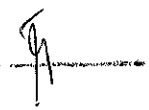


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUL -4 1974

SENATE
S. B. No. 1050

RECEIVED BY



Introduced by Senator Miriam Defensor Santiago

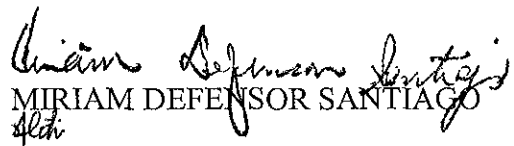
EXPLANATORY NOTE

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

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

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1 AN ACT
2 REQUIRING CIGARETTES TO BE MANUFACTURED PURSUANT TO
3 FIRE SAFETY STANDARDS

4 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
5 *assembled:*

6 SECTION 1. *Short Title.* – This Act shall be known as “Fire Safe Cigarettes Act of
7 2007.”

8 SECTION 2. *Declaration of Policy.* – It is the policy of the State to promote the general
9 welfare of the people. Pursuant to this policy, this Act seeks to protect people from fire accidents
10 caused by cigarettes.

11 SECTION 3. *Definition of Terms.* – For purposes of this Act:

12 (A) “Agent” shall mean any person authorized by the Bureau of Internal Revenue to
13 purchase and affix tax stamps on packages of cigarettes;

14 (B) “Cigarette” shall mean:

15 (1) Any roll for smoking, whether made wholly or in part of tobacco or any other
16 substance, irrespective of size or shape, and whether or not such tobacco or
17 substance is flavored, adulterated or mixed with any other ingredient, the
18 wrapper or cover of which is made of paper or any other substance or
19 material, other than leaf tobacco; or

20 (2) Any roll for smoking wrapped in any substance containing tobacco which,
21 because of its appearance, the type of tobacco used in the filler, or its
22 packaging and labeling, is likely to be offered to, or purchased by, consumers
23 as a cigarette as described in Paragraph 1 above.

1 (C) "Consumer testing" shall mean an assessment of cigarettes that is conducted by a
2 manufacturer or under the control and direction of a manufacturer, for the purpose
3 of evaluating consumer acceptance of such cigarettes, utilizing only the quantity
4 of cigarettes that is reasonably necessary for such assessment, and in a controlled
5 setting where the cigarettes are either consumed on-site or returned to the testing
6 administrators at the conclusion of the testing;

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

8 (E) "Manufacturer" shall mean:

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

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

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

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

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

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

28 (I) "Sale" shall mean any transfer of title or possession or both, exchange or barter,
29 conditional or otherwise, in any manner or by any means whatever or any

1 agreement therefor. In addition to cash and credit sales, the giving of cigarettes as
2 samples, prizes or gifts, and the exchanging of cigarettes for any consideration other
3 than money, are considered sales;

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

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

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

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

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

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

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

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

1 (5) Written certifications shall be based upon testing conducted by a laboratory
2 that has been accredited pursuant to standard ISO/IEC 17025 of the
3 International Organization for Standardization ("ISO"), or other comparable
4 accreditation standard required by the Bureau of Fire Protection.

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

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

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

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

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

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

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

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

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

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

- 1 (1) Wholesale or retail dealers from selling their existing inventory of cigarettes
2 on or after the effective date of this Act if the wholesale or retailer dealer can
3 establish that state tax stamps were affixed to the cigarettes prior to the
4 effective date and the wholesale or retailer dealer can establish that the
5 inventory was purchased prior to the effective date in comparable quantity to
6 the inventory purchased during the same period of the prior year; or
7 (2) The sale of cigarettes solely for the purpose of consumer testing.

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

- 10 (1) Each cigarette listed in the certification has been tested in accordance with
11 Section 4 of this Act; and
- 12 (2) Each cigarette listed in the certification meets the performance standard set
13 forth in Section 4.

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

- 16 (1) Brand, or trade name on the package;
- 17 (2) Style, such as light or ultra light;
- 18 (3) Length in millimeters;
- 19 (4) Circumference in millimeters;
- 20 (5) Flavor, such as menthol or chocolate, if applicable;
- 21 (6) Filter or non-filter;
- 22 (7) Package description, such as soft pack or box;
- 23 (8) Marking pursuant to Section 6 of this Act;
- 24 (9) The name, address and telephone number of the laboratory, if different than
25 the manufacturer that conducted the test; and
- 26 (10) The date that the testing occurred.

