACKAGE OR CELLOPHANE WRAP; OR

15 (III) STAMPED, ENGRAVED, EMBOSSED, OR PRINTED TEXT THAT  
16 INDICATES THAT THE CIGARETTES MEET THE STANDARDS OF THIS SECTION.

17 (b) A MANUFACTURER SHALL USE ONLY ONE MARKING AND SHALL  
18 APPLY THE MARKING UNIFORMLY TO ALL BRANDS AND PACKAGES,  
19 INCLUDING BUT NOT LIMITED TO PACKS, CARTONS, AND CASES, MARKETED  
20 BY THE MANUFACTURER.

21 (c) THE MANUFACTURER SHALL NOTIFY THE DIVISION AS TO THE  
22 MARKING SELECTED BY THE MANUFACTURER.

23 (d) PRIOR TO THE CERTIFICATION OF ANY CIGARETTE, THE  
24 MANUFACTURER SHALL PRESENT ITS PROPOSED MARKING TO THE DIVISION,  
25 WHICH SHALL HAVE DISCRETION TO APPROVE OR DISAPPROVE THE  
26 MARKING; EXCEPT THAT:

27 (I) THE DIVISION SHALL APPROVE:

1 (A) ANY MARKING IN USE AND APPROVED FOR SALE IN NEW YORK  
2 PURSUANT TO THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES;  
3 OR

4 (B) THE LETTERS "FSC", SIGNIFYING "FIRE STANDARDS  
5 COMPLIANT", APPEARING IN EIGHT-POINT TYPE OR LARGER AND  
6 PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR PRINTED ON THE  
7 PACKAGE AT OR NEAR THE UPC SYMBOL; AND

8 (II) PROPOSED MARKINGS SHALL BE DEEMED APPROVED IF THE  
9 DIVISION FAILS TO ACT WITHIN TEN BUSINESS DAYS AFTER RECEIVING A  
10 REQUEST FOR APPROVAL.

11 (e) A MANUFACTURER SHALL NOT MODIFY ITS APPROVED MARKING  
12 UNLESS THE MODIFICATION HAS BEEN APPROVED BY THE DIVISION IN  
13 ACCORDANCE WITH THIS SUBSECTION (4).

14 (f) MANUFACTURERS CERTIFYING CIGARETTES IN ACCORDANCE  
15 WITH SUBSECTION (3) OF THIS SECTION SHALL PROVIDE A COPY OF THE  
16 CERTIFICATIONS TO ALL WHOLESALE DEALERS AND AGENTS TO WHICH  
17 THEY SELL CIGARETTES AND SHALL ALSO PROVIDE SUFFICIENT COPIES OF  
18 AN ILLUSTRATION OF THE PACKAGE MARKING UTILIZED BY THE  
19 MANUFACTURER PURSUANT TO THIS SUBSECTION (4) FOR EACH RETAIL  
20 DEALER TO WHICH THE WHOLESALE DEALERS OR AGENTS SELL  
21 CIGARETTES. WHOLESALE DEALERS AND AGENTS SHALL PROVIDE COPIES  
22 OF THESE PACKAGE MARKINGS RECEIVED FROM MANUFACTURERS TO ALL  
23 RETAIL DEALERS TO WHICH THEY SELL CIGARETTES. WHOLESALE  
24 DEALERS, AGENTS, AND RETAIL DEALERS SHALL PERMIT THE DIRECTOR,  
25 THE DEPARTMENT OF REVENUE, THE ATTORNEY GENERAL, AND  
26 EMPLOYEES THEREOF TO INSPECT MARKINGS OF CIGARETTE PACKAGING  
27 MARKED IN ACCORDANCE WITH THIS SUBSECTION (4).

