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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

A fire-safe cigarette has a reduced propensity to burn when left unattended. The most common fire-safe technology used by cigarette manufacturers is to wrap cigarettes with two or three thin bands of less-porous paper that act as “speed bumps” to slow down a burning cigarette.

If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these speed bumps and self-extinguish.

The idea for fire safe cigarettes is not new. In 1929, a cigarette-ignited fire in Lowell, MA, caught the attention of U.S. Congresswoman Edith Nourse Rogers; she called for the National Bureau of Standards (Bureau) to develop technology for “self-snubbing” cigarettes. Sometime in 1932, after three years of research, the Bureau had developed a “self-snubbing” cigarette and the Bureau suggested that cigarette manufacturers “take up the idea.”

No cigarette manufacturer took the advice of the Bureau. Likewise, there were other attempts to make it a legal requirement for cigarette manufacturers to make their cigarettes fire-safe but these initiatives were defeated by tobacco lobbyists.

In 2004, New York State saw a dramatic decline in deaths caused by cigarette fires in the first few months alone following its adoption of its Fire Safe Cigarettes Act. Since then, not only other US states but also other countries have begun to realize the use of cigarettes with a proven, reduced propensity to ignite other materials saves lives and offers the best opportunity to achieve the next big leap forward in fire protection.

This bill seeks to create the Philippines' own Fire Safe Cigarettes law, in an attempt to reduce - if not eliminate - fire accidents caused by cigarette fires.¹

Miriam Defensor Santiago
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¹ This bill was originally filed in the Thirteenth Congress, Third Regular Session.

1 evaluating consumer acceptance of such cigarettes, utilizing only the quantity of
2 cigarettes that is reasonably necessary for such assessment, and in a controlled setting
3 where the cigarettes are either consumed on-site or returned to the testing administrators
4 at the conclusion of the testing;

5 (D) "Director" shall mean the Director of the Bureau of Fire Protection;

6 (E) "Manufacturer" shall mean:

7 (1) Any entity which manufactures or otherwise produces cigarettes or causes
8 cigarettes to be manufactured or produced anywhere that such manufacturer intends to be
9 sold in the Philippines, including cigarettes intended to be sold in the Philippines through
10 an importer; or

11 (2) The first purchaser anywhere that intends to resell in the Philippines cigarettes
12 manufactured anywhere that the original manufacturer or maker does not intend to be
13 sold in the Philippines; or

14 (3) Any entity that becomes a successor of an entity described in Paragraph (1) or
15 (2) above.

16 (F) "Quality control and quality assurance program" shall mean the laboratory
17 procedures implemented to ensure that operator bias, systematic and nonsystematic
18 methodological errors, and equipment-related problems do not affect the results of the
19 testing. Such a program ensures that the testing repeatability remains within the required
20 repeatability values stated in Section 4 of this Act for all test trials used to certify
21 cigarettes in accordance with this Act;

22 (G) "Repeatability" shall mean the range of values within which the repeat results of
23 cigarette test trials from a single laboratory will fall 95 percent of the time;

24 (H) "Retail dealer" shall mean any person, other than a manufacturer or wholesale dealer,
25 engaged in selling cigarettes or tobacco products;

26 (I) "Sale" shall mean any transfer of title or possession or both, exchange or barter,
27 conditional or otherwise, in any manner or by any means whatever or any agreement
28 therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes or

1 gifts, and the exchanging of cigarettes for any consideration other than money, are
2 considered sales;

3 (J) "Sell" shall mean to sell, or to offer or agree to do the same; and

4 (K) "Wholesale dealer" shall mean any person other than a manufacturer who sells
5 cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and
6 any person who owns, operates or maintains one or more cigarette or tobacco product
7 vending machines in, at or upon premises owned or occupied by any other person.

