

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SL&C 12608

ALASKA STATE SENATE

SENATOR DONALD C. OLSON

ALASKA STATE CAPITOL
ROOM 514
JUNEALL, ALASKA 99801-1182



(907)465-3707
FAX (907) 465-4821

Subsection 18.74.150 requires copies of a manufacturer's certification under 18.74.080 to be provided to every wholesaler, agent, and retailer who sells the cigarette.

Subsection 18.74.160 lists civil penalties for sales of cigarettes in the state that are in violation of this chapter by a manufacturer, wholesaler, agent, or retailer.

Subsection 18.74.180 directs that certification fees and civil penalties received shall be deposited in a separate account in the general fund. The legislature may appropriate from this account to the fire prevention and public safety fund established under subsection 18.74.210.

Subsection 18.74.190 allows the fire marshal, the Department of Revenue, or a law enforcement agency to seize cigarettes that are sold or offered for sale that are in violation of this chapter. Conditions for disposal of seized cigarettes are detailed.

Subsection 18.74.200 allows the state fire marshal or the attorney general to seek additional remedies for violations of this chapter through superior court action.

Subsection 18.74.210 establishes a fire prevention and public safety fund for the purpose of paying for the expenses of the state fire marshal in implementing and enforcing this chapter. Money appropriated to the fund may be expended without further appropriation.

Subsection 18.74.220 specifies the requirements for implementation of this chapter.

Subsection 18.74.230 requires the state fire marshal to report to the legislature every three years on the effectiveness of this chapter in reducing cigarette caused fires.

Subsection 18.74.240 is the fire marshal's authority to adopt regulations.

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Subsection 18.74.250 authorizes inspections by certain state officials of cigarettes being sold; and examination of paper, invoices, and records of persons who possess, control, or occupies premises where cigarettes are being sold or stored.

Subsection 18.74.260 exempts cigarettes manufactured in Alaska for sale in another state or another country from the requirements of this chapter as long as reasonable steps are taken to exclude sales in Alaska.

Subsection 18.74.270 prohibits a municipality from enacting or enforcing an ordinance that is in conflict with the purpose and provisions of this chapter.

Subsection 18.74.280 confirms the supremacy of federal law over provisions of this chapter. Should a federal law be enacted to establish a reduced cigarette ignition propensity standard, it would preempt this chapter.

Subsection 18.74.290 provides definitions of terms used in this chapter.

Section 2 provides for the transition from currently allow cigarette sales to the mandated sale of fire safe cigarettes only in the 13 month transition period.

Section 3 provides a 13 month delayed effective date.

25-LS0596M
Bannister
2/27/07

CS FOR SENATE BILL NO. 84()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS OLSON, Elton, Ellis, Davis, Dyson, McGuire, Thomas

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the testing and packaging of cigarettes to be sold, offered for sale, or**
2 **possessed in this state; and providing for an effective date."**

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

4 *** Section 1. AS 18 is amended by adding a new chapter to read:**

5 **Chapter 74. Cigarette Fire Safety.**

6 **Sec. 18.74.010. Requirement for sale.** Except as provided by AS 18.74.060, a
7 person may not sell or offer to sell cigarettes in this state, or sell or offer to sell
8 cigarettes to another person located in this state, unless

9 (1) the cigarettes are tested under

10 (A) AS 18.74.030 and satisfy the performance standard in
11 AS 18.74.030(d); or

12 (B) AS 18.74.040 and satisfy an alternative performance
13 standard under AS 18.74.040;

14 (2) the cigarettes have been marked as required by AS 18.74.130; and

1 (3) a certification has been submitted by the manufacturer of the
2 cigarettes under AS 18.74.080.

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

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

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

7 (b) The state fire marshal may adopt an ASTM International standard test
8 method that is adopted by the American Society of Testing and Materials after the
9 standard test method identified under (a) of this section if the state fire marshal finds
10 that the method does not result in a change in the percentage of full-length burns
11 exhibited by any tested cigarette when compared to the percentage of full-length burns
12 that the same cigarette would exhibit when tested under

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

14 (2) the criteria established under (c) or (d) of this section.

15 (c) The testing under this section shall be conducted on 10 layers of filter
16 paper. A complete test trial consists of 40 replicate tests of each cigarette. The
17 performance standard required by (d) of this section may only be applied to a
18 complete test trial.

19 (d) When tested under this section, not more than 25 percent of the cigarettes
20 tested in a test trial may exhibit full-length burns.

21 **Sec. 18.74.040. Alternative test methods.** (a) If the state fire marshal
22 determines that cigarettes cannot be tested by a test method established in
23 AS 18.74.030(a), a manufacturer of the cigarettes shall propose an alternative test
24 method and performance standard for the cigarettes to the state fire marshal. On
25 approval of the proposed test method and a determination by the state fire marshal that
26 the performance standard proposed by the manufacturer is equivalent to the
27 performance standard prescribed by AS 18.74.030(d), the manufacturer may employ
28 the proposed alternative test method and performance standard to certify the cigarette
29 under AS 18.74.080.

30 (b) Unless the state fire marshal demonstrates a reasonable basis why the
31 alternative test method should not be accepted under this chapter, the state fire marshal

1 shall authorize a manufacturer to use an alternative test method and performance
2 standard to certify cigarettes for sale in this state if the state fire marshal

3 (1) determines that another state has enacted reduced cigarette ignition
4 propensity standards that include a test method and performance standard that are the
5 same as those contained in this chapter; and

6 (2) finds that the officials responsible for implementing those
7 requirements have approved a proposed alternative test method and performance
8 standard for particular cigarettes proposed by a manufacturer as meeting the fire safety
9 standards of that state's law under a legal provision comparable to this section.

10 (c) All other applicable requirements of this chapter apply to the manufacturer
11 of the cigarettes tested under this section.

12 **Sec. 18.74.050. Testing laboratories.** (a) Testing of cigarettes under this
13 chapter shall be performed by a laboratory that has been accredited under standard
14 ISO/IEC 17025 of the International Organization for Standardization or by another
15 comparable accreditation standard required by the state fire marshal.

16 (b) A laboratory that conducts cigarette testing under this chapter shall
17 implement a quality control and quality assurance program that ensures the
18 repeatability of the testing results. The repeatability value may not be greater than
19 0.19. In this subsection,

20 (1) "quality control and quality assurance program" means the
21 laboratory procedures implemented to ensure that operator bias, systematic and
22 nonsystematic methodological errors, and equipment-related problems do not affect
23 the results of the testing quality control program;

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

26 **Sec. 18.74.060. Testing for another purpose.** AS 18.74.030 and 18.74.040 do
27 not require cigarettes to be tested if the cigarettes are tested for another purpose and
28 the testing is consistent with this chapter.

29 **Sec. 18.74.065. Testing by state fire marshal.** The state fire marshal may
30 perform testing of cigarettes to determine compliance with this chapter. If the state fire
31 marshal or a contractor of the state fire marshal performs testing to determine a

1 cigarette's compliance with the performance standard in AS 18.74.030(d) or an
2 alternative performance standard under AS 18.74.040, the testing shall be performed
3 under this chapter.

4 **Sec. 18.74.070. Maintenance of records.** A manufacturer shall keep for three
5 years copies of the reports of all tests conducted on all cigarettes offered for sale. The
6 manufacturer shall make copies of those reports available to the state fire marshal and
7 the attorney general on written request.

