

**HB**

**413**



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## Alaska State Legislature REPRESENTATIVE REGGIE JOULE

### SPONSER STATEMENT

"An Act relating to the burning capability of cigarettes being sold, offered for sale, or possessed for sale; and providing for an effective date."

House Bill 413 identifies cigarettes as one of the leading causes of fire deaths. As such, HB 413 provides a way to reduce these incidents by instituting fire-safe cigarettes that are designed to extinguish when not being actively smoked. Annually, smoking materials are responsible for nearly 4% of all residential structure fires in Alaska alone. Within a 10-year period there were 163 wildfires attributed to lit cigarettes, resulting in 7,699 acres of Alaska being burned. Fire safe cigarettes represent an avenue to help prevent and reduce such incidents.

HB 413 sets the groundwork for establishing a state standard for fire safety. The state legislatures in California and New York have already enacted similar legislation and the states of Washington, Vermont, and Massachusetts are considering related policy. The National Fire Protection Association statistics document that nationally smoking materials in one year have led to 900 fire related deaths, 2,500 injuries, and \$410 million in property losses. HB 413 allows for Alaska to participate in a national movement to reduce the number of incidents caused by cigarette related fires. Fire safe cigarette standards serve to protect the public and the environment.

Cigarette related fires are contributing factors in an unnecessary financial loss not only to an individual, but also to the State and Federal governments. However, there has been no indication that fire safe cigarettes reduce the sale figures for manufacture's and with the adoption of similar standards by other states, consumer prices are expected to be minimally affected.

Human factors contribute to the incidents related to cigarette caused fires. In most occurrences a lighted tobacco product, which caused a fire, was the result of a smoker falling asleep with a lit cigarette. Fire safe cigarettes help reduce these human caused incidents of fire.

**HOUSE BILL NO. 413**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE JOULE**

**Introduced: 2/1/06**

**Referred: State Affairs, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the burning capability of cigarettes being sold, offered for sale, or  
2 possessed for sale; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

7 (1) cigarettes are the leading cause of fire deaths in the United States each  
8 year, claiming 1,000 lives and causing nearly 2,000 injuries and nearly \$400,000,000 in direct  
9 property damage;

10 (2) technology exists to significantly reduce the number of fires caused by  
11 cigarettes;

12 (3) the states of New York and California have enacted cigarette fire safety  
13 statutes that require that cigarettes sold in those states meet a fire safety performance  
14 standard;

1 (4) New York state's cigarette fire safety performance standard is based on  
2 decades of research by the National Institute of Standards and Technology, congressional  
3 research groups, and private industry; and

4 (5) cigarettes meeting fire safety performance standards have been found not  
5 to increase the costs to consumers.

6 (b) It is the intent of the Legislature to adopt

7 (1) a cigarette fire safety performance standard that is similar to the standard  
8 that is in effect in California in order to reduce the likelihood that cigarettes will cause fires  
9 that result in deaths, injuries, and property damage;

10 (2) a cigarette fire safety performance standard that has a minimum cost to the  
11 state.

12 (c) The legislature declares that establishing fire safety performance standards for  
13 cigarettes sold in this state in order to protect the health and safety of the people of this state is  
14 within the police powers of this state.

15 \* **Sec. 2.** AS 18 is amended by adding a new chapter to read:

16 **Chapter 74. Cigarette Fire Safety.**

17 **Sec. 18.74.010. Requirement for sale.** A person may not sell, offer to sell, or  
18 possess for sale in this state cigarettes unless

19 (1) the cigarettes are tested by the manufacturer under AS 18.74.030  
20 and satisfy the standard in AS 18.74.030(d), are tested under AS 18.74.050 and satisfy  
21 a standard equivalent to the standard in AS 18.74.030(d), or are exempt under  
22 AS 18.74.060;

23 (2) the cigarettes comply with the banding requirement of  
24 AS 18.74.040, if applicable;

25 (3) the cigarettes comply with the marking requirements of  
26 AS 18.74.120 - 18.74.150; and

27 (4) the manufacturer complies with the certification requirements of  
28 AS 18.74.080 - 18.74.100.

29 **Sec. 18.74.020. Exemptions from requirement.** (a) The prohibition in  
30 AS 18.74.010 does not prohibit a person from manufacturing or selling cigarettes that  
31 do not meet the requirements of AS 18.74.010 if the cigarettes are or will be affixed

1 with a tax stamp payment indicator for sale in another state or are placed in packaging  
 2 for sale outside the United States. In this subsection, "tax payment indicator" means  
 3 the indicator of payment of a tobacco tax, including a stamp, a meter impression, or  
 4 another method for indicating the payment of the tax.

5 (b) This chapter does not apply to cigarettes sold by a facility operated by an  
 6 agency of the United States, including a facility operated by the uniformed services of  
 7 the United States. In this subsection, "uniformed services" has the meaning given in 5  
 8 U.S.C. 2101.

9 **Sec. 18.74.030. Testing of cigarettes.** (a) Cigarettes shall be tested under

10 (1) the ASTM International Standard E2187-04, entitled "Standard  
 11 Test Method for Measuring the Ignition Strength of Cigarettes"; or

12 (2) a test method established under (b) of this section.

13 (b) The state fire marshal may adopt an ASTM International standard test  
 14 method that is adopted by the American Society of Testing and Materials after the  
 15 standard test method identified under (a) of this section. The state fire marshal may not  
 16 adopt this standard test method unless the state fire marshal makes a finding regarding  
 17 the test method. The finding must state that the method does not result in a change in  
 18 the percentage of full-length burns exhibited by any tested cigarette when compared to  
 19 the percentage of full-length burns that the same cigarette would exhibit when tested  
 20 under

21 (1) the standard test method identified under (a)(1) of this section; and

22 (2) the criteria established under (c) - (c) of this section.

23 (c) The testing under this section shall be conducted on 10 layers of filter  
 24 paper. A complete test trial consists of 40 replicate tests of each cigarette.

25 (d) When tested under (a) of this section, only 25 percent or less of the  
 26 cigarettes tested in a test trial may exhibit full-length burns in order to pass the test.