8 SECTION 4. *Test Method and Performance Standard.* - (A) Except as provided in
9 Paragraph (G) of this Section, no cigarettes may be sold or offered for sale in this State or
10 offered for sale or sold to persons located in the Philippines unless the cigarettes have been tested
11 in accordance with the test method and meet the performance standard specified in this section, a
12 written certification has been filed by the manufacturer with the Bureau of Fire Protection in
13 accordance with Section 5 of this Act, and the cigarettes have been marked in accordance with
14 Section 6 of this Act.

15 In addition, the following guidelines regarding the test method and performance standard
16 of cigarettes shall be observed:

17 (1) Testing of cigarettes shall be conducted in accordance with the American
18 Society of Testing and Materials ("ASTM") standard E2187-04, "Standard Test Method
19 for Measuring the Ignition Strength of Cigarettes."

20 (2) Testing shall be conducted on 10 layers of filter paper.

21 (3) No more than 25 percent of the cigarettes tested in a test trial in accordance
22 with this section shall exhibit full-length bums. Forty replicate tests shall comprise a
23 complete test trial for each cigarette tested.

24 (4) The performance standard required by this section shall only be applied to a
25 complete test trial.

26 (5) Written certifications shall be based upon testing conducted by a laboratory
27 that has been accredited pursuant to standard ISO/IEC 17025 of the International

1 Organization for Standardization ("ISO"), or other comparable accreditation standard
2 required by the Bureau of Fire Protection.

3 (6) Laboratories conducting testing in accordance with this section shall
4 implement a quality control and quality assurance program that includes a procedure that
5 will determine the repeatability of the testing results. The repeatability value shall be no
6 greater than 0.19.

7 (7) This section does not require additional testing if cigarettes are tested
8 consistent with this Act for any other purpose.

9 (8) Testing performed or sponsored by the Bureau of Fire Protection to determine
10 a cigarette's compliance with the performance standard required shall be conducted in
11 accordance with this section.

12 (B) Each cigarette listed in a certification submitted pursuant to Section 5 of this Act that
13 uses lowered permeability bands in the cigarette paper to achieve compliance with the
14 performance standard set forth in this section shall have at least two nominally identical bands on
15 the paper surrounding the tobacco column. At least one complete band shall be located at least
16 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are
17 positioned by design, there shall be at least two bands fully located at least 15 millimeters from
18 the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters
19 from the labeled end of the tobacco column for non-filtered cigarettes.

20 (C) A manufacturer of a cigarette that the Bureau of Fire Protection determines cannot be
21 tested in accordance with the test method prescribed in Paragraph (A)(1) of this section shall
22 propose a test method and performance standard for the cigarette to the Bureau of Fire
23 Protection. Upon approval of the proposed test method and a determination by the Bureau of Fire
24 Protection that the performance standard proposed by the manufacturer is equivalent to the
25 performance standard prescribed in Paragraph (A)(3) of this Section, the manufacturer may
26 employ such test method and performance standard to certify such cigarette pursuant to Section 5
27 of this Act. If the Bureau of Fire Protection determines that another state has enacted reduced
28 cigarette ignition propensity standards that include a test method and performance standard that
29 are the same as those contained in this Act, and the Bureau of Fire Protection finds that the

1 officials responsible for implementing those requirements have approved the proposed
2 alternative test method and performance standard for a particular cigarette proposed by a
3 manufacturer as meeting the fire safety standards of that state's law or regulation under a legal
4 provision comparable to this Section, then the Bureau of Fire Protection shall authorize that
5 manufacturer to employ the alternative test method and performance standard to certify that
6 cigarette for sale in this State, unless the Bureau of Fire demonstrates a reasonable basis why the
7 alternative test should not be accepted under this Act. All other applicable requirements of this
8 section shall apply to the manufacturer.

9 (D) Each manufacturer shall maintain copies of the reports of all tests conducted on all
10 cigarettes offered for sale for a period of three (3) years, and shall make copies of these reports
11 available to the Bureau of Fire Protection and other government agencies upon written request.
12 Any manufacturer who fails to make copies of these reports available within sixty days of
13 receiving a written request shall be subject to a penalty not to exceed Ten Thousand Pesos
14 (P10,000.00) for each day after the sixtieth day that the manufacturer does not make such copies
15 available.