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

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

5 (E) For each cigarette listed in a certification, a manufacturer shall pay to the Bureau of
6 fire protection a fee of Five Hundred Pesos (P500.00). The Bureau of Fire Protection is
7 authorized to annually adjust this fee to ensure it defrays the actual costs of the processing,
8 testing, enforcement and oversight activities required by this Act.

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

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

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

26 (1) Modification of the product UPC Code to include a visible mark printed at or
27 around the area of the UPC Code. The mark may consist of alphanumeric or

1 symbolic characters permanently stamped, engraved, embossed or printed in
2 conjunction with the UPC; or

3 (2) Any visible combination of alphanumeric or symbolic characters permanently
4 stamped, engraved or embossed upon the cigarette package or cellophane
5 wrap; or

6 (3) Printed, stamped, engraved or embossed text that indicates that the cigarettes
7 meet the standards of this Act.

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

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

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

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

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

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

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

25 (F) Manufacturers certifying cigarettes in accordance with Section 5 of this Act shall
26 provide a copy of the certifications to all wholesale dealers and agents to which they sell
27 cigarettes, and shall also provide sufficient copies of an illustration of the package marking
28 utilized by the manufacturer pursuant to this section for each retail dealer to which the
29 wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy

1 of these package markings received from manufacturers to all retail dealers to which they sell
2 cigarettes. Wholesale dealers, agents and retail dealers shall permit the Bureau of Fire
3 Protection, the Bureau of Internal revenue, the Department of Trade and Industry, and their
4 employees to inspect markings of cigarette packaging marked in accordance with this Section.

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

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

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

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

24 (E) Any cigarettes that have been sold or offered for sale that do not comply with the
25 performance standard required by Section 4 of this Act shall be subject to forfeiture [under the
26 pertinent provision of state law having to do with forfeiture of contraband]. Cigarettes forfeited
27 pursuant to this section shall be destroyed; provided, however, that prior to the destruction of any

1 cigarette forfeited pursuant to these provisions, the true holder of the trademark rights in the
2 cigarette brand shall be permitted to inspect the cigarette.

3 (F) In addition to any other remedy provided by law, the Bureau of Fire Protection, the
4 Solicitor General or any other government agency adversely affected may file an action in the
5 Regional Trial Court, subject to the rules on venue of actions under the Rules of Court, for a
6 violation of this Act, including petitioning for injunctive relief or to recover any costs or
7 damages suffered by the State because of a violation of this Act, including enforcement costs
8 relating to the specific violation and attorney's fees. Each violation of this Act or of the Rules
9 and Regulations adopted under this Act constitutes a separate violation for which the Bureau of
10 Fire Protection, Attorney General or any other government agency adversely affected may obtain
11 relief.

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

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

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

1 SECTION 9. *Inspection.* – To enforce the provisions of this Act, the Solicitor General,
2 the Bureau of Internal Revenue and the Bureau of Fire Protection, their duly authorized
3 representatives and other law enforcement personnel are hereby authorized to examine the
4 books, papers, invoices and other records of any person in possession, control or occupancy of
5 any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of
6 cigarettes on the premises. Every person in the possession, control or occupancy of any premises
7 where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the
8 Solicitor General, the Bureau of Internal Revenue and the Bureau of Fire Protection, their duly
9 authorized representatives and other law enforcement personnel the means, facilities and
10 opportunity for the examinations authorized by this Section.

11 SECTION 10. *Cigarette Fire Safety Standard Fund.* – There is hereby established in the
12 National Treasury a special fund to be known as the “Cigarette Fire Safety Standard Fund.” The
13 fund shall consist of all monies recovered as penalties under Section 7 of this Act. The monies
14 shall be deposited to the credit of the fund and shall, in addition to any other monies made
15 available for such purpose, be made available to the Bureau of Fire Protection to support fire
16 safety and prevention programs.

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

23 SECTION 12. *Separability Clause.* – If any provision, or part hereof, is held invalid or
24 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
25 valid and subsisting.

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

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

Approved,

/rgs