27 (e) A laboratory that conducts cigarette testing under this section shall  
 28 implement a quality control and quality assurance program that ensures the  
 29 repeatability of the testing results. The repeatability value may not be greater than 0.19  
 30 under (d) of this section. In this subsection,

31 (1) "quality control and quality assurance program" means the

1 laboratory procedures implemented to ensure that operator bias, systematic and  
2 nonsystematic methodological errors, and equipment-related problems do not affect  
3 the results of the testing quality control program;

4 (2) "repeatability" means the range of values within which the repeat  
5 results of cigarette test trials from a single laboratory will fall 95 percent of the time.

6 **Sec. 18.74.040. Banding requirement.** Each cigarette listed in a certification  
7 submitted under AS 18.74.080 that uses lowered permeability bands in the cigarette  
8 paper to achieve compliance with the testing standard in AS 18.74.030(d) must have at  
9 least two nominally identical bands on the paper surrounding the tobacco column. At  
10 least one complete band must be located at least 15 millimeters from the lighting end  
11 of the cigarette. For cigarettes on which the bands are positioned by design, there must  
12 be at least two bands fully located at least

13 (1) 15 millimeters from the lighting end, and

14 (2) 10 millimeters from

15 (A) the filter end of the tobacco column; or

16 (B) the labeled end of the tobacco column of a nonfiltered  
17 cigarette.

18 **Sec. 18.74.050. Alternate test method.** A manufacturer of cigarettes that  
19 cannot be tested by a test method established in AS 18.74.030(a) may use a test  
20 method that is different from the test method established in AS 18.74.030(a) and may  
21 satisfy a standard that is equivalent to the testing standard in AS 18.74.030(d). The  
22 manufacturer may employ that test method and performance standard to certify the  
23 cigarette under AS 18.74.080, but all other applicable requirements of this chapter  
24 apply to the manufacturer of the cigarette.

25 **Sec. 18.74.060. Exemption from testing.** AS 18.74.030 does not require  
26 cigarettes to be tested if the cigarettes are tested for another purpose and the testing is  
27 consistent with AS 18.74.030 - 18.74.050.

28 **Sec. 18.74.070. Maintenance of records.** A manufacturer shall keep data from  
29 testing conducted by the manufacturer to comply with AS 18.74.030 - 18.74.050 on  
30 file for three years after the initial date of certification or for three years after each  
31 recertification required under AS 18.74.100. The manufacturer shall provide the data

1 to the state fire marshal and the attorney general on the request of the state fire  
2 marshal or the attorney general.

*under oath*

3 **Sec. 18.74.080. Certification requirement.** A manufacturer shall certify in  
4 writing to the state fire marshal that each brand of cigarette listed , the certificate has  
5 been tested under AS 18.74.030 and satisfies the testing standard in AS 18.74.030(d),  
6 or has been tested under AS 18.74.050 and satisfies a standard equivalent to the  
7 standard in AS 18.74.030(d).

[

8 **Sec. 18.74.090. Contents of certification.** The certification required by  
9 AS 18.74.080 must provide the following information for each brand of cigarette  
10 listed in the certification:

- 11 (1) the brand;
- 12 (2) the style;
- 13 (3) the length in millimeters;
- 14 (4) the circumference in millimeters;
- 15 (5) the flavor, if applicable;
- 16 (6) whether the cigarette is filtered or nonfiltered;
- 17 (7) a description of the pack; and
- 18 (8) the marking approved under AS 18.74.120.

19 **Sec. 18.74.100. Recertification schedule.** Each brand of cigarette certified  
20 under AS 18.74.080 shall be recertified every three years.

21 **Sec. 18.74.110. Provision of copies.** A manufacturer who certifies a brand of  
22 cigarette under AS 18.74.080 shall provide a copy of the certification to each  
23 distributor or wholesaler to whom the manufacturer sells the cigarette. The  
24 manufacturer shall also provide the distributor or wholesaler with sufficient copies of  
25 an illustration of the cigarette packaging marking used by the manufacturer under  
26 AS 18.74.130 to enable the distributor or wholesaler to give a copy to each retailer to  
27 whom the distributor or wholesaler sells cigarettes. A distributor or wholesaler shall  
28 provide a copy of the cigarette packaging markings received from a manufacturer to  
29 each retailer to whom the distributor or wholesaler sells cigarettes.

30 **Sec. 18.74.120. Certification marking approval.** Before a brand of cigarette  
31 may be sold in the state, a manufacturer shall submit its proposed marking to the state

*under oath*

↑  
①  
*Completed*

1 fire marshal. The state fire marshal shall approve the marking if the state fire marshal  
2 finds that it complies with AS 18.74.130. Proposed markings shall be considered  
3 approved if the state fire marshal fails to act within 10 business days after receiving a  
4 proposed marking.

5 **Sec. 18.74.130. Contents of certification marking.** The packaging containing  
6 a brand and style of cigarette that a manufacturer certifies under AS 18.74.080 must be  
7 marked to indicate compliance with the requirements of this chapter. The marking  
8 must be in eight-point type or larger and consist of

9 (1) a modification of the universal product code to include a visible  
10 mark printed at or around the area of the code; the mark may consist of alphanumeric  
11 or symbolic characters and must be permanently stamped, engraved, embossed, or  
12 printed in conjunction with the universal product code;

13 (2) any visible combination of alphanumeric or symbolic characters  
14 permanently stamped, engraved, or embossed on the packaging; or

15 (3) printed, stamped, engraved, or embossed text on the cigarette  
16 packaging that indicates that the cigarettes satisfy the requirements of this chapter.

17 **Sec. 18.74.140. Uniformity in marking.** A manufacturer shall use only one  
18 marking for certification and apply this marking uniformly to all packaging and to all  
19 brands marketed by the manufacturer.

20 **Sec. 18.74.150. Modification of marking.** A manufacturer who modifies the  
21 manufacturer's marking shall notify the state fire marshal of this modification and  
22 submit to the state fire marshal a copy of the new marking. The new marking must  
23 comply with AS 18.74.130 and 18.74.140.

24 **Sec. 18.74.160. Penalties for violations.** (a) A manufacturer or another person  
25 who knowingly sells or offers to sell cigarettes other than through retail sale and in  
26 violation of this chapter is subject to a civil penalty not to exceed \$10,000 for each  
27 sale.

28 (b) A retailer, distributor, or wholesaler who knowingly sells or offers to sell  
29 cigarettes in violation of this chapter is subject to

30 (1) a civil penalty not to exceed \$500 for each sale or offer for sale in  
31 which the total number of cigarettes sold or offered for sale does not exceed 50 packs

1 of cigarettes;

2 (2) a civil penalty not to exceed \$1,000 for each sale or offer for sale in  
3 which the total number of cigarettes sold or offered for sale exceeds 50 packs of  
4 cigarettes.