8 **Sec. 18.74.080. Certification requirement.** (a) A manufacturer shall submit to
9 the state fire marshal a certification that each cigarette listed in the certification has
10 been tested under AS 18.74.030 and satisfies the performance standard in
11 AS 18.74.030(d), or has been tested under AS 18.74.040 and satisfies an alternative
12 performance standard under AS 18.74.040.

13 (b) If a manufacturer has certified a cigarette under this section and
14 subsequently makes a change to the cigarette that is likely to alter its compliance with
15 the performance standard under AS 18.74.030(d) or an alternative performance
16 standard under AS 18.74.040, the cigarette may not be sold or offered for sale in this
17 state or sold to a person located in this state until the manufacturer retests the cigarette
18 under AS 18.74.030 or 18.74.040, the cigarette meets the performance standard under
19 AS 18.74.030(d) or the alternative performance standard under AS 18.74.040, and the
20 manufacturer maintains records of the retesting under AS 18.74.070.

21 (c) For each cigarette listed in a certification submitted under (a) of this
22 section, a manufacturer shall pay to the state fire marshal a fee of \$250. The state fire
23 marshal may adjust this fee annually to ensure that it defrays the actual costs of the
24 processing, testing, enforcement, and oversight activities required by this chapter.

25 (d) Each cigarette certified under this section shall be recertified every three
26 years.

27 **Sec. 18.74.090. Contents of certification.** The certification required by
28 AS 18.74.080 must provide the following information for each cigarette listed in the
29 certification:

- 30 (1) the brand or trade name on the package;
31 (2) the style, such as "light" or "ultra-light";

- 1 (3) the length in millimeters;
- 2 (4) the circumference in millimeters;
- 3 (5) the flavor, if applicable;
- 4 (6) whether the cigarette is filtered or nonfiltered;
- 5 (7) a description of the package;
- 6 (8) the marking approved under AS 18.74.120;
- 7 (9) the name, address, and telephone number of the laboratory that
- 8 conducted the test, if different than the manufacturer who conducted the test; and
- 9 (10) the date that the testing occurred.

10 **Sec. 18.74.100. Banding requirement.** Each cigarette listed in a certification
11 submitted under AS 18.74.080 that uses lowered permeability bands in the cigarette
12 paper to achieve compliance with the performance standard in AS 18.74.030(d) must
13 have at least two nominally identical bands on the paper surrounding the tobacco
14 column. At least one complete band must be located at least 15 millimeters from the
15 lighting end of the cigarette. For cigarettes on which the bands are positioned by
16 design, there must be at least two bands fully located at least

17 (1) 15 millimeters from the lighting end; and

18 (2) 10 millimeters from

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

20 (B) the labeled end of the tobacco column of a nonfiltered
21 cigarette.

22 **Sec. 18.74.110. Availability of certifications.** The certification required by
23 AS 18.74.080 shall be made available to the attorney general for purposes consistent
24 with this chapter and to the department for the purpose of ensuring compliance with
25 AS 18.74.080.

26 **Sec. 18.74.120. Packaging marking approval.** (a) Before submitting a
27 certification of a cigarette under AS 18.74.080, a manufacturer shall present its
28 proposed packaging marking to the state fire marshal for approval. The state fire
29 marshal shall approve or disapprove the proposed packaging marking. Proposed
30 packaging marking shall be considered approved if the state fire marshal fails to act
31 within 10 business days after receiving a request for approval.

1 (b) Notwithstanding AS 18.74.130, the state fire marshal shall give a
2 preference to proposed packaging marking for a cigarette that is in use and approved
3 for the cigarette under the fire safety standards for cigarettes established by the law of
4 the state of New York, unless the state fire marshal demonstrates a reasonable basis
5 why the proposed packaging marking should not be approved under this chapter.

6 (c) Notwithstanding AS 18.74.130, the state fire marshal shall approve the use
7 of the letters "FSC" for "fire standards compliant" on proposed packaging marking to
8 indicate that the cigarettes comply with the performance standard in AS 18.74.030(d)
9 or an alternative performance standard under AS 18.74.040.

10 (d) A manufacturer may not change its approved packaging marking unless
11 the state fire marshal has approved the modification under this section.

12 (e) A wholesale dealer, an agent, and a retail dealer shall permit the state fire
13 marshal, the department, the attorney general, and the employees of those persons to
14 inspect packaging markings of cigarettes.

15 **Sec. 18.74.130. Marking of cigarette packaging.** (a) The packaging
16 containing a brand and style of cigarette that a manufacturer certifies under
17 AS 18.74.080 must be marked to indicate compliance with the requirements of this
18 chapter. The packaging marking must be in eight-point type or larger and consist of

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

23 (2) any visible combination of alphanumeric or symbolic characters
24 permanently stamped, engraved, or embossed on the package or wrapping; or

25 (3) printed, stamped, engraved, or embossed text on the cigarette
26 package that indicates that the cigarettes satisfy the requirements of this chapter.

27 (b) A manufacturer shall use only one packaging marking and apply that
28 packaging marking uniformly to all packaging and to all brands marketed by the
29 manufacturer for sale in this state.

30 **Sec. 18.74.150. Copies.** A manufacturer who certifies a cigarette under
31 AS 18.74.080 shall provide a copy of the certification to each wholesale dealer and

1 agent to whom the manufacturer sells the cigarette. The manufacturer shall also
2 provide the wholesale dealer and agent with sufficient copies of an illustration of the
3 cigarette packaging markings used by the manufacturer under AS 18.74.130 for each
4 retail dealer to whom the wholesale dealer or agent sells cigarettes. A wholesale dealer
5 or an agent shall provide a copy of the cigarette packaging markings received from a
6 manufacturer to each retail dealer to whom the wholesale dealer or agent sells
7 cigarettes.

8 **Sec. 18.74.160. Penalties for violations.** (a) A manufacturer, a wholesale
9 dealer, an agent, or another person who knowingly sells or offers to sell cigarettes
10 other than through retail sale and in violation of AS 18.74.010 is subject to a civil
11 penalty not to exceed

12 (1) \$10,000 for a first violation;

13 (2) \$25,000 for each violation that is not a first violation.

14 (b) A retail dealer who knowingly sells or offers to sell cigarettes in violation
15 of AS 18.74.010 is subject, for each sale or offer to sell, to a civil penalty not to
16 exceed

17 (1) \$500 for a first violation in which the total number of cigarettes
18 sold or offered for sale does not exceed 1,000 cigarettes;

19 (2) \$2,000 for each violation that is not a first violation and in which
20 the total number of cigarettes sold or offered for sale does not exceed 1,000 cigarettes;

21 (3) \$1,000 for a first violation in which the total number of cigarettes
22 sold or offered for sale exceeds 1,000 cigarettes;

23 (4) \$5,000 for a violation that is not a first violation and in which the
24 total number of cigarettes sold or offered for sale exceeds 1,000 cigarettes.

25 (c) The penalties against

26 (1) one manufacturer, wholesale dealer, agent, or other person under
27 (a) of this section may not exceed \$100,000 for violations occurring during a 30-day
28 period; or

29 (2) one retail dealer under (b) of this section may not exceed \$25,000
30 for violations occurring during a 30-day period.

31 (d) In addition to any other penalty prescribed by law, a person engaged in the

1 manufacture of cigarettes who knowingly makes a false certification under
2 AS 18.74.080 is subject to a civil penalty of at least \$75,000 for a first violation and a
3 civil penalty not exceeding \$250,000 for each violation that is not a first violation.

