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## A BILL FOR AN ACT

RELATING TO THE STATE FIRE COUNCIL.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 1979, the legislature abolished the state  
2 fire marshal's office and created the state fire council. The  
3 council, which is administratively attached to the department of  
4 labor and industrial relations, comprises the four county fire  
5 chiefs. The goal of the council is to develop and maintain a  
6 comprehensive fire service emergency management network for the  
7 protection of life, property, and the environment, throughout  
8 the State of Hawaii. The council is tasked with reviewing and  
9 adopting the state fire code, providing administrative oversight  
10 of the reduced ignition propensity cigarette program, providing  
11 assistance with the application and administration of federal  
12 grants for the fire service, assisting and coordinating with the  
13 statewide delivery of fire training programs, coordinating the  
14 collection of fire data, and supporting contingency planning  
15 needs for firefighters. The council may establish statewide  
16 qualifications for testing, certifying, and credentialing  
17 individuals who perform maintenance and testing of portable fire



1 extinguishers, fire protection systems, and fire alarm systems.  
2 The council also advises the governor and legislature on matters  
3 relating to fire prevention, fire protection, and life safety.  
4 In addition, the council is a voting member of the state  
5 building code council, whose responsibilities are delineated in  
6 section 107-24, Hawaii Revised Statutes.

7       From its inception until 2001, the state fire council had  
8 no funding to hire staff to fulfill its responsibilities. The  
9 council relied upon county personnel to perform its duties.  
10 These county personnel had to perform these added duties  
11 alongside their normal functions within their respective fire  
12 departments. In 2001, the governor directed the department of  
13 labor and industrial relations to allocate \$35,000 into its  
14 budget to fund the first part-time employee for the council. In  
15 2011, an additional \$71,000 was appropriated by the legislature  
16 to hire two additional personnel. The legislature finds that  
17 with money from the reduced ignition propensity cigarette  
18 special fund, the council could hire additional personnel to  
19 oversee the coordination of statewide fire data collection and  
20 analysis and to administer federal fire-related grants. The  
21 council would also be able to fund statewide educational efforts



1 for the protection of life, property, and the environment, such  
2 as the firefighter safety guide program for Hawaii's youth and  
3 the residential smoke alarm installation program for Hawaii's  
4 at-risk senior population.

5 Hawaii enacted a reduced ignition propensity cigarette law,  
6 which took effect on September 30, 2009. The intent of this  
7 law, codified at section 132C-1, Hawaii Revised Statutes, is "to  
8 require that only reduced ignition propensity cigarettes be sold  
9 in the State". Section 132C-4, Hawaii Revised Statutes,  
10 requires that cigarette manufacturers submit written  
11 certification attesting that each cigarette brand or style they  
12 wish to sell in Hawaii has been tested in accordance with the  
13 performance standard for reduced ignition propensity required  
14 under section 132C-3, Hawaii Revised Statutes. These  
15 certifications must be renewed every three years. A fee of \$375  
16 must be paid to the state fire council for each cigarette brand  
17 or style certification. These fees are deposited into the  
18 reduced ignition propensity cigarette special fund. From 2009  
19 through early 2014, this special fund was not utilized. On  
20 January 16, 2014, an administrative specialist was hired to help  
21 manage the reduced ignition propensity cigarette program. Wages



1 for the reduced ignition propensity cigarette program  
2 administrator and other expenses directly attributed to the  
3 reduced ignition propensity cigarette program are paid for using  
4 money in the special fund.

5 The purpose of this Act to is to:

6 (1) Authorize the use of the reduced ignition propensity  
7 cigarette program special fund to support the duties  
8 and responsibilities of the state fire council, in  
9 addition to administering and enforcing the reduced  
10 ignition propensity cigarette program; and

11 (2) Specify the testing procedures of the reduced ignition  
12 propensity cigarette program.

13 SECTION 2. Section 132C-3, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) Testing performed or sponsored by the state fire  
16 council to determine a cigarette's compliance with the  
17 performance standard required by this section shall be conducted  
18 in accordance with this section. The following test process  
19 shall be followed by the state fire council:

20 (1) Twenty-five brand or style cigarette samples  
21 consisting of two packs per brand or style shall be



1 selected by the state fire council for testing;  
2 provided that cigarettes shall be tested in accordance  
3 with the test method outlined in this section;

4 (2) Any brand or style test that has a failure rate of  
5 twenty-five per cent or greater shall be identified  
6 and designated for further testing; provided that the  
7 manufacturer shall be notified in writing of the  
8 failed brand or style test results;

9 (3) Forty packs of the failed brand or style cigarettes,  
10 consisting of two packs per test, shall be purchased  
11 and submitted for follow-up testing;

12 (4) If any of the follow-up tests has a failure rate of  
13 twenty-five per cent or greater, the manufacturer  
14 shall be informed of the second test failure and the  
15 failed brand or style cigarette shall be removed from  
16 sale in the State within thirty days from the date the  
17 notification of test failure is received;

18 (5) The manufacturer may file a written appeal to the  
19 state fire council no more than ten days after the  
20 notification of the second test failure is received,



1           and the manufacturer shall provide written  
2           justification or evidence to support its appeal; and  
3       (6) No later than thirty days after an appeal has been  
4           received, the state fire council shall conduct an  
5           administrative hearing and render a decision based on  
6           the written justification or evidence submitted by the  
7           manufacturer to support the appeal."