5 (c) In addition to any other penalty prescribed by law, a person engaged in the  
6 manufacture of cigarettes who knowingly makes a false certification under  
7 AS 18.74.080 is subject to a civil penalty not to exceed \$10,000 for each false  
8 certification.

9 (d) If a person violates a provision of this chapter and a civil penalty is not set  
10 for the violation, the person is subject to a civil penalty not to exceed \$1,000 for each  
11 violation.

12 (e) The state fire marshal and the attorney general may enforce the penalties  
13 established under this section.

14 **Sec. 18.74.170. Defense to action for civil penalty.** It is a defense in an action  
15 for a civil penalty under AS 18.74.160 that a distributor, wholesaler, retailer, or  
16 another person in the stream of commerce relied in good faith on the manufacturer's  
17 certification or marking that the cigarettes complied with the requirements of this  
18 chapter.

19 **Sec. 18.74.180. Separate accounting.** The civil penalties imposed under  
20 AS 18.74.160 shall be deposited into the general fund and separately accounted for  
21 under AS 37.05.142. The legislature may appropriate the money received under this  
22 section to the cigarette fire safety fund established under AS 18.74.220.

23 **Sec. 18.74.190. Seizure of cigarettes.** (a) If the state fire marshal or a law  
24 enforcement agency of the state discovers that a person is offering or possesses for  
25 sale, or has made a sale of, a cigarette in violation of AS 18.74.010, the state fire  
26 marshal or the law enforcement agency may seize or dispose of the cigarette.

27 (b) If a cigarette is sold or offered for sale and the cigarette does not comply  
28 with the testing standard in AS 18.74.030(d), does not comply with an equivalent  
29 standard under AS 18.74.050, or is not exempt under AS 18.74.020 or 18.74.060, the  
30 state fire marshal or a law enforcement agency of the state may seize and dispose of  
31 the cigarette.

1 (c) Before disposal of a cigarette under (a) or (b) of this section, the state fire  
2 marshal or the law enforcement agency of the state shall provide the person from  
3 whom the cigarette was seized with notice of the seizure and an opportunity for a  
4 hearing regarding the seizure.

5 **Sec. 18.74.200. Other remedies.** The attorney general may bring an action to  
6 restrain violations of this chapter and to obtain other relief that may be appropriate.

7 **Sec. 18.74.210. Inspection of violation sitc.** (a) The state fire marshal or a law  
8 enforcement agency of the state may inspect a site where cigarettes are sold, offered  
9 for sale, or stored, or any site where there is evidence of a violation of AS 18.74.010.

10 (b) A manufacturer, distributor, wholesaler, or retailer shall permit an  
11 employee of the state fire marshal or a law enforcement agency of the state, on  
12 presentation of the appropriate identification and credentials, to enter into and conduct  
13 an inspection of a building, facility, or other site described in (a) of this section.

14 **Sec. 18.74.220. Cigarette fire safety fund.** (a) The cigarette fire safety fund is  
15 established. The fund consists of appropriations made to the fund.

16 (b) The purpose of the fund is to pay the expenses of the state fire marshal for  
17 implementing and enforcing this chapter.

18 (c) Money appropriated to the fund may be spent for the purposes of the fund  
19 without further appropriation. Money appropriated to the fund does not lapse.

20 **Sec. 18.74.230. Relationship to federal law.** If a provision of this chapter is  
21 preempted by or conflicts with federal law in a particular situation, the provision does  
22 not apply to the extent of the preemption or conflict.

23 **Sec. 18.74.290. Definitions.** In this chapter,

24 (1) "cigarette" means any roll for smoking, made wholly or in part of  
25 tobacco, irrespective of size or shape and irrespective of whether the tobacco is  
26 flavored, adulterated, or mixed with another ingredient, if the roll has a wrapper or  
27 cover made of paper or another material, unless the wrapper is wholly or in the greater  
28 part made of tobacco and the roll weighs over three pounds for each one thousand  
29 cigarettes;

30 (2) "distributor" means a person who distributes cigarettes or who sells  
31 or accepts orders for cigarettes that are to be transported from a point outside this state

1 to a person in this state;

2 (3) "manufacturer" means

3 (A) a person who manufactures or otherwise produces  
4 cigarettes, or causes cigarettes to be manufactured or produced, if the  
5 manufacturer intends the cigarettes to be sold in the state, including cigarettes  
6 intended to be sold in the United States through an importer;

7 (B) the first purchaser who intends to resell in the United States  
8 cigarettes that the original manufacturer or maker does not intend to be sold in  
9 the United States; or

10 (C) a person who becomes a successor of a person described in  
11 (A) or (B) of this paragraph;

12 (4) "offer to sell" means to offer or agree to sell;

13 (5) "pack" means the individual pack, box, or other container in which  
14 retail sales of cigarettes are normally made or intended to be made, but does not  
15 include a container that contains smaller packaging units of cigarettes;

16 (6) "packaging" includes packs, boxes, cartons, cases, other containers  
17 and wrapping;

18 (7) "retailer" has the meaning given in AS 43.50.170;

19 (8) "sale" or "sell" means a transfer, exchange, or barter, in any manner  
20 or by any means, or an agreement to transfer, exchange, or barter, and includes

21 (A) giving cigarettes as samples, prizes, or gifts; or

22 (B) exchanging cigarettes for any consideration other than  
23 money;

24 (9) "wholesaler" has the meaning given in AS 43.50.849.

25 **Sec. 18.74.295. Short title.** This chapter may be cited as the Alaska Cigarette  
26 Fire Safety Act.

27 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 **TRANSITION.** ~~AS 18.74.010~~, enacted by sec. 2 of this Act, does not prohibit a  
30 distributor, wholesaler, or retailer from selling or offering to sell an inventory of cigarettes  
31 existing on July 1, 2007, if the distributor, wholesaler, or retailer establishes that

1                   (1) a stamp or meter impression was affixed to the cigarettes under AS 43.50  
2 before July 31, 2007; and

3                   (2) the inventory was purchased before July 1, 2007, in comparable quantity to  
4 the inventory purchased during the same period of 2005.

5           (b) In this section,

6                   (1) "distributor," "offer to sell," "retailer," "sell," and "wholesaler" have the  
7 meanings given in AS 18.74.290;

8                   (2) "tax payment indicator" has the meaning given in AS 18.74.020(a).