4 (e) A manufacturer who fails to make copies of reports available under
5 AS 18.74.070 within 60 days after receiving a written request from the state fire
6 marshal or the attorney general is subject to a civil penalty not to exceed \$10,000 for
7 each day after the 60th day that the manufacturer does not make the copies available.

8 (f) If a person violates a provision of this chapter and a civil penalty is not set
9 for the violation, the person is subject to a civil penalty not to exceed \$1,000 for a first
10 violation and a civil penalty not exceeding \$5,000 for each violation that is not a first
11 violation.

12 **Sec. 18.74.180. Separate accounting.** The fee received under AS 18.74.080(c)
13 and the civil penalties imposed under AS 18.74.160 shall be deposited into the general
14 fund and separately accounted for under AS 37.05.142. The legislature may
15 appropriate the money accounted for under this section to the fire prevention and
16 public safety fund established under AS 18.74.210.

17 **Sec. 18.74.190. Seizure of cigarettes.** (a) If a person is offering for sale or has
18 made a sale of cigarettes in violation of AS 18.74.010, the state fire marshal, the
19 department, or a law enforcement agency may seize and dispose of the cigarettes.

20 (b) Before disposal of cigarettes under (a) of this section, the state fire marshal
21 or the department shall

22 (1) provide the person from whom the cigarette was seized with notice
23 of the seizure and an opportunity for a hearing regarding the seizure; and

24 (2) permit the holder of the trademark rights in the cigarette brand to
25 inspect the cigarettes.

26 **Sec. 18.74.200. Other remedies.** In addition to any other remedy provided by
27 law, the state fire marshal or attorney general may file an action in superior court for a
28 violation of this chapter, including an action for injunctive relief or to recover costs or
29 damages suffered by the state because of a violation of this chapter, including
30 enforcement costs relating to the specific violation. Each violation of this chapter or of
31 the regulations adopted under this chapter constitutes a separate cause of action for

1 which the state fire marshal or attorney general may obtain relief.

2 **Sec. 18.74.210. Fire prevention and public safety fund.** (a) The fire
3 prevention and public safety fund is established. The fund consists of appropriations
4 made to the fund.

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

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

9 **Sec. 18.74.220. Implementation.** The substance of the fire safety standards for
10 cigarettes established by the law of the state of New York and the implementation of
11 these standards by the state of New York shall be persuasive authority in the
12 implementation of this chapter by the state fire marshal and the attorney general.

13 **Sec. 18.74.230 Review by state fire marshal.** The state fire marshal shall
14 review the effectiveness of this chapter, report the state fire marshal's findings to the
15 legislature every three years on or by January 30 of the reporting year, and, if
16 appropriate, recommend legislation to improve the effectiveness of this chapter.

17 **Sec. 18.74.240. Regulations.** The state fire marshal may adopt regulations to
18 implement this chapter.

19 **Sec. 18.74.250. Inspections.** (a) The department may inspect cigarettes held by
20 wholesale dealers, agents, and retail dealers to determine if the cigarettes are marked
21 as required by AS 18.74.120 and 18.74.130. If the cigarettes are not marked as
22 required, the department shall notify the state fire marshal.

23 (b) To determine compliance with this chapter, the state fire marshal and the
24 attorney general may examine the books, papers, invoices, and other records of a
25 person who possesses, controls, or occupies premises where cigarettes are placed,
26 stored, sold, or offered for sale, and the stock of cigarettes on the premises.

27 (c) A person who possesses, controls, or occupies premises where cigarettes
28 are placed, sold, or offered for sale, shall allow the state fire marshal and the attorney
29 general to make the inspections authorized by this section.

30 **Sec. 18.74.260. Sale outside the state.** This chapter may not be interpreted to
31 prohibit a person from manufacturing or selling cigarettes that do not meet the

1 requirements of this chapter if the cigarettes are or will be stamped for sale in another
2 state or are packaged for sale outside the United States and the person has taken
3 reasonable steps to ensure that the cigarettes will not be sold or offered for sale to
4 persons located in this state.

5 **Sec. 18.74.270. Regulation by municipality.** Notwithstanding any other
6 provision of law, a municipality may not enact or enforce an ordinance or another law
7 of the municipality that conflicts with this chapter.

8 **Sec. 18.74.280. Relationship to federal law.** This chapter does not apply if a
9 federal law is enacted that establishes a reduced cigarette ignition propensity standard
10 and preempts this chapter.

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

12 (1) "agent" means a person authorized by the department to purchase
13 and affix stamps on packages of cigarettes under AS 43.50.500 - 43.50.700;

14 (2) "cigarette" means a roll for smoking of any size or shape, made
15 wholly or in part of tobacco, whether or not the tobacco is flavored, adulterated, or
16 mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a
17 material other than tobacco;

18 (3) "department" means the Department of Revenue;

19 (4) "manufacturer" means

20 (A) a person who manufactures or otherwise produces
21 cigarettes, or causes cigarettes to be manufactured or produced anywhere, if
22 the manufacturer intends the cigarettes to be sold in this state, including
23 cigarettes intended to be sold in the United States through an importer;

24 (B) the first purchaser anywhere who intends to resell in the
25 United States cigarettes that are manufactured anywhere and that the original
26 manufacturer or maker does not intend to be sold in the United States; or

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

29 (5) "retail dealer" means a person, other than a manufacturer or
30 wholesale dealer, who sells cigarettes or tobacco products;

31 (6) "sale" or "sell" means a sale, exchange, barter, and any other

1 manner of transferring the ownership of personal property;

2 (7) "wholesale dealer" means a person who

3 (A) sells cigarettes or tobacco products to retail dealers or other
4 persons for resale; and

5 (B) owns, operates, or maintains cigarette or tobacco vending
6 machines in, at, or on premises owned or occupied by another person.

7 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION. (a) AS 18.74.010, enacted by sec. 1 of this Act, does not prohibit a
10 wholesale dealer or retail dealer from selling or offering to sell an inventory of cigarettes
11 existing on the effective date of this Act if the wholesale dealer or retail dealer establishes that

12 (1) state tax stamps were affixed to the cigarettes under AS 43.50 before the
13 effective date of this Act; and

14 (2) the inventory was purchased before the effective date of this Act in
15 comparable quantity to the inventory purchased during the same period of the previous year.

16 (b) In this section, "retail dealer," "sell," and "wholesale dealer" have the meanings
17 given in AS 18.74.290.

18 * Sec. 3. This Act takes effect on the first day of the 13th month after the month in which
19 this Act becomes law under AS 01.10.070.

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

March 5, 2007

SUBJECT: CSSB 84(L&C) relating to the testing and packaging of cigarettes to be sold, offered for sale, or possessed in this state (Work Order No. 25-LS0596K)

TO: Senator Johnny Ellis
Chair of the Senate Labor and Commerce Committee
Attn: Dana Owen

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above. Please be aware that certain sections in the bill raise issues relating to unlawful delegation of legislative authority.

If I may be of further assistance, please advise.

TLB:med
07-148.med

Enclosure

25-LS0596\K

Bannister

3/5/07

CS FOR SENATE BILL NO. 84(L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - FIRST SESSION****BY THE SENATE LABOR AND COMMERCE COMMITTEE****Offered:****Referred:****Sponsor(s): SENATORS OLSON, Elton, Ellis, Davis, Dyson, McGuire, Thomas****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the testing and packaging of cigarettes to be sold, offered for sale, or
2 possessed in this state; relating to compliance certifications by tobacco product
3 manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to
4 cigarette packages, and cigarette tax stamps; and providing for an effective date."