8           SECTION 3. Section 132C-6, Hawaii Revised Statutes, is  
9 amended as follows:

10           1. By amending subsection (a) to read:

11           "(a) The following civil penalties may be assessed:

12           (1) Against a manufacturer, wholesaler, or any other  
13           person or entity that knowingly sells cigarettes,  
14           except by licensed retail sales, in violation of  
15           section 132C-3, a civil penalty not to exceed \$100 for  
16           each pack of cigarettes sold or offered for sale;  
17           provided that in no case shall the penalty exceed  
18           \$100,000 during any thirty-day period;

19           (2) Against a manufacturer that knowingly makes a false  
20           certification pursuant to section 132C-4, a civil



1 penalty of at least \$75,000 and not to exceed \$250,000  
2 for each false certification;

3 (3) Against a dealer that knowingly sells or offers for  
4 sale cigarettes in violation of section 132C-3, a  
5 civil penalty not to exceed \$100 for each pack of  
6 cigarettes sold or offered for sale; provided that in  
7 no case shall the penalty exceed \$25,000 for sales or  
8 offers to sell during any thirty-day period; and

9 (4) Against any other person that violates this chapter, a  
10 civil penalty for a first offense not to exceed  
11 \$1,000, and for a subsequent offense not to exceed  
12 \$5,000 for each violation. Entities subject to this  
13 paragraph may include manufacturers whose brand or  
14 style cigarette has a failure rate of twenty-five per  
15 cent or greater after two successive failed tests."

16 2. By amending subsection (d) to read:

17 "(d) In addition to any other remedy provided by law, the  
18 attorney general may file an action for a violation of this  
19 section, including petitioning for injunctive relief, recovery  
20 of costs or damages suffered by the State as the result of a  
21 violation of this section, including testing and enforcement



1 costs relating to the specific violation and attorney fees.  
2 Each violation of this chapter or of any rule adopted pursuant  
3 to this chapter shall constitute a separate civil violation for  
4 which the attorney general may obtain relief."

5 SECTION 4. Section 132C-9, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "~~+~~§132C-9~~+~~ **Reduced ignition propensity cigarette**  
8 **program special fund.** (a) There is established in the state  
9 treasury a reduced ignition propensity cigarette program special  
10 fund, into which shall be deposited all moneys collected by the  
11 state fire council from the reduced ignition propensity  
12 cigarette program pursuant to section 132C-4. All interest  
13 earned or accrued on moneys deposited in the fund shall become  
14 part of the fund.

15 (b) Moneys in the reduced ignition propensity cigarette  
16 program special fund shall be administered and expended by the  
17 state fire council to defray the actual cost of activities and  
18 requirements of section 132C-4, including employing ~~[one full-~~  
19 ~~time]~~ a full- or part-time administrator ~~[and one full-time]~~, an  
20 administrative assistant ~~[whose]~~, or other staff personnel  
21 without regard to chapters 76 or 89. The duties of the





1 administrator, administrative assistant, or other staff

2 personnel shall include:

- 3       (1) Adopting administrative rules for program  
4             implementation, establishing compliance inspections,  
5             and approving forms and enforcement procedures and  
6             guidelines;
- 7       (2) Receiving certifications for approximately six hundred  
8             different brands and styles of cigarettes from the  
9             manufacturers;
- 10       (3) Compiling a list of the cigarette brands and styles  
11            for which manufacturers have submitted certifications,  
12            verifying tax stamp compliance with the department of  
13            the attorney general, and posting the list of  
14            certified brands and styles on a state website for  
15            informational purposes only;
- 16       (4) Reviewing and approving, as needed, any alternative  
17            test methods or fire standard compliance markings  
18            submitted by the manufacturer; and
- 19       (5) If needed, submitting certified cigarettes to an  
20            accredited laboratory for testing to verify that  
21            performance standards have been met.





# H.B. NO. 493

**Report Title:**

State Fire Council Package; Reduced Ignition Propensity  
Cigarette Certification Fees; Cigarette Testing; Civil Penalties

**Description:**

Authorizes the State Fire Council to use moneys in the reduced ignition propensity cigarette program special fund to support the duties and responsibilities of the state fire council. Specifies the testing procedures of the reduced ignition propensity cigarette program. Provides that a manufacturer of cigarettes that fail certain testing may be subject to civil penalties.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