9       \* Sec. 4. This Act takes effect July 1, 2007.

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Alaska State Legislature  
REPRESENTATIVE REGGIE JOULE

MEMORANDUM

DATE: February 1, 2006

TO: Representative Paul Seaton, Chair  
House State Affairs Committee

FROM: Representative Reggie Joule

RE: Hearing Request for HB 413

I respectfully request that House Bill 413, "An Act relating to the burning capability of cigarettes being sold, offered for sale, or possessed for sale; and providing for an effective date" be scheduled for a hearing in the House State Affairs Committee. Conveniently, the Fire Chief Association will be in Juneau next week. It would be much appreciated if they were allowed to testify for this bill in person. Please feel free to contact me or my aide Mikayla Saito, with questions or thoughts at 465-4833.

Attached you will find a background packet for HB 114. This includes the current version of the bill, and a sponsor's statement.

Thank you for your consideration.

AM #1

line 4 "~~Amended~~ shall certify under oath

P 5. line 3-7

P 5. line 31 - require certificates to be under oath

P 7. line 5-11 civil penalty in addition to

P. 6. lines 24-27 (may read in Judicant)

in subsection a → "in this state"?

# LEGAL SERVICES

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## MEMORANDUM

February 14, 2006

**SUBJECT:** Proposed amendment to CSHB 413(STA) relating to the burning capability of cigarettes (Work Order No. 24-LS1495\G.1)

**TO:** Representative Max Gruenberg

**FROM:** Theresa Bannister *MB for TB*  
Legislative Counsel

This memo accompanies the amendment described above. You requested that the amendment be prepared to the bill described above if it would be helpful. I am not sure what you mean by being helpful, so I have prepared an amendment for you to use if you find it will help achieve your goals. The amendment adds "in this state" to proposed sec. 18.74.160(a) (penalties for violations).

The amendment is probably not needed because the terms of the bill are limited by the state's jurisdiction (only in the state), by the need to establish minimum contacts with the state for the state's jurisdiction to apply, and by the basic prohibition in the chapter at sec. 18.74.010. That provision prohibits certain activities "in this state." This provision covers all but one of the provisions of the chapter that might constitute violations, since sec. 18.74.010 lists the specific requirements of the chapter that must be complied with in this state. Sec. 18.74.010 does not list sec. 18.74.070, but sec. 18.74.070 is tied in to the state by its reference to testing done to comply with other provisions of the chapter.

If the above comments do not address what you were concerned with, please contact me so that we can discuss them.

If I may be of further assistance, please advise.

TLB:ljw  
06-074.ljw

Enclosure

AMENDMENT

OFFERED IN THE HOUSE  
TO: CSHB 413(STA)

BY REPRESENTATIVE GRUENBERG

- 1 Page 6, line 25, following "cigarettes":
- 2       Insert "in this state"

## Fire Safe Cigarettes

### The Problem

Nationally, cigarette fires cause close to 1,000 deaths and 3,000 injuries each year in the United States. As the ignition source in fires responsible for over 25% of all fire deaths, cigarettes are the nation's largest single cause of such deaths. Property losses alone are over half a billion dollars. The economic costs in health care and productivity losses, and the human cost of pain and suffering raise total annual costs to an estimated \$6 billion dollars. Among all injury profiles, the one for cigarette fire injuries is unusually lethal. In fires attributed to dropped cigarettes, there is one death to every four injuries. Please note that smoking-related injuries started by matches or lighters were excluded for these statistics. This problem is not going away, as cigarette related fires are up 19% nationally.

The "fire-safe" cigarette concept addresses the typical scenario in which such injuries occur. In these cases, dropped cigarettes, because they are expressly manufactured not to go out until totally consumed, burn through the cover of a seat cushion or a mattress, starting fires, which may smolder for hours. These hidden fires produce toxic gases, which render sleeping victims even more unconscious before the cushion or mattress bursts into flame. At this point, the superheated air in the room of origin quickly reaches flashover, and any people in the residence are seriously threatened. Those who survive such fires normally have a severe inhalation injury. When they are also burned, they are normally transferred to burn treatment centers. There, they are frequently the most critically ill patients in a setting already dedicated to serious burn injury.

The age profile for cigarette fire mortality in NFPA data shows a moderate death rate among young children, a low rate for ages 10 to 17, and then a steadily rising rate, which peaks above age 85. Since the smoking rate among the elderly is half that of younger adults, those elderly who do smoke, especially males, and those with whom they live, are exceedingly vulnerable to smoking-fire death and injury. This vulnerability is even greater if the elderly smoker uses alcohol or sedating medications.

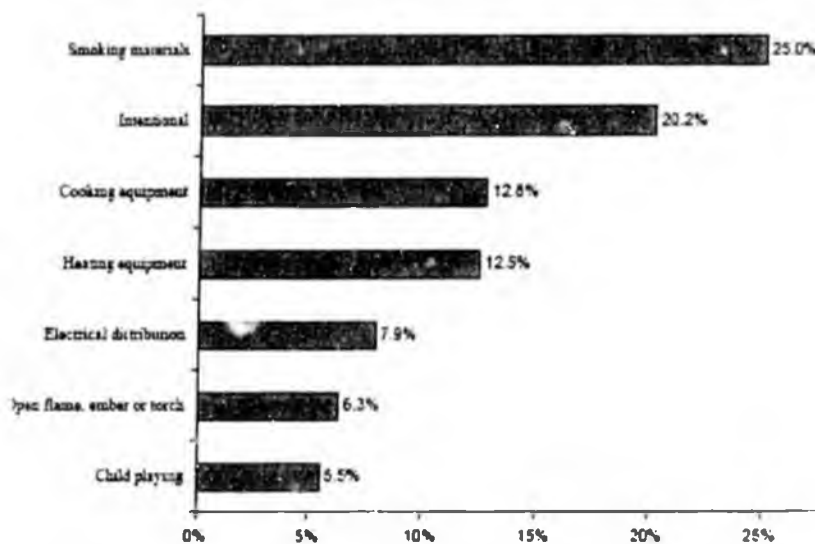
In fires in which a cigarette was known to have ignited upholstery, bedding or clothing, 29% victims making it to a burn center did not survive their initial hospital stay. This is five times the overall burn center fatality rate of about 6%. In addition, many of the elderly victims who survived their burn center stay were discharged to nursing care facilities from which they would never go home.