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

6 * Section 1. AS 18 is amended by adding a new chapter to read:

7 **Chapter 74. Cigarette Fire Safety.**

8 **Sec. 18.74.010. Requirement for sale.** Except as provided by AS 18.74.060, a
9 person may not sell or offer to sell cigarettes in this state, or sell or offer to sell
10 cigarettes to another person located in this state, unless

11 (1) the cigarettes are tested under

12 (A) AS 18.74.030 and satisfy the performance standard in
13 AS 18.74.030(d); or

14 (B) AS 18.74.040 and satisfy an alternative performance

1 standard under AS 18.74.040;

2 (2) the cigarettes have been marked as required by AS 18.74.130; and

3 (3) a certification has been submitted by the manufacturer of the
4 cigarettes under AS 18.74.080.

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

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

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

9 (b) The state fire marshal may adopt an ASTM International standard test
10 method that is adopted by the American Society of Testing and Materials after the
11 standard test method identified under (a) of this section if the state fire marshal finds
12 that the method does not result in a change in the percentage of full-length burns
13 exhibited by any tested cigarette when compared to the percentage of full-length burns
14 that the same cigarette would exhibit when tested under

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

16 (2) the criteria established under (c) and (d) of this section.

17 (c) The testing under this section shall be conducted on 10 layers of filter
18 paper. A complete test trial consists of 40 replicate tests of each cigarette. The
19 performance standard required by (d) of this section may only be applied to a
20 complete test trial.

21 (d) When tested under this section, not more than 25 percent of the cigarettes
22 tested in a test trial may exhibit full-length burns.

23 **Sec. 18.74.040. Alternative test methods.** (a) If the state fire marshal
24 determines that cigarettes cannot be tested by a test method established in
25 AS 18.74.030(a), a manufacturer of the cigarettes shall propose an alternative test
26 method and performance standard for the cigarettes to the state fire marshal. On
27 approval of the proposed test method and a determination by the state fire marshal that
28 the performance standard proposed by the manufacturer is equivalent to the
29 performance standard prescribed by AS 18.74.030(d), the manufacturer may employ
30 the proposed alternative test method and performance standard to certify the cigarette
31 under AS 18.74.080.

1 (b) Unless the state fire marshal demonstrates a reasonable basis why the
2 alternative test method should not be accepted under this chapter, the state fire marshal
3 shall authorize a manufacturer to use an alternative test method and performance
4 standard to certify cigarettes for sale in this state if the state fire marshal

5 (1) determines that another state has enacted reduced cigarette ignition
6 propensity standards that include a test method and performance standard that are the
7 same as those contained in this chapter; and

8 (2) finds that the officials responsible for implementing those
9 requirements have approved a proposed alternative test method and performance
10 standard for particular cigarettes proposed by a manufacturer as meeting the fire safety
11 standards of that state's law under a legal provision comparable to this section.

12 (c) All other applicable requirements of this chapter apply to the manufacturer
13 of the cigarettes tested under this section.

14 **Sec. 18.74.050. Testing laboratories.** (a) Testing of cigarettes under this
15 chapter shall be performed by a laboratory that has been accredited under standard
16 ISO/IEC 17025 of the International Organization for Standardization or by another
17 comparable accreditation standard required by the state fire marshal.

18 (b) A laboratory that conducts cigarette testing under this chapter shall
19 implement a quality control and quality assurance program that ensures the
20 repeatability of the testing results. The repeatability value may not be greater than
21 0.19. In this subsection,

22 (1) "quality control and quality assurance program" means the
23 laboratory procedures implemented to ensure that operator bias, systematic and
24 nonsystematic methodological errors, and equipment-related problems do not affect
25 the results of the testing quality control program;

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

28 **Sec. 18.74.060. Testing for another purpose.** AS 18.74.030 and 18.74.040 do
29 not require cigarettes to be tested if the cigarettes are tested for another purpose and
30 the testing is consistent with this chapter.

31 **Sec. 18.74.065. Testing by state fire marshal.** The state fire marshal may

1 perform testing of cigarettes to determine compliance with this chapter. If the state fire
2 marshal or a contractor of the state fire marshal performs testing to determine a
3 cigarette's compliance with the performance standard in AS 18.74.030(d) or an
4 alternative performance standard under AS 18.74.040, the testing shall be performed
5 under this chapter.

6 **Sec. 18.74.070. Maintenance of records.** A manufacturer shall keep for three
7 years copies of the reports of all tests conducted on all cigarettes offered for sale. The
8 manufacturer shall make copies of those reports available to the state fire marshal and
9 the attorney general on written request.

10 **Sec. 18.74.080. Certification requirement.** (a) A manufacturer shall submit to
11 the state fire marshal a certification that each cigarette listed in the certification has
12 been tested under AS 18.74.030 and satisfies the performance standard in
13 AS 18.74.030(d), or has been tested under AS 18.74.040 and satisfies an alternative
14 performance standard under AS 18.74.040.

15 (b) If a manufacturer has certified a cigarette under this section and
16 subsequently makes a change to the cigarette that is likely to alter its compliance with
17 the performance standard under AS 18.74.030(d) or an alternative performance
18 standard under AS 18.74.040, the cigarette may not be sold or offered for sale in this
19 state or sold to a person located in this state until the manufacturer retests the cigarette
20 under AS 18.74.030 or 18.74.040, the cigarette meets the performance standard under
21 AS 18.74.030(d) or the alternative performance standard under AS 18.74.040, and the
22 manufacturer maintains records of the retesting under AS 18.74.070.

23 (c) For each cigarette listed in a certification submitted under (a) of this
24 section, a manufacturer shall pay to the state fire marshal a fee of \$250. The state fire
25 marshal may adjust this fee annually to ensure that it defrays the actual costs of the
26 processing, testing, enforcement, and oversight activities required by this chapter.

27 (d) Each cigarette certified under this section shall be recertified every three
28 years.

29 **Sec. 18.74.090. Contents of certification.** The certification required by
30 AS 18.74.080 must provide the following information for each cigarette listed in the
31 certification:

- 1 (1) the brand or trade name on the package;
- 2 (2) the style, such as "light" or "ultra-light";
- 3 (3) the length in millimeters;
- 4 (4) the circumference in millimeters;
- 5 (5) the flavor, if applicable;
- 6 (6) whether the cigarette is filtered or nonfiltered;
- 7 (7) a description of the package;
- 8 (8) the marking approved under AS 18.74.120;
- 9 (9) the name, address, and telephone number of the laboratory that
- 10 conducted the test, if different than the manufacturer who conducted the test; and
- 11 (10) the date that the testing occurred.

12 **Sec. 18.74.100. Banding requirement.** Each cigarette listed in a certification
13 submitted under AS 18.74.080 that uses lowered permeability bands in the cigarette
14 paper to achieve compliance with the performance standard in AS 18.74.030(d) must
15 have at least two nominally identical bands on the paper surrounding the tobacco
16 column. At least one complete band must be located at least 15 millimeters from the
17 lighting end of the cigarette. For cigarettes on which the bands are positioned by
18 design, there must be at least two bands fully located at least

19 (1) 15 millimeters from the lighting end; and

20 (2) 10 millimeters from

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

22 (B) the labeled end of the tobacco column of a nonfiltered
23 cigarette.

24 **Sec. 18.74.110. Availability of certifications.** The certification required by
25 AS 18.74.080 shall be made available to the attorney general for purposes consistent
26 with this chapter and to the department for the purpose of ensuring compliance with
27 AS 18.74.080.