16 (E) The Bureau of Fire Protection may adopt a subsequent ASTM Standard Test Method
17 for measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method
18 does not result in a change in the percentage of full-length burns exhibited by any tested cigarette
19 when compared to the percentage of full-length burns the same cigarette would exhibit when
20 tested in accordance with ASTM Standard E2187-04 and the performance standard in Paragraph
21 (A)(3) of this Section.

22 (F) The Bureau of Fire Protection shall review the effectiveness of this section and report
23 every three (3) years to the Legislature its findings and, if appropriate, recommendations for
24 legislation to improve the effectiveness of this Act. The report and legislative recommendations
25 shall be submitted no later than June thirtieth following the conclusion of each three-year period.

26 (G) The requirements of Paragraph (A) of this section shall not prohibit:

27 (1) Wholesale or retail dealers from selling their existing inventory of cigarettes on or
28 after the effective date of this Act if the wholesale or retailer dealer can establish that state tax
29 stamps were affixed to the cigarettes prior to the effective date and the wholesale or retailer

1 dealer can establish that the inventory was purchased prior to the effective date in comparable
2 quantity to the inventory purchased during the same period of the prior year; or

3 (2) The sale of cigarettes solely for the purpose of consumer testing.

4 SECTION 5. *Certification and Product Change.* - (A) Each manufacturer shall submit
5 Bureau of Fire Protection a written certification attesting that:

6 (1) Each cigarette listed in the certification has been tested in accordance with
7 Section 4 of this Act; and

8 (2) Each cigarette listed in the certification meets the performance standard set
9 forth in Section 4.

10 (B) Each cigarette listed in the certification shall be described with the following
11 information:

12 (1) Brand, or trade name on the package;

13 (2) Style, such as light or ultra light;

14 (3) Length in millimeters;

15 (4) Circumference in millimeters;

16 (5) Flavor, such as menthol or chocolate, if applicable;

17 (6) Filter or non-filter;

18 (7) Package description, such as soft pack or box;

19 (8) Marking pursuant to Section 6 of this Act;

20 (9) The name, address and telephone number of the laboratory, if different than
21 the manufacturer that conducted the test; and

22 (10) The date that the testing occurred.

23 (C) The certifications shall be made available to any government agency for purposes
24 consistent with this Act and the Bureau of Fire Protection for the purposes of ensuring
25 compliance with this Section.

26 (D) Each cigarette certified under this section shall be re-certified every three (3) years.

27 (E) For each cigarette listed in a certification, a manufacturer shall pay to the Bureau of
28 Fire protection a fee of Five Hundred Pesos (P500.00). The Bureau of Fire Protection is

1 authorized to annually adjust this fee to ensure it defrays the actual costs of the processing,
2 testing, enforcement and oversight activities required by this Act.

3 (F) There is established in the National Treasury a separate, nonlapsing fund to be known
4 as the "Cigarette Fire Safety Standard Act Enforcement Fund." The fund shall consist of all
5 certification fees submitted by manufacturers, and shall, in addition to any other monies made
6 available for such purpose, subject to relevant Commission on Audit rules and regulations
7 regarding the disposition funds, be available to the Bureau of Fire Protection solely to support
8 processing, testing, enforcement and oversight activities under this Act.

9 (G) If a manufacturer has certified a cigarette pursuant to this Section, and thereafter
10 makes any change to such cigarette that is likely to alter its compliance with the reduced
11 cigarette ignition propensity standards required by this Act, that cigarette shall not be sold or
12 offered for sale in the Philippines until the manufacturer retests the cigarette in accordance with
13 the testing standards set forth in Section 4 of this Act and maintains records of that retesting as
14 required by Section 4 of this Act. Any altered cigarette which does not meet the performance
15 standard set forth in Section 4 of this Act may not be sold in the Philippines.