These survivors of cigarette fires remained in the hospital an average of 33 days on their initial admission. This is 60% longer than the burn center average of 20.5 days. Per diem costs were one-third higher than the burn center average. Cigarette fire admissions thus consumed twice as many resources as other burn center patients, with hospital charges alone averaging over \$125,000 per admission.

### What is a Fire Safe Cigarette?

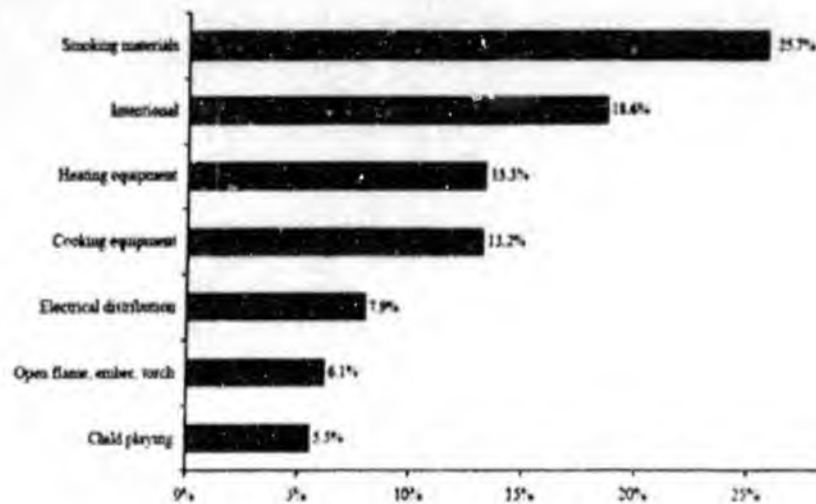
A fire safe cigarette, also known as a "reduced propensity cigarette," has less propensity to ignite upholstered furniture or mattresses when dropped, forgotten or carelessly discarded. This can be accomplished through small design changes including, the use of less dense tobacco, less porous paper, a smaller diameter, a filter tip, the addition of "speed bumps" on the filter paper, and the elimination of citrates that are added to the paper to maintain burning.

### Leading Causes of Structure Fire Deaths in 1999



Source: National estimates based on NFIRS/NFPA survey.

### Leading Causes of Home Fire Deaths in 1999



Source: National estimates based on NFIRS/NFPA survey.

### Other Legislation

In 2000, New York State passed the nation's first law requiring the establishment of a fire safety standard for cigarettes sold in the state that was due to take effect July 1, 2003. It was later changed to have the regulations set to go into effect by June 30, 2004. In 2005 both Vermont and California passed similar legislation, which requires cigarettes to meet the ASTM standard.

Following the lead of New York State, the Canadian Parliament passed legislation that will reduce the number of cigarette-caused fires in Canada. Bill C-260, an Act to amend the Hazardous Products Act (fire-safe cigarettes), will make it mandatory for all tobacco manufacturers to sell reduced ignition propensity (RIP) cigarettes by the end of this year.

## **Alaska HB 413 Will Save Lives in Alaska Fire Safe Cigarettes Result in a Safer State**

Too many Alaskans are hurt needlessly by fires that start because of the careless use of cigarettes. Every year, people are injured and homes are destroyed and damaged by cigarette ignited fires. That is largely because cigarettes are designed to continue to burn if left unattended. Cigarettes that are forgotten or dropped by smokers have the potential to start fires.

Following are a few facts about cigarette ignited fires:

- Cigarettes are the leading cause of fatal home fires in the United States, representing 25 percent of all fire deaths.
- Annually, approximately 1,000 people in the United States die from fires started by cigarettes and an additional 3,000 are injured.
- More than 100 victims who die every year are children or nonsmokers.
- Two out of five victims are 65 or older.
- Cigarette-ignited fires cause more than \$6 billion in property damage every year.
- In 1997 alone, there were more than 130,000 cigarette related fires in the U.S.

Now, Alaska has a chance to change those frightening statistics in a way that will better protect people and property in this state.

Alaska legislators recently introduced HB 413, addressing cigarette fire safety. That bill would save lives in Alaska and would likely lead to significant advances in public safety throughout the country.

**HB 413 would require that all cigarettes marketed and sold in the state of Alaska be fire safe with a reduced propensity to burn when left unattended.**

Cigarettes are designed to continue to burn when left unattended. The typical scenario for a cigarette ignited fire is the delayed ignition of a sofa, chair, mattress or rubbish from a lit cigarette that was forgotten or dropped by a smoker. Cigarettes vary in their potential to start fires, depending on cigarette design and content. The term "fire safe" is defined as a cigarette with reduced propensity for starting a fire when dropped or left unattended. The technology needed to produce fire safe cigarettes has been available for over a decade.

How does a fire safe cigarette work?

- A fire-safe cigarette has significantly less tendency to ignite furniture or mattresses when carelessly discarded. Small design changes including use of less dense tobacco, less porous paper, a smaller diameter, filter tip, and no added citrates to the paper are key components of a fire-safe cigarette.

Jurisdictions that have passed fire-safe cigarette legislation:

- Canada (2003)
- New York (2000)
- Vermont (2005)
- California (2005)

In addition, a recently released report out of New York noted that annual fire deaths blamed on cigarettes have fallen by one-third since that state's fire safe cigarette legislation went into effect.

## Fire Safe Cigarette Fact Sheet

- Smoking-related injuries started by matches or lighters were excluded for these statistics. Cigarette related fires are up 19% nationally.
- Cigarettes are the leading cause of fatal home fires in the United States, accounting for approximately 25% of our nation's fire deaths.
- Annually, between 900 and 1,000 people in the United States die from fires started by cigarettes and an additional 2,500 to 3,000 people are injured.
- It is not only the smoker who is injured or killed. Family members, other residents in multi-family dwellings, firefighters, emergency medical services personnel, and other non-smokers are also affected.
- In 1997 (the latest year for which data is available), there were more than 130,000 cigarette-related fires, which resulted in the deaths of 140 children.
- The annual cost of human life and property damage exceeds \$6 billion.
- At present, no federal regulation requires cigarettes to meet fire safety standards. New York is the first and only state to mandate that all cigarettes sold or offered for sale in the state must be fire safe. Similar legislation has been introduced in other states and in the US Congress.
- In fires in which a cigarette was known to have ignited upholstery, bedding or clothing, 29% victims making it to a burn center did not survive their initial hospital stay.
- The Fire Safe Cigarettes do not carry an increased cost to the consumer.
- The change in taste, if any, is undetectable to the smoker.
- 2 of 5 victims are 65 or older.
- Fire Safe Cigarettes are mandated in The States of California, New York and Vermont and the entire country of Canada.