28 **Sec. 18.74.120. Packaging marking approval.** (a) Before submitting a
29 certification of a cigarette under AS 18.74.080, a manufacturer shall present its
30 proposed packaging marking to the state fire marshal for approval. The state fire
31 marshal shall approve or disapprove the proposed packaging marking. Proposed

1 packaging marking shall be considered approved if the state fire marshal fails to act
2 within 10 business days after receiving a request for approval.

3 (b) Notwithstanding AS 18.74.130, the state fire marshal shall give a
4 preference to proposed packaging marking for a cigarette that is in use and approved
5 for the cigarette under the fire safety standards for cigarettes established by the law of
6 the state of New York, unless the state fire marshal demonstrates a reasonable basis
7 why the proposed packaging marking should not be approved under this chapter.

8 (c) Notwithstanding AS 18.74.130, the state fire marshal shall approve the use
9 of the letters "FSC" for "fire standards compliant" on proposed packaging marking to
10 indicate that the cigarettes comply with the performance standard in AS 18.74.030(d)
11 or an alternative performance standard under AS 18.74.040.

12 (d) A manufacturer may not change its approved packaging marking unless
13 the state fire marshal has approved the modification under this section.

14 (e) A wholesale dealer, an agent, and a retail dealer shall permit the state fire
15 marshal, the department, the attorney general, and the employees of those persons to
16 inspect packaging markings of cigarettes.

17 **Sec. 18.74.130. Marking of cigarette packaging.** (a) The packaging
18 containing a brand and style of cigarette that a manufacturer certifies under
19 AS 18.74.080 must be marked to indicate compliance with the requirements of this
20 chapter. The packaging marking must be in eight-point type or larger and consist of

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

25 (2) any visible combination of alphanumeric or symbolic characters
26 permanently stamped, engraved, or embossed on the package or wrapping; or

27 (3) printed, stamped, engraved, or embossed text on the cigarette
28 package that indicates that the cigarettes satisfy the requirements of this chapter.

29 (b) A manufacturer shall use only one packaging marking and apply that
30 packaging marking uniformly to all packaging and to all brands marketed by the
31 manufacturer for sale in this state.

1 **Sec. 18.74.150. Copies.** A manufacturer who certifies a cigarette under
2 AS 18.74.080 shall provide a copy of the certification to each wholesale dealer and
3 agent to whom the manufacturer sells the cigarette. The manufacturer shall also
4 provide the wholesale dealer and agent with sufficient copies of an illustration of the
5 cigarette packaging markings used by the manufacturer under AS 18.74.130 for each
6 retail dealer to whom the wholesale dealer or agent sells cigarettes. A wholesale dealer
7 or an agent shall provide a copy of the cigarette packaging markings received from a
8 manufacturer to each retail dealer to whom the wholesale dealer or agent sells
9 cigarettes.

10 **Sec. 18.74.160. Penalties for violations.** (a) A manufacturer, a wholesale
11 dealer, an agent, or another person who knowingly sells or offers to sell cigarettes
12 other than through retail sale and in violation of AS 18.74.010 is subject to a civil
13 penalty not to exceed

14 (1) \$10,000 for a first violation;

15 (2) \$25,000 for each violation that is not a first violation.

16 (b) A retail dealer who knowingly sells or offers to sell cigarettes in violation
17 of AS 18.74.010 is subject, for each sale or offer to sell, to a civil penalty not to
18 exceed

19 (1) \$500 for a first violation in which the total number of cigarettes
20 sold or offered for sale does not exceed 1,000 cigarettes;

21 (2) \$2,000 for each violation that is not a first violation and in which
22 the total number of cigarettes sold or offered for sale does not exceed 1,000 cigarettes;

23 (3) \$1,000 for a first violation in which the total number of cigarettes
24 sold or offered for sale exceeds 1,000 cigarettes;

25 (4) \$5,000 for a violation that is not a first violation and in which the
26 total number of cigarettes sold or offered for sale exceeds 1,000 cigarettes.

27 (c) The penalties against

28 (1) one manufacturer, wholesale dealer, agent, or other person under
29 (a) of this section may not exceed \$100,000 for violations occurring during a 30-day
30 period; or

31 (2) one retail dealer under (b) of this section may not exceed \$25,000

1 for violations occurring during a 30-day period.

2 (d) In addition to any other penalty prescribed by law, a person engaged in the
3 manufacture of cigarettes who knowingly makes a false certification under
4 AS 18.74.080 is subject to a civil penalty of at least \$75,000 for a first violation and a
5 civil penalty not exceeding \$250,000 for each violation that is not a first violation.

6 (e) A manufacturer who fails to make copies of reports available under
7 AS 18.74.070 within 60 days after receiving a written request from the state fire
8 marshal or the attorney general is subject to a civil penalty not to exceed \$10,000 for
9 each day after the 60th day that the manufacturer does not make the copies available.

10 (f) If a person violates a provision of this chapter and a civil penalty is not set
11 for the violation, the person is subject to a civil penalty not to exceed \$1,000 for a first
12 violation and a civil penalty not exceeding \$5,000 for each violation that is not a first
13 violation.

14 **Sec. 18.74.180. Separate accounting.** The fee received under AS 18.74.080(c)
15 and the civil penalties imposed under AS 18.74.160 shall be deposited into the general
16 fund and separately accounted for under AS 37.05.142. The legislature may
17 appropriate the money accounted for under this section to the fire prevention and
18 public safety fund established under AS 18.74.210.

19 **Sec. 18.74.190. Seizure of cigarettes.** (a) If a person is offering for sale or has
20 made sale of cigarettes in violation of AS 18.74.010, the state fire marshal, the
21 department, or a law enforcement agency may seize and dispose of the cigarettes.

22 (b) Before disposal of cigarettes under (a) of this section, the state fire marshal
23 or the department shall

24 (1) provide the person from whom the cigarette was seized with notice
25 of the seizure and an opportunity for a hearing regarding the seizure; and

26 (2) permit the holder of the trademark rights in the cigarette brand to
27 inspect the cigarettes.

28 **Sec. 18.74.200. Other remedies.** In addition to any other remedy provided by
29 law, the state fire marshal or attorney general may file an action in superior court for a
30 violation of this chapter, including an action for injunctive relief or to recover costs or
31 damages suffered by the state because of a violation of this chapter, including

1 enforcement costs relating to the specific violation. Each violation of this chapter or of
2 the regulations adopted under this chapter constitutes a separate cause of action for
3 which the state fire marshal or attorney general may obtain relief.

4 **Sec. 18.74.210. Fire prevention and public safety fund.** (a) The fire
5 prevention and public safety fund is established. The fund consists of appropriations
6 made to the fund.

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

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

11 **Sec. 18.74.220. Implementation.** The substance of the fire safety standards for
12 cigarettes established by the law of the state of New York and the implementation of
13 these standards by the state of New York shall be persuasive authority in the
14 implementation of this chapter by the state fire marshal and the attorney general.

15 **Sec. 18.74.230 Review by state fire marshal.** The state fire marshal shall
16 review the effectiveness of this chapter, report the state fire marshal's findings to the
17 legislature every three years on or by January 30 of the reporting year, and, if
18 appropriate, recommend legislation to improve the effectiveness of this chapter.

19 **Sec. 18.74.240. Regulations.** The state fire marshal may adopt regulations to
20 implement this chapter.

21 **Sec. 18.74.250. Inspections.** (a) The department may inspect cigarettes held by
22 wholesale dealers, agents, and retail dealers to determine if the cigarettes are marked
23 as required by AS 18.74.120 and 18.74.130. If the cigarettes are not marked as
24 required, the department shall notify the state fire marshal.