16 SECTION 6. *Marking of Cigarette Packaging.* - (A) Cigarettes that are certified by a
17 manufacturer in accordance with Section 5 of this Act shall be marked to indicate compliance
18 with the requirements of Section 4 of this Act. The marking shall be in eight point type or larger
19 and consist of:

- 20 (1) Modification of the product UPC Code to include a visible mark printed at
21 or around the area of the UPC Code. The mark may consist of alphanumeric
22 or symbolic characters permanently stamped, engraved, embossed or printed
23 in conjunction with the UPC; or
- 24 (2) Any visible combination of alphanumeric or symbolic characters
25 permanently stamped, engraved or embossed upon the cigarette package or
26 cellophane wrap; or
- 27 (3) Printed, stamped, engraved or embossed text that indicates that the
28 cigarettes meet the standards of this Act.

1 (B) A manufacturer shall use only one marking, and shall apply this marking uniformly
2 for all packages, including but not limited to packs, cartons, and cases, and brands marketed by
3 that manufacturer.

4 (C) The Bureau of Fire Protection shall be notified as to the marking that is selected.

5 (D) Prior to the certification of any cigarette, a manufacturer shall present its proposed
6 marking to the Bureau of Fire Protection for approval. Upon receipt of the request, the Bureau of
7 Fire Protection shall approve or disapprove the marking offered, except that the Bureau shall
8 approve:

9 (1) Any marking in use and approved for sale in the Philippines pursuant to the
10 Philippine Fire Safety Standards for Cigarettes, or

11 (2) The letters "FSC," which signifies Fire Standards Compliant appearing in 8
12 point type or larger and be permanently printed, stamped, engraved or
13 embossed on the package at or near the UPC code.

14 Proposed markings shall be deemed approved if the Bureau of Fire Protection fails to act
15 within fifteen (15) business days of receiving a request for approval.

16 (E) No manufacturer shall modify its approved marking unless the modification has been
17 approved by the Bureau of Fire Protection in accordance with this Section.

18 (F) Manufacturers certifying cigarettes in accordance with Section 5 of this Act shall
19 provide a copy of the certifications to all wholesale dealers and agents to which they sell
20 cigarettes, and shall also provide sufficient copies of an illustration of the package marking
21 utilized by the manufacturer pursuant to this section for each retail dealer to which the wholesale
22 dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these
23 package markings received from manufacturers to all retail dealers to which they sell cigarettes.
24 Wholesale dealers, agents and retail dealers shall permit the Bureau of Fire Protection, the
25 Bureau of Internal revenue, the Department of Trade and Industry, and their employees to
26 inspect markings of cigarette packaging marked in accordance with this Section.

27 SECTION 7. *Penalties.* - (A) A manufacturer, wholesale dealer, agent or any other
28 person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in

1 violation of Section 4 of this Act, shall be subject to a penalty of not more than Two Hundred
2 Pesos (P200.00) for each pack of such cigarettes sold or offered for sale provided that in no case
3 shall the penalty against any such person or entity exceed Two Hundred Thousand Pesos
4 (P200,000.00) during any thirty-day period.

5 (B) A retail dealer who knowingly sells or offers to sell cigarettes in violation of Section
6 4 of this Act shall be subject to a penalty of not more than Two Hundred Pesos (P200.00) for
7 each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty
8 against any such person or entity exceed Two Hundred Thousand Pesos (P100,000.00) during
9 any thirty-day period.

10 (C) In addition to any penalty prescribed by law, any corporation, partnership, sole
11 proprietor, limited partnership or association engaged in the manufacture of cigarettes that
12 knowingly makes a false certification pursuant to Section 5 of this Act shall be subject to a
13 penalty of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five
14 Hundred Thousand Pesos (P500,000.00) for each such false certification.

15 (D) Any person violating any other provision in this Act shall be subject to a penalty for a
16 first offense of not more than One Thousand Pesos (P1,000.00), and for a subsequent offense
17 subject to a penalty not to exceed Five Thousand Pesos (P5,000.00) for each such violation.

18 (E) Any cigarettes that have been sold or offered for sale that do not comply with the
19 performance standard required by Section 4 of this Act shall be subject to forfeiture [under the
20 pertinent provision of state law having to do with forfeiture of contraband]. Cigarettes forfeited
21 pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any
22 cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the
23 cigarette brand shall be permitted to inspect the cigarette.