# State of Alaska

Department of Public Safety  
Division of

## Fire Prevention

Frank H. Murkowski, Governor  
William Tandenke, Commissioner

February 1, 2006

The Honorable Reggie Joule  
House of Representatives  
State Capitol, Room 405  
Juneau, AK 99801-1182

The Division of Fire Prevention supports the legislation sponsored by you "An Act relating to the burning capability of cigarettes being sold, offered for sale, or possessed for sale and providing for an effective date."

This bill embodies the focus of the Division's mission statement which is to prevent the loss of life and property from fire and explosion. This bill recognizes significant losses of life and property due to cigarettes, as the following statistics will show.

Between 1996 and 2004 Alaska lost \$5.6 million in property to fires with cigarettes as an ignition source.

Between 1996 and 2004 Cigarette related fires caused 25% (36 Alaskans) of the deaths due to fire. This is the leading cause of fire fatalities in Alaska.

It is our belief that this bill will significantly lower fire fatalities in Alaska related to cigarettes, as the manufacturers will have to meet the new requirements for a cigarette that meets a fire safety standard. This would be at minimal cost to the state.

The states that have enacted similar legislation are New York, Vermont and California. Those states are closely monitoring their fire statistics for the expected decline in fire fatalities. The legislation enactment is recent, therefore the information on fire fatalities is just now being collected for analysis.

If you have any questions or need more information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Gary L. Powell".

Gary L. Powell  
State Fire Marshal

**ALASKA DEPARTMENT OF PUBLIC SAFETY**  
**Division of Fire Prevention**

**1996 - 2004 Alaska Fires Caused by Cigarettes**

Type of Fire	Count and Sum	Civ Inj	Civ Fat	FF Inj	FF Fat
(Confined) Trash Fire	3 \$0				
Fire, Other	17 \$87,455	1			
Motor Mobile Property (Vehicle)	49 \$30,628	1	1		
Outside Rubbish Fire	72 \$2,376				
Special Outside Fire	7 \$1,000				
Structure Fire	315 \$5,248,260	28	35	6	
Structure Fire (Mobile Property)	19 \$190,521	1			
Wildland Fire	91 \$2,531				
<b>Total Count of Inc. ID</b>	<b>573</b>	<b>31</b>	<b>36</b>	<b>6</b>	<b>0</b>
<b>Total Sum of Loss Total</b>	<b>\$5,562,771</b>				

It's correct to say that between 1996 - 2004.....

3.33% of all reported firefighter injuries a cigarette was the cause of fire

25% of all civilian deaths, smoking and/or smoking materials was the cause of fire



**Facts About the Tobacco Industry's Arguments  
Against Laws Regulating the Ignition Strength of Cigarettes  
March 2005**

*Introduction*

In 2002, the most recent year with complete data, lighted tobacco products caused an estimated 37,000 structure fires in the United States, according to the National Fire Protection Association (NFPA). Some 760 individuals died in these fires, with roughly 200 victims estimated not to have been the smoker. And more than half a billion dollars (\$526 million) in direct property damage was caused by these fires. Lighted tobacco products remain the leading cause of fatal structure fires in the United States.

Efforts to reduce this deadly toll directly, by requiring cigarettes to meet fire resistance standards in the United States, received a boost on June 28, 2004, when the State of New York adopted the nation's first cigarette fire safety regulation. Canada has also enacted legislation that requires cigarettes to meet the same requirement as New York.

Major cigarette manufacturers have already altered the design of cigarette brands to meet the New York regulation, through "banding" of the cigarette paper for many brands (though New York's regulation is a performance standard and does not dictate how the standard should be met). Since these companies are currently selling lower ignition strength versions of their cigarette brands in New York, it seems that the way has been paved for other states to follow New York's lead.

The life-saving potential of this legislation is so strong and so apparent that even some major cigarette manufacturers have stopped opposing it. However, opponents in the cigarette industry continue to strongly oppose all legislation that would require lower ignition strength cigarettes in other states, and they offer arguments that can sound persuasive to anyone who does not know the facts. This paper will rebut the arguments being offered by the cigarette industry.

- **Cigarette Industry Argument:** There is no such thing as a cigarette that reduces the risk of fire.

**Fact:** New research by the Harvard School of Public Health (HSPH), funded by the American Legacy Foundation, indicates several benefits of implementing the New York regulation. *"Fire Safer" Cigarettes: The Effect of the New York State Cigarette Fire Safety Standard on Ignition Propensity, Smoke Toxicity and the Consumer Market* (<http://www.hsph.harvard.edu/press/releases/press01232005.html>) compared the physical properties of cigarettes sold in New York with cigarettes of the same brands sold in Massachusetts and California. The report found that New York cigarettes were far less likely to exhibit full length burns (only 10 percent) than those of the other states (99.8 percent). The HSPH researchers found no valid reason why cigarette manufacturers should not sell lower ignition strength cigarettes nationwide.

The Harvard study confirmed the 20-year-old conclusion of the Federal Technical Study Group on Cigarette and Little Cigar Fire Safety. This group, created by the Cigarette Fire Safety Act of 1984 (Public Law 98-567), concluded that it was technically feasible to develop cigarettes with a reduced propensity to ignite upholstered furniture and mattresses. As the Harvard study makes clear, the Federal study was correct, and the tobacco industry can make reduced ignition strength cigarettes if it chooses to do so or is required to do so.

- **Cigarette Industry Argument:** State laws are unnecessary. The U.S. Congress is about to pass a national law.

**Fact:** Those following Capitol Hill politics understand this argument is a complete myth. Passing legislation in the past few years has been nearly impossible. Bills requiring cigarettes to meet fire safety standards have been introduced in Congress since 1979, and there is still no national law in place. This is in large part because the cigarette industry fights national bills as vigorously as it fights state bills. But the industry always fights state laws by pointing to the existence of federal bills.

In fact, state legislation is necessary to put pressure on Congress to pass a national law. The cigarette industry needs to see that it is economically in its best interest to make lower ignition strength cigarettes for the entire nation rather than for just one or two states. The more states that pass these bills, the more likely it will be that the benefit of lower ignition strength cigarettes will be made available to all Americans.