1           (5) **Penalties - forfeiture.** (a) A MANUFACTURER, WHOLESAL  
2 DEALER, AGENT, OR OTHER PERSON OR ENTITY WHO KNOWINGLY SELLS OR  
3 OFFERS TO SELL CIGARETTES, OTHER THAN AT RETAIL, IN VIOLATION OF  
4 SUBSECTION (2) OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY  
5 NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH PACK OF SUCH  
6 CIGARETTES SOLD OR OFFERED FOR SALE; EXCEPT THAT THE PENALTY  
7 AGAINST ANY SUCH PERSON OR ENTITY SHALL NOT EXCEED ONE HUNDRED  
8 THOUSAND DOLLARS DURING ANY THIRTY-DAY PERIOD.

9           (b) A RETAIL DEALER WHO KNOWINGLY SELLS OR OFFERS TO SELL  
10 CIGARETTES IN VIOLATION OF SUBSECTION (2) OF THIS SECTION SHALL BE  
11 SUBJECT TO A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR  
12 EACH PACK OF SUCH CIGARETTES SOLD OR OFFERED FOR SALE; EXCEPT  
13 THAT THE PENALTY AGAINST ANY SUCH RETAIL DEALER SHALL NOT  
14 EXCEED TWENTY-FIVE THOUSAND DOLLARS FOR SALES OR OFFERS TO SELL  
15 DURING ANY THIRTY-DAY PERIOD.

16           (c) IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, A  
17 CORPORATION, PARTNERSHIP, SOLE PROPRIETOR, LIMITED PARTNERSHIP,  
18 OR ASSOCIATION ENGAGED IN THE MANUFACTURE OF CIGARETTES THAT  
19 KNOWINGLY MAKES A FALSE CERTIFICATION PURSUANT TO SUBSECTION (3)  
20 OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST  
21 SEVENTY-FIVE THOUSAND DOLLARS, NOT TO EXCEED TWO HUNDRED FIFTY  
22 THOUSAND DOLLARS FOR EACH SUCH FALSE CERTIFICATION.

23           (d) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION FOR  
24 WHICH A PENALTY IS NOT SPECIFICALLY PROVIDED SHALL BE SUBJECT TO  
25 A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS FOR A FIRST  
26 VIOLATION AND UP TO FIVE THOUSAND DOLLARS FOR A SECOND OR  
27 SUBSEQUENT VIOLATION.

1 (e) CIGARETTES THAT HAVE BEEN SOLD OR OFFERED FOR SALE AND  
2 THAT DO NOT COMPLY WITH THE PERFORMANCE STANDARD REQUIRED BY  
3 SUBSECTION (2) OF THIS SECTION SHALL BE SUBJECT TO FORFEITURE AS  
4 PROVIDED IN THE "COLORADO CONTRABAND FORFEITURE ACT", PART 5  
5 OF ARTICLE 13 OF TITLE 16, C.R.S. CIGARETTES FORFEITED PURSUANT TO  
6 THIS PARAGRAPH (e) SHALL BE DESTROYED; EXCEPT THAT, BEFORE SUCH  
7 DESTRUCTION, THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE  
8 CIGARETTE BRAND SHALL BE PERMITTED TO INSPECT THE CIGARETTES IF  
9 DESIRED.

10 (f) IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, THE  
11 DIRECTOR OR THE ATTORNEY GENERAL MAY FILE AN ACTION IN DISTRICT  
12 COURT FOR A VIOLATION OF THIS SECTION, INCLUDING PETITIONING FOR  
13 INJUNCTIVE RELIEF OR TO RECOVER ANY COSTS OR DAMAGES SUFFERED BY  
14 THE STATE AND ENFORCEMENT COSTS, INCLUDING ATTORNEY FEES,  
15 RELATING TO THE SPECIFIC VIOLATION. EACH VIOLATION OF THIS SECTION  
16 OR OF RULES ADOPTED UNDER THIS SECTION CONSTITUTES A SEPARATE  
17 CIVIL VIOLATION FOR WHICH THE DIRECTOR OR ATTORNEY GENERAL MAY  
18 OBTAIN RELIEF UNDER THIS PARAGRAPH (f).