24 (F) In addition to any other remedy provided by law, the Bureau of Fire Protection, the
25 Solicitor General or any other government agency adversely affected may file an action in the
26 Regional Trial Court, subject to the rules on venue of actions under the Rules of Court, for a
27 violation of this Act, including petitioning for injunctive relief or to recover any costs or
28 damages suffered by the State because of a violation of this Act, including enforcement costs
29 relating to the specific violation and attorney's fees. Each violation of this Act or of the Rules

1 and Regulations adopted under this Act constitutes a separate violation for which the Bureau of
2 Fire Protection, Attorney General or any other government agency adversely affected may obtain
3 relief.

4 (G) Whenever any law enforcement personnel or duly authorized representative of the
5 Bureau of Fire Protection shall discover any cigarettes that have not been marked in the manner
6 required by section 6 of this Act, such personnel is hereby authorized and empowered to seize
7 and take possession of such cigarettes. Such cigarettes shall be turned over to the Bureau of
8 Internal Revenue, and shall be forfeited to the state. Cigarettes seized pursuant to this section
9 shall be destroyed; provided, however, that prior to the destruction of any cigarette seized
10 pursuant to these provisions, the true holder of the trademark rights in the cigarette brand shall be
11 permitted to inspect the cigarette.

12 SECTION 8. *Implementation.* -Within sixty (60) days from the promulgation of this Act,
13 the Bureau of Fire Protection shall promulgate rules and regulations, pursuant to the law on
14 publication, necessary to effectuate the purposes of this Act.

15 The Bureau of Internal Revenue or its representatives in the regular course of conducting
16 inspections of wholesale dealers, agents and retail dealers, as authorized under the National
17 Internal Revenue Code, as amended, may inspect such cigarettes to determine if the cigarettes
18 are marked as required by Section 6 of this Act. If the cigarettes are not marked as required, the
19 Bureau of Internal Revenue or its representatives shall notify the Bureau of Fire Protection.

20 SECTION 9. *Inspection.* - To enforce the provisions of this Act, the Solicitor General, the
21 Bureau of Internal Revenue and the Bureau of Fire Protection, their duly authorized
22 representatives and other law enforcement personnel are hereby authorized to examine the
23 books, papers, invoices and other records of any person in possession, control or occupancy of
24 any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of
25 cigarettes on the premises. Every person in the possession, control or occupancy of any premises
26 where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the
27 Solicitor General, the Bureau of Internal Revenue and the Bureau of Fire Protection, their duly

1 authorized representatives and other law enforcement personnel the means, facilities and
2 opportunity for the examinations authorized by this Section.

3 SECTION 10. *Cigarette Fire Safety Standard Fund.* - There is hereby established in the
4 National Treasury a special fund to be known as the "Cigarette Fire Safety Standard Fund." The
5 fund shall consist of all monies recovered as penalties under Section 7 of this Act. The monies
6 shall be deposited to the credit of the fund and shall, in addition to any other monies made
7 available for such purpose, be made available to the Bureau of Fire Protection to support fire
8 safety and prevention programs.

9 SECTION 11. *Sale Outside the Philippines.* - Nothing in this Act shall be construed to
10 prohibit any person or entity from manufacturing or selling cigarettes that do not meet the
11 requirements of Section 4 of this Act if the cigarettes are or will be stamped for sale in another
12 country or are packaged for sale outside the Philippines and that person or entity has taken
13 reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons
14 located in the Philippines.

15 SECTION 12. *Separability Clause.* - If any provision, or part hereof, is held invalid or
16 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
17 valid and subsisting.

18 SECTION 13. *Repealing Clause.* - Any law, presidential decree or issuance, executive
19 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
20 with the provisions of this act is hereby repealed, modified or amended accordingly.

21 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
22 publication in at least two (2) newspapers of general circulation.

Approved,

/ptmt06july2010