- **Cigarette Industry Argument:** The push for lower ignition strength cigarettes is just another anti-smoking campaign.

**Fact:** This is about fire safety, and preventing deaths and injuries from cigarette-ignited fires. This is not about getting people to stop smoking or to smoke less. This is about making sure that the cigarettes that are smoked are less likely to cause fires.

- **Cigarette Industry Argument: We don't know if this will save a single life.**

**Fact:** Dr. John R. Hall, Jr., of the Fire Analysis & Research Division of the National Fire Protection Association, estimates that up to 1,000 lives could have been saved each year across the nation if lower ignition strength cigarettes had been required in every state in the mid-1980s when the Federal study was released. Today, best estimates are still that most fire deaths involving lighted tobacco products would be prevented by this legislation, which would mean many hundreds of lives saved every year. New York does not yet have data on how many lives its lower ignition strength cigarette law has saved or how many cigarette-ignited fires have been prevented, but data on some post-legislation incidents is beginning to trickle in. That still-anecdotal data indicate that cigarettes involved in smoking fire fatalities in New York since its regulation took effect are not the lower ignition strength cigarettes, but rather were purchased either out-of-state or over the Internet (which are not required to comply with New York's law) or were left from before the rule went into effect.

- **Cigarette Industry Argument: State cigarette tax revenue will evaporate.**

**Fact:** The HSPH researchers reviewed New York tax data for six months after the implementation of the new law. They found the lower ignition strength cigarettes appeared to have no effect on sales of cigarettes in New York. NASFM President and New York State Fire Administrator James A. Burns concurred with the analysis, saying the state has not lost revenue.

- **Cigarette Industry Argument: By requiring lower ignition strength cigarettes, we risk making cigarettes more toxic.**

**Fact:** The HSPH research found the majority of toxic compounds were no different between the smoke of the New York and Massachusetts brands that were tested. Five compounds were slightly higher, but no evidence exists that the small increases affect the already highly toxic nature of cigarette smoke.

In addition, The New York State Office of Fire Prevention and Control (OFPC), which developed the New York State lower ignition strength cigarette regulation, consulted with the New York State Department of Health to consider whether cigarettes manufactured in accordance with the regulation may reasonably result in increased health risks to consumers. The Department of Health advised that cigarettes complying with the fire safety standards set forth in the regulation were not expected to significantly change the inherently high risks associated with cigarette smoking. (This determination was based upon the existing information available on banded cigarettes, the only technology known to OFPC at that time that could feasibly meet the performance standard).

- **Cigarette Industry Argument:** We don't know how to make a fire-safe cigarette.

**Fact:** Chief John Mucier of the New York State OFPC, who coordinated promulgation of New York's rule, recently told NASFM's Science Advisory Committee that New York's goal was to make cigarettes less likely to ignite upholstered furniture or mattresses. New York's rule resulted in industry's developing a technically and commercially practical method of designing cigarettes. This has been done, at least in some cases, by using banded paper that interrupts the burning of cigarettes when they are not being actively smoked.

- **Cigarette Industry Argument:** There isn't enough of the special paper to implement the fire-safe cigarette laws in more than a few states.

**Fact:** The cigarette industry has already reworked its practices to produce the lower ignition strength cigarettes for New York. Since the industry is already doing this for New York, making the cigarettes for additional states should be much easier.

- **Cigarette Industry Argument:** The law discriminates against mom and pop retailers.

**Fact:** The New York requirement applies in all retail sales in the state, so there is no discrimination on the size of the retailer. The HSPH study found that cigarette sales in New York have not diminished since the new regulation has taken effect.

- **Cigarette Industry Argument:** Upholstered furniture and mattresses are the real problems.

**Fact:** Fire safety is about redundancy in safety measures, and cigarettes should not get a free pass. We need to try to prevent fires by addressing ignition sources and fuels, as well as human behavior, and we need to have smoke alarms and sprinklers in place in case our efforts at preventing fires fail.

Upholstered furniture and mattresses have had enhanced cigarette resistance for decades, thanks to an industry standard in the first case and an early regulation of the U.S. Consumer Product Safety Commission (CPSC) in the second. There is an active rulemaking within CPSC to make residential upholstered furniture more resistant to open flame and even more resistant to cigarette ignitions. There are also active rulemakings at the CPSC to address open-flame ignitions of mattresses and bedding. But these rulemakings will not be completed for another few years. Even after they are implemented, it may be decades before every American household has fire-resistant furniture and mattresses because these items aren't purchased on a regular basis. Cigarettes are purchased and used much more quickly than furniture. Lower ignition strength cigarettes can therefore have a positive effect on the fire problem much sooner.

- **Cigarette Industry Argument: Alcohol and drug abuse are the real problems.**

**Fact:** The mixing of drugs and alcohol with cigarette smoking increases the likelihood of a fatal fire. However, focusing only on behavioral issues and neglecting what can be done to make cigarettes less fire-prone is extremely dangerous.

Personal responsibility may be an argument for the smoker who kills himself in one of these fires. But what about the innocent people – children, spouses, parents, visitors – who are killed in fires started by someone else's careless behavior? According to NFPA, one in four victims is not the smoker whose cigarette ignited the fatal fire. They deserve to be protected, too.

We in the fire service are committed to educating the public about safe practices, but we cannot count on the war against drugs and alcohol to solve this problem. Changing human behavior is extremely difficult, but changing the cigarette to make it less likely to ignite a fire is something that cigarette manufacturers know how to do – and they are doing it in New York State. Shouldn't the citizens of every state be given the same opportunity to avoid being killed in a cigarette-ignited fire?

- **Cigarette Industry Argument: The lack of fire sprinklers is the real problem.**

**Fact:** Fire sprinklers in every American home would definitely improve overall fire safety, and is a good way to ensure redundancy of safety measures. However, fire sprinklers extinguish fires once they occur, which means that we have failed to prevent the fire. Smoke alarms are also necessary in homes to alert people when fires do occur, but they do nothing to prevent fires, either. Also, if the cigarette falls near the head of a sleeping smoker, the smoldering fire can produce enough carbon monoxide to kill him or her before there is enough heat from the burning chair/bed to activate the sprinkler.