25 (b) To determine compliance with this chapter, the state fire marshal and the
26 attorney general may examine the books, papers, invoices, and other records of a
27 person who possesses, controls, or occupies premises where cigarettes are placed,
28 stored, sold, or offered for sale, and the stock of cigarettes on the premises.

29 (c) A person who possesses, controls, or occupies premises where cigarettes
30 are placed, sold, or offered for sale, shall allow the state fire marshal and the attorney
31 general to make the inspections authorized by this section.

1 **Sec. 18.74.260. Sale outside the state.** This chapter may not be interpreted to
2 prohibit a person from manufacturing or selling cigarettes that do not meet the
3 requirements of this chapter if the cigarettes are or will be stamped for sale in another
4 state or are packaged for sale outside the United States and the person has taken
5 reasonable steps to ensure that the cigarettes will not be sold or offered for sale to
6 persons located in this state.

7 **Sec. 18.74.270. Regulation by municipality.** Notwithstanding any other
8 provision of law, a municipality may not enact or enforce an ordinance or another law
9 of the municipality that conflicts with this chapter.

10 **Sec. 18.74.280. Relationship to federal law.** This chapter does not apply if a
11 federal law is enacted that establishes a reduced cigarette ignition propensity standard
12 and preempts this chapter.

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

14 (1) "agent" means a person authorized by the department to purchase
15 and affix stamps on packages of cigarettes under AS 43.50.500 - 43.50.700;

16 (2) "cigarette" means a roll for smoking of any size or shape, made
17 wholly or in part of tobacco, whether or not the tobacco is flavored, adulterated, or
18 mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a
19 material other than tobacco;

20 (3) "department" means the Department of Revenue;

21 (4) "manufacturer" means

22 (A) a person who manufactures or otherwise produces
23 cigarettes, or causes cigarettes to be manufactured or produced anywhere, if
24 the manufacturer intends the cigarettes to be sold in this state, including
25 cigarettes intended to be sold in the United States through an importer;

26 (B) the first purchaser anywhere who intends to resell in the
27 United States cigarettes that are manufactured anywhere and that the original
28 manufacturer or maker does not intend to be sold in the United States; or

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

31 (5) "retail dealer" means a person, other than a manufacturer or

1 wholesale dealer, who sells cigarettes or tobacco products;

2 (6) "sale" or "sell" means a sale, exchange, barter, and any other
3 manner of transferring the ownership of personal property;

4 (7) "wholesale dealer" means a person who

5 (A) sells cigarettes or tobacco products to retail dealers or other
6 persons for resale; and

7 (B) owns, operates, or maintains cigarette or tobacco vending
8 machines in, at, or on premises owned or occupied by another person.

9 * Sec. 2. AS 43.50.460(a) is amended to read:

10 (a) Every tobacco product manufacturer whose cigarettes are sold in this state,
11 whether directly or through a distributor, retailer, or similar intermediary or
12 intermediaries, shall execute and deliver on a form or in the manner prescribed by the
13 commissioner a certification to the commissioner, not [NO] later than April 30 of each
14 year, certifying, under penalty of perjury, that, as of the date of the certification, the
15 tobacco product manufacturer is complying with AS 18.74 and is either a
16 participating manufacturer or is in full compliance with AS 45.53.

17 * Sec. 3. AS 43.50.465 is amended to read:

18 **Sec. 43.50.465. Directory of cigarettes approved for sale and importation.**

19 Not later than July 30 of each year, the commissioner shall develop and make
20 available for public inspection a directory listing all tobacco product manufacturers
21 that have provided current and accurate certifications conforming to the requirements
22 of AS 43.50.460 and all brand families that are listed in those certifications, except as
23 follows:

24 (1) the commissioner may not include or retain in the directory the
25 name or brand families of any nonparticipating manufacturer that fails to provide the
26 required certification or whose certification the commissioner determines is not in
27 compliance with AS 43.50.460, unless the commissioner has determined that the
28 violation has been cured to the satisfaction of the commissioner;

29 (2) neither a tobacco product manufacturer nor brand family shall be
30 included or retained in the directory if the commissioner concludes that

31 (A) for a nonparticipating manufacturer, all escrow payments

1 required under AS 45.53 for any period for any brand family, regardless of
2 whether listed by the nonparticipating manufacturer, have not been fully paid
3 into a qualified escrow fund governed by a qualified escrow agreement that has
4 been approved by the Department of Law; [OR]

5 (B) all outstanding final judgments, including interest on those
6 judgments, for violations of AS 45.53 have not been fully satisfied for the
7 brand family and the manufacturer; or

8 (C) the manufacturer's cigarettes do not comply with
9 AS 18.74;

10 (3) the commissioner shall update the directory as necessary in order to
11 correct mistakes and to add or remove a tobacco product manufacturer or brand
12 families to keep the directory in conformity with the requirements of AS 43.50.460 -
13 43.50.495;

14 (4) every licensee shall provide to the commissioner, and update as
15 necessary, an electronic mail address for the purpose of receiving any notifications
16 that may be required by AS 43.50.460 - 43.50.495.

17 * Sec. 4. AS 43.50.600 is amended to read:

18 **Sec. 43.50.600. Stamps prohibited on cigarette packages not complying**
19 **with federal and state laws.** A licensee or the licensee's authorized agent or designee
20 may not affix a stamp to a cigarette package if the cigarettes

21 (1) may not be acquired, held, owned, imported, possessed, sold, or
22 distributed in this state under AS 43.50.400 or AS 18.74; or

23 (2) are not in compliance with other state or federal laws.

24 * Sec. 5. AS 43.50.700(9) is amended to read:

25 (9) "unstamped cigarettes" means a package containing cigarettes that
26 is not affixed with the stamp required by AS 43.50.500 - 43.50.700 or is affixed with a
27 stamp in violation of AS 43.50.600 or in a denomination less than the tax levied
28 under this chapter.

29 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **TRANSITION.** (a) AS 18.74.010, enacted by sec. 1 of this Act, does not prohibit a

1 wholesale dealer or retail dealer from selling or offering to sell an inventory of cigarettes
2 existing on the effective date of this Act if the wholesale dealer or retail dealer establishes that

3 (1) state tax stamps were affixed to the cigarettes under AS 43.50 before the
4 effective date of this Act; and

5 (2) the inventory was purchased before the effective date of this Act in
6 comparable quantity to the inventory purchased during the same period of the previous year.

7 (b) In this section, "retail dealer," "sell," and "wholesale dealer" have the meanings
8 given in AS 18.74.290.

9 * Sec. 7. This Act takes effect on the first day of the 13th month after the month in which
10 this Act becomes law under AS 01.10.070.



State of Alaska

Department of Public Safety
Division of

Fire Prevention

Sarah Palin, Governor
Walt Thompson, Commissioner

February 21, 2007

The Honorable Donny Olson
State Senate
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

The Division of Fire Prevention supports SB84 sponsored by you: "An Act relating to the burning capability of cigarettes being sold or offered for sale, or possessed for sale; relating to compliance certifications by tobacco product manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to cigarette packages, and cigarette tax stamps; 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 2005 Alaska lost \$8.0 million in property to fires with cigarettes as an ignition source.

Between 1996 and 2005 cigarette related fires caused 28% (51 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, California, Illinois, New Hampshire and Massachusetts. 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,

Steven "Pasty" Selinger
Acting State Fire Marshal

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 20, 2007
To: Alaska Legislators
From: Alaska Fire Chiefs Association
Subject: Support SB 84 (Olson) and HB131 (Gatto)

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 support the Burning Capability of Cigarettes (SB 84/HB131) legislation, and encourage your yes vote when this legislation comes before you.