19 (g) WHENEVER A LAW ENFORCEMENT OFFICER OR DULY  
20 AUTHORIZED AGENT OF THE DIRECTOR DISCOVERS CIGARETTES THAT HAVE  
21 NOT BEEN MARKED AS REQUIRED BY SUBSECTION (4) OF THIS SECTION,  
22 SUCH OFFICER OR AGENT IS HEREBY AUTHORIZED AND EMPOWERED TO  
23 SEIZE AND TAKE POSSESSION OF SUCH CIGARETTES. SUCH CIGARETTES  
24 SHALL BE TURNED OVER TO THE DEPARTMENT OF REVENUE AND SHALL BE  
25 FORFEITED TO THE STATE. CIGARETTES SEIZED PURSUANT TO THIS  
26 PARAGRAPH (g) SHALL BE DESTROYED; EXCEPT THAT, BEFORE SUCH  
27 DESTRUCTION, THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE

1 CIGARETTE BRAND SHALL BE PERMITTED TO INSPECT THE CIGARETTES IF  
2 DESIRED.

3 (6) **Rules.** (a) THE DIRECTOR MAY PROMULGATE RULES IN  
4 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",  
5 ARTICLE 4 OF THIS TITLE, AS NECESSARY TO ADMINISTER THIS SECTION.

6 (b) THE DEPARTMENT OF REVENUE, IN THE REGULAR COURSE OF  
7 CONDUCTING INSPECTIONS OF WHOLESALE DEALERS, AGENTS, AND RETAIL  
8 DEALERS AS AUTHORIZED BY LAW, MAY INSPECT CIGARETTES TO  
9 DETERMINE WHETHER THE CIGARETTES ARE MARKED AS REQUIRED BY  
10 SUBSECTION (4) OF THIS SECTION. IF THE CIGARETTES ARE NOT MARKED  
11 AS REQUIRED, THE DEPARTMENT OF REVENUE SHALL NOTIFY THE DIVISION.

12 (7) **Enforcement.** TO ENFORCE THIS SECTION, THE ATTORNEY  
13 GENERAL, THE DEPARTMENT OF REVENUE, THE DIVISION, ALL DULY  
14 AUTHORIZED EMPLOYEES AND AGENTS THEREOF, AND ALL LAW  
15 ENFORCEMENT PERSONNEL ARE HEREBY AUTHORIZED TO EXAMINE THE  
16 BOOKS, PAPERS, INVOICES, AND OTHER RECORDS OF ANY PERSON IN  
17 POSSESSION, CONTROL, OR OCCUPANCY OF ANY PREMISES WHERE  
18 CIGARETTES ARE PLACED, STORED, SOLD, OR OFFERED FOR SALE, AS WELL  
19 AS ANY CIGARETTES ON THE PREMISES. EVERY PERSON IN THE  
20 POSSESSION, CONTROL, OR OCCUPANCY OF ANY PREMISES WHERE  
21 CIGARETTES ARE PLACED, STORED, SOLD, OR OFFERED FOR SALE IS HEREBY  
22 DIRECTED AND REQUIRED TO GIVE THE ATTORNEY GENERAL, THE  
23 DEPARTMENT OF REVENUE, THE DIVISION, ALL DULY AUTHORIZED  
24 EMPLOYEES AND AGENTS THEREOF, AND ALL LAW ENFORCEMENT  
25 PERSONNEL THE MEANS, FACILITIES, AND OPPORTUNITY FOR THE  
26 EXAMINATIONS AUTHORIZED BY THIS SUBSECTION (7).