- **Cigarette Industry Argument: An uneducated public is the real problem.**

**Fact:** Local fire departments and other community safety officials do a very good job of informing the public about fire safety. Despite these public safety campaigns, cigarette fire deaths are still far too common. Part of the problem is that even with education, someone who is impaired by alcohol or drug use is less likely to remember a fire safety lesson. And, as stated earlier, education does not save the innocent victims who are killed in cigarette-ignited fires just because they happened to be in the same residence at the time the fire occurred.

## Philip Morris USA

February 7, 2006

### Policies, Practices & Positions

#### Reduced Cigarette Ignition Propensity

Philip Morris USA supports the enactment of federal legislation that would create a uniform, national standard for reduced cigarette ignition propensity (RCIP). A national standard would apply to all cigarette brand styles sold in the country, thereby avoiding the potential distribution of non-compliant product between the states. It also would avoid inconsistent and potentially conflicting state regulations, thereby avoiding an undue burden on interstate commerce.

We have been working to support legislation at the federal level to institute a nationwide standard with the goal of reducing smoking-related fires started by carelessly handled cigarettes. We believe that any federal standard developed on this issue should allow for the creation of a reduced cigarette ignition propensity standard that does not increase the known health risks of smoking and is acceptable to adult consumers.

Despite efforts to address this issue at the federal level, a few states have considered legislation that would require tobacco manufacturers to comply with separate standards irrespective of any federal efforts. Local or state regulation of reduced cigarette ignition propensity standards could lead to a patchwork of differing, inconsistent and even contradictory requirements across the country. We believe federal legislation would be preferable to enacting potentially inconsistent state standards because:

- *First*, the U.S. Consumer Products Safety Commission which would likely be the agency mandated to implement a standard at the federal level, has been developing expertise on cigarette ignition propensity for many years. Thus, the Commission already has the resources and expertise to perform the necessary scientific work that needs to be done in order to successfully implement a reduced cigarette ignition propensity standard; and
- *Second*, because state and local initiatives will inevitably lead to conflicting standards, they would likely impose substantial burdens on interstate commerce. Cigarettes are manufactured for nationwide distribution in a small number of factories; it simply is not practical to try to make a number of different versions of each brand to satisfy differing performance standards.

New York State is the only state to date that has enacted a law establishing its own reduced cigarette ignition propensity standard. This law was passed in August 2000, and the state has devoted substantial resources to develop and then administer the regulatory standard. PM USA submitted extensive technical comments to NY as it was developing the state's new standard which was implemented in June 2004. PM USA will continue to provide input to NY officials concerning a range of complex technical issues that should be addressed in implementing and evaluating the standards.

Philip Morris USA welcomes legislation that would set a national standard in this area and will continue to work to make reasonable and effective federal legislation a reality.

Visit These Sections  
For More Info.

PM USA's Legislative  
Action Guide: Tips on  
how to communicate with  
elected officials (pdf 128  
KB)

**ALASKA STATE  
FIREFIGHTERS ASSOCIATION**

P.O. Box 22092 • Juneau, AK 99802

February 3, 2006

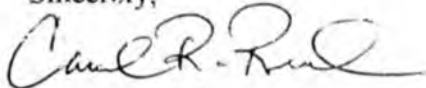
The Alaska State Firefighters Association supports House Bill 413, introduced by Representative Reggie Joule, legislation relating to cigarette fire safety.

Cigarettes are the #1 cause of fatal fires in the U.S., taking 700 to 800 lives a year. Annually, property losses from fires caused by cigarettes run into the hundreds of millions of dollars. Statistical data of fire related death in Alaska parallels those of the U.S.

The State of New York introduced similar legislation in 2004. Although it is too early to draw conclusions, trends show a significant reduction in loss of life and property as a result of the reduced number of fires caused by cigarettes. With cigarettes related to 25% percent of the cause of fatal fires in Alaska, we believe safe cigarette legislation in Alaska would save Alaskan lives.

In addition to saving Alaskan lives and property, the safest fire for Alaska's emergency responders is the one that was prevented.

Sincerely,



Carol R. Reed

President

Alaska State Firefighters Association

**ALASKA FIRE CHIEF'S ASSOCIATION**  
**2358 Bradway Road, North Pole, AK 99705**

EIN #92-0098649

Phone: (907) 488-3400

FAX: (907) 488-6118



DATE: February 9, 2006  
TO: State Affairs Committee  
FROM: Alaska Fire Chiefs Association  
SUBJECT: Support HB 413 (Joule) Fire Safe Cigarettes

Dear State Affairs Committee:

The Alaska Fire Chiefs Association, the largest membership of fire service managers in Alaska, is dedicated to serving the needs and issues that face Alaska's fire service. We would like to inform you that Alaska Chiefs strongly supports the Fire Safe Cigarette Act (HB 413) and encourage your YES vote when this legislation comes before you on this Committee and the House floor.

HB 413 will prohibit the sale, manufacture, or distribution of cigarettes in Alaska that do not meet fire safe standards established by the American Society of Testing and Materials (ASTM).

Careless smoking is the leading cause of fire deaths in Alaska. From 1995 to 2004, careless smoking, as the fire cause, resulted in 27.6% of all fire deaths in Alaska. This type of fire killed 45 people in Alaska during the past 10 years.

These costs are simply too great. Fortunately, an effective solution to this problem lies within your reach. California, New York and Vermont have already passed similar legislation to protect their residents. We hope that you will do your part to accomplish the same in Alaska.

On behalf of the 129 members of the Alaska Fire Chiefs Association, we thank you for considering our support, and we hope that you will vote YES on HB 413 - a life saving piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Warren Cummings".

Warren Cummings  
President, Alaska Fire Chiefs Association

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 10, 2006

**SUBJECT:** CSHB 413(STA) relating to the burning capability of cigarettes  
(Work Order No. 24-LS1495G)

**TO:** Representative Paul Seaton  
Attn: Louie

**FROM:**  Theresa Bannister  
Legislative Counsel

This memo accompanies the bill described above.

Please be aware that "oath" pulls in the definition of "oath" found at AS 01.10.070. That definition states that "oath" includes "affirmation or declaration." "Declaration" by itself does not appear to qualify as a sworn statement. However, "oath" is covered in the perjury statutes without another definition, so using "oath" in this bill does not appear to allow a person to avoid a perjury conviction.

Since this bill has passed out of committee, please pass this memo along to the next committee of record.

If I may be of further assistance, please advise.

TLB:lmb  
06-052.lmb

Enclosure