SB 84/HB131 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 1997 to 2006, fires caused by careless smoking resulted in 23% of all fire deaths in Alaska. This type of fire killed 37 people during the past 10 years.

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

On behalf of the 150 members of the Alaska Fire Chiefs Association, we thank you for considering our support of this legislation, and we hope you will vote YES on SB 84/HB 131 - a life saving piece of legislation.

Sincerely,

A handwritten signature in cursive script, which appears to read "Warren B. Cummings", is written over a horizontal line.

Warren B. Cummings
President, Alaska Fire Chiefs Association



**ALASKA FIRE CHIEF'S ASSOCIATION
and the
ALASKA STATE FIRE FIGHTERS ASSOCIATION**

JOINT RESOLUTION NO. 2006-1

**A JOINT RESOLUTION TO THE STATE OF ALASKA LEGISLATURE SUPPORTING
PASSAGE OF LEGISLATION TO CREATE A FIRE SAFE CIGARETTE.**

WHEREAS: Commercially, mass produced cigarettes have long been the leading cause of fire deaths in the United States and particularly here in Alaska and,

WHEREAS: Decades of research done by the National Institutes of Standards and Technology, private industry and congressional research groups have shown that reduced ignition propensity cigarettes can be manufactured and,


WHEREAS: Legislation has been passed in the state of New York, Vermont, Illinois, New Hampshire and California as well as the nation of Canada requiring cigarettes sold in those jurisdictions to meet the standard in the New York law requiring fire safety performance and,

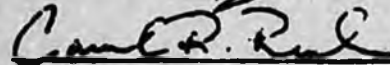
WHEREAS: Preliminary data from New York state already shows a significant reduction in fire deaths following implementation of the law and,

WHEREAS: The National Fire Protection Association along with other national safety and health related agencies have formed a coalition to propose legislation in the remaining 44 states,

THEREFORE BE IT RESOLVED: That the Alaska Fire Chiefs Association and the Alaska State Fire Fighters Association request the Alaska State Legislature to pass legislation requiring cigarettes sold in Alaska meet the fire safe requirements of the standard written in New York.

Adopted this 29th day of September 2006 by a vote of the joint memberships at their Fall Conference in Fairbanks, Alaska.

Attested by: 
Warren B. Cummins, Alaska Fire Chief's Association, President

Attested by: 
Carol Reed, President Alaska State Fire Fighters Association

COALITION for FIRE-SAFE CIGARETTES

The time is now."

Coalition for Fire-Safe Cigarettes (CFSC)

Mission Statement:

The mission of the Coalition for Fire-Safe Cigarettes is to save lives, prevent injuries and devastation from cigarette-ignited fires by calling on cigarette manufacturers to immediately produce and market only cigarettes that adhere to an established cigarette fire safety performance standard, (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes); and working to see that these standards for fire-safe cigarettes are required in every state in the country.

Who We Are:

The Coalition for Fire-Safe Cigarettes (CFSC) is a national group of fire service members, consumer and disabled rights advocates, medical and public health practitioners and others, coordinated by the National Fire Protection Association (NFPA), who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires.

Background:

Cigarettes currently are the leading cause of home fire fatalities in the U.S. killing 700 to 900 people, smokers and non-smokers alike, per year. In addition, thousands of victims suffer burn and lung injuries, and property losses total millions of dollars each year.

Yet, there is a proven, practical, and effective way to eliminate the risk of cigarette-ignited fires. The use of cigarettes that have a reduced propensity to burn when left unattended will help to prevent tens of thousands of cigarette-ignited fires each year. The use of such "fire-safe" cigarettes has already been mandated in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts (covering 25 percent of Americans) and in all of Canada.

Call to Action:

We applaud the successful actions of state legislatures to mandate that cigarettes sold in their states follow established guidelines for reduced ignition propensity, and we encourage all states to do so.

Therefore, we call on cigarette manufacturers to immediately begin producing and marketing only cigarettes that have a reduced propensity to burn when left unattended (*as established through testing to a performance standard based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes*).

COALITION for FIRE-SAFE CIGARETTES

The time is now.™

Cigarette Fire Facts

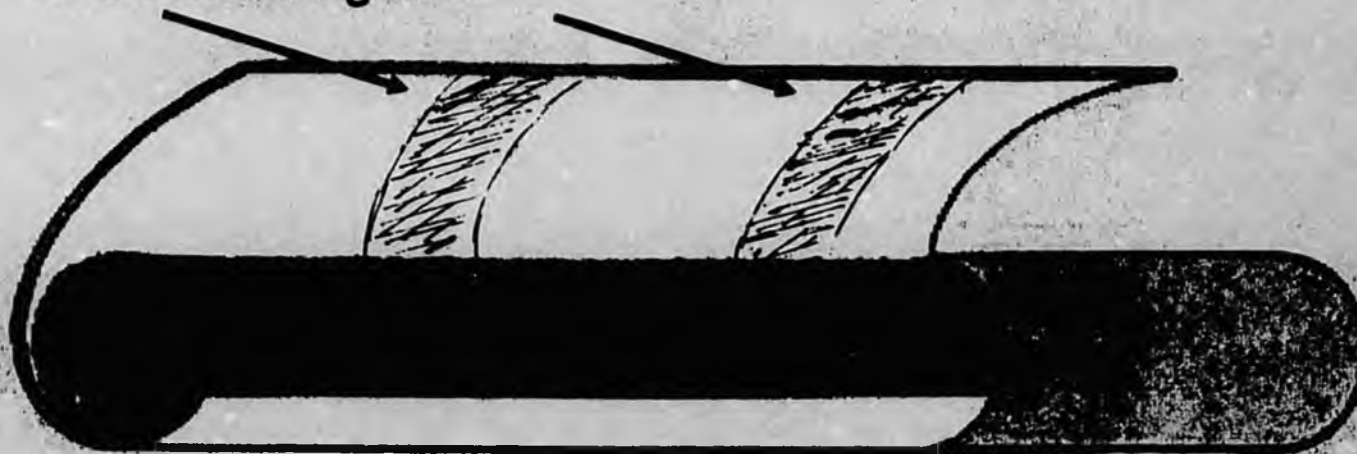
- Cigarettes are the leading cause of home fire fatalities in the United States, killing 700 to 900 people – smokers and non-smokers alike – per year.
- Smoking-material structure fires killed 760 people and injured 1,520 others in 2003.
- Property losses total hundreds of millions of dollars each year.
- There were 25,600 smoking-material structure fires in the United States in 2003.
- Fires caused by smoking materials have declined in recent years, thanks in part to more stringent standards for fire-resistive mattresses and upholstered furniture, public education, and a dramatic decrease in the number of cigarettes consumed per adult in the United States. But cigarettes are still the leading cause of residential fire deaths.
- The risk of dying in a residential structure fire caused by smoking materials rises with age. Two-fifths (38 percent) of fatal smoking-material-fire victims are age 65 or older.
- One-quarter of victims of smoking-material fire fatalities are not the smoker whose cigarette started the fire: 34 percent are children of the smokers; 25 percent are neighbors or friends; 14 percent are spouses or partners; and 13 percent are parents.
- Almost half (43 percent) of fatal home smoking-material fire victims were sleeping when injured; one-third (32 percent) were attempting to escape, to fight the fire, or to rescue others.

Fire-Safe Cigarettes – The Time Is Now!

- One in four Americans is now or soon will be covered by fire-safe cigarette mandates approved in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts. A fire-safe cigarette mandate has also been approved for all of Canada.
- Research in New York State shows no decline in cigarette sales with the introduction of fire-safe cigarettes, but cigarette-fire fatalities were reported to have declined in the state by a third in 2004 when the law was in place for not quite half the year.
- NFPA research in the mid-1980s predicted that fire-safe cigarettes would eliminate three out of four cigarette fire deaths. Had manufacture of fire-safe cigarettes become universal then, approximately 15,000 lives could have been saved by now.

(Source: National Fire Protection Association, 10/06)

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



COALITION
for FIRE-SAFE
CIGARETTES
The time is now.

COALITION for FIRE-SAFE CIGARETTES

The time is now.™

Members as of September 27, 2006

**American Association of Retired Persons
American Burn Association
American College of Emergency Physicians
American Fire Sprinkler Association
American Health Care Association
American Society of Testing and Materials International
AMERIND Risk Management Corporation
Asian American Hotel Owners Association
Automatic Fire Alarm Association, Inc.
Business and Institutional Furniture Manufacturer's Association
Center for Campus Fire Safety
Center for Social Gerontology, Inc.
Home Safety Council
International Association of Arson Investigators
International Association of Black Professional Fire Fighters
International Association of Fire Chiefs
International Association of Fire Fighters
International Association of Hispanic Firefighters
International Code Council
International Fire Marshals Association
Metropolitan Fire Chiefs
National Association of Emergency Medical Technicians
National Association of Hispanic Firefighters
National Association of State Fire Marshals
National Center for Assisted Living
National Fallen Firefighters Foundation
National Fire Protection Association
National Fire Sprinkler Association
National Native American Fire Chiefs Association
National Safety Council
National Volunteer Fire Council
Phoenix Society for Burn Survivors
Polyurethane Foam Association
Property Casualty Insurers Association of America
Public Citizen
Safe Kids Worldwide
Trauma Foundation
Uniform Fire Code Association
Western Fire Chiefs Association**

Supporters/State Groups

**Boston Society of Vulcans
Firemen's Association of the State of New York
Florida Association of Fire & Life Safety Educators
Illinois Fire Investigators Association
Massachusetts Call/Volunteer Firefighters Associations
Massachusetts Coalition for Fire-Safe Cigarettes
Tobacco Free Kids
Washington Fire Chiefs**

www.firesafecigarettes.org **COALITION for FIRE-SAFE CIGARETTES™** The time is now.

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What is a fire-safe cigarette?

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.

Fire-safe cigarettes meet an established cigarette fire safety performance standard (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes).

Fire-safe cigarettes save lives
 The good news is that improved standards for cigarette-resistant materials in furniture and mattresses, and public education have all helped cut down the number of fires caused by smoking materials and have saved many lives. The bad news is that 700 to 900 people still die each year due to cigarette-ignited fires. And the fact remains: smoking materials are the #1 cause of fire deaths in the United States.

There is no doubt that fire-safe cigarettes will save hundreds of lives each year. Deaths caused by cigarette fires have declined dramatically in New York State in the first few months that fire-safe cigarettes were mandated there in 2004. The use of cigarettes with a proven, reduced propensity to ignite other materials will save lives and offer the best opportunity to achieve the next big leap forward in fire protection.

Is it possible for a "fire-safe" cigarette to ignite furniture or bedding?
 All cigarettes have the *potential* to ignite fires, but the use of "fire-safe" technology provides a tremendous reduction in those risks. A fire-safe cigarette cuts off the burning time before most cigarettes are able to ignite things like furniture or bedding material.

Isn't the real issue the need to educate people about using cigarettes in a responsible way?
 Actually, the real issue is that cigarettes are the leading cause of home fire fatalities every year. Fires started by cigarettes kill smokers and non-smokers alike. Cigarette fires also burn and injure thousands of people, while causing millions of dollars in property losses. But, we have the opportunity to prevent those horrible situations through the use of fire-safe cigarettes.

With any fire problem, you can and should try to change the heat source (the cigarette), the items ignited (for example, mattress, couch), and the behavior that brings them together (that is, the smoker's behavior). And all of these strategies are being actively pursued. The reality is that without changing the cigarettes, there will still be hundreds of needless cigarette-fire deaths every year. That is why fire-safe cigarettes offer the best opportunity to achieve the next big leap forward in fire protection.

Wouldn't it be better if the U.S. had a federal standard with which each state had to comply? All of us wish the tobacco companies would step up and do the right thing in this situation —

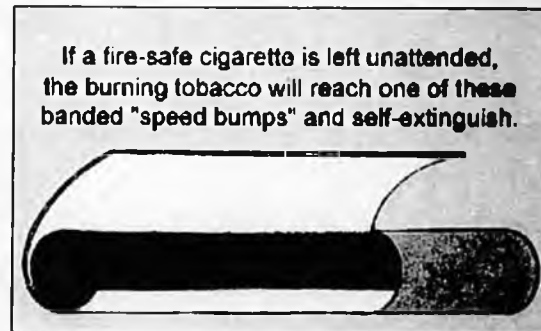


Illustration: John Roman



Cigarette regulations adopted in New York, California, and Vermont require that no more than 25 percent of 40 cigarettes tested burn their full length when placed on 10 layers of standard filter paper. The established cigarette fire safety performance standard is based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes. Photo: National Institute of Standards and Technology. See larger image.

replacing traditional cigarettes with fire-safe cigarettes. But, until that happens, strong legislation like this is the best way to prevent fires started by cigarettes. Currently, there is gridlock at the federal level, yet there is tremendous progress on the state level. Until a strong fire safety standard can be enacted by the U.S. Congress, we must pursue regulation at the state level. And to avoid a patchwork of standards, the best approach is to adopt the New York State standards, just as California and Vermont have already done.

What are other states doing?

New York State was the first to require that cigarettes sold and manufactured in the state be fire-safe. Vermont and California both adopted fire-safe legislation late last year. Additional states are considering fire-safe bills now, and many other states and jurisdictions are looking into it. In Canada, fire-safe cigarettes are mandated nationwide using the New York state standard.

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The Coalition for Fire-Safe Cigarettes campaign is coordinated by NFPA.

URL: <http://firesafecigarettes.org/itemDetail.asp?categoryID=48&itemID=1190&URL=About%20fire-safe%20cigarettes/What%20is%20a%20fire-safe%20cigarette?>



American Burn Association

625 N. Michigan Avenue, Ste. 2550
Chicago, IL 60611

Voice (312) 642-9260

Fax (312) 642-9130
e-mail: info@ameriburn.org

Fire-Safe Cigarettes American Burn Association Policy Statement

Cigarettes are the leading cause of fatal fires in the United States, killing 700 to 900 people every year and injuring thousands more. Those killed or injured in these fires are oftentimes not the smoker, but family members, children or neighbors. 34,800 smoking-material structure fires in the U.S. in 2002 resulted in property losses in the hundreds of millions of dollars.

The typical scenario for fires cause by cigarettes is the following: a lit cigarette is forgotten or dropped by a smoker whose alertness may be impaired by alcohol or medication. The cigarette fire can smolder for hours hidden between seat cushions or elsewhere before it flares up into a deadly blaze. "Fire safe" or reduced ignition propensity cigarettes have less porous paper, less dense tobacco, a smaller diameter, filter tip and no added citrates to the paper. These design changes result in no change in taste to the cigarette.