27 (8) **Exceptions.** NOTHING IN THIS SECTION SHALL BE CONSTRUED

1 TO PROHIBIT ANY PERSON OR ENTITY FROM MANUFACTURING OR SELLING  
2 CIGARETTES THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (2)  
3 OF THIS SECTION IF:

4 (a) THE CIGARETTES ARE OR WILL BE STAMPED FOR SALE IN  
5 ANOTHER STATE OR ARE PACKAGED FOR SALE OUTSIDE THE UNITED  
6 STATES; AND

7 (b) THE PERSON OR ENTITY HAS TAKEN REASONABLE STEPS TO  
8 ENSURE THAT SUCH CIGARETTES WILL NOT BE SOLD OR OFFERED FOR SALE  
9 TO PERSONS LOCATED IN COLORADO.

10 (9) **Repeal.** (a) THE GENERAL ASSEMBLY INTENDS THAT THIS  
11 SECTION SHALL CEASE TO BE EFFECTIVE IN FIVE YEARS OR UPON THE  
12 EFFECTIVE DATE OF A FEDERAL REDUCED CIGARETTE IGNITION PROPENSITY  
13 STANDARD THAT PREEMPTS THIS SECTION, WHICHEVER OCCURS FIRST.  
14 THE DIVISION, UPON RECEIVING NOTICE OF THE EFFECTIVENESS OF SUCH  
15 FEDERAL STANDARD, SHALL FORWARD SUCH NOTICE TO THE REVISOR OF  
16 STATUTES.

17 (b) THIS SECTION IS REPEALED, EFFECTIVE 12:01 A.M. THE DAY  
18 AFTER THE REVISOR OF STATUTES RECEIVES NOTICE FROM THE DIVISION AS  
19 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (9) OR EFFECTIVE  
20 JANUARY 1, 2014, WHICHEVER OCCURS FIRST.

21 (c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE LOCAL  
22 GOVERNMENTAL UNITS OF THIS STATE MAY NEITHER ENACT NOR ENFORCE  
23 ANY ORDINANCE OR OTHER LOCAL LAW OR RULE CONFLICTING WITH, OR  
24 PREEMPTED BY, ANY PROVISION OF THIS SECTION OR WITH ANY POLICY OF  
25 THIS STATE EXPRESSED BY THIS SECTION.

26 **SECTION 3. Appropriation.** (1) In addition to any other  
27 appropriation, there is hereby appropriated, out of any moneys in the

1 reduced cigarette ignition propensity standards and firefighter protection  
2 act enforcement fund created in section 24-33.5-1212 (3) (f), Colorado  
3 Revised Statutes, not otherwise appropriated, to the department of public  
4 safety, for allocation to the division of fire safety, for the fiscal year  
5 beginning July 1, 2008, the sum of thirty thousand five hundred thirty-two  
6 dollars (\$30,532) and 0.3 FTE, or so much thereof as may be necessary,  
7 for the implementation of this act.

8 (2) In addition to any other appropriation, there is hereby  
9 appropriated, out of any moneys in the reduced cigarette ignition  
10 propensity standards and firefighter protection act enforcement fund  
11 created in section 24-33.5-1212 (3) (f), Colorado Revised Statutes, not  
12 otherwise appropriated, to the department of revenue, for allocation to the  
13 business enforcement group, tobacco enforcement program, for the fiscal  
14 year beginning July 1, 2008, the sum of eight thousand nine hundred  
15 seventy-three dollars (\$8,973) and 0.2 FTE, or so much thereof as may be  
16 necessary, for the implementation of this act.

17 **SECTION 4. Effective date - applicability.** (1) This act shall  
18 take effect January 1, 2009.

19 (2) However, if a referendum petition is filed against this act or  
20 an item, section, or part of this act during the 90-day period after final  
21 adjournment of the general assembly that is allowed for submitting a  
22 referendum petition pursuant to article V, section 1 (3) of the state  
23 constitution, then the act, item, section, or part, shall not take effect unless  
24 approved by the people at a biennial regular general election and shall  
25 take effect on the date specified in subsection (1) or on the date of the  
26 official declaration of the vote thereon by proclamation of the governor,  
27 whichever is later.

1           (3) The provisions of this act shall apply to offenses committed on  
2    or after July 31, 2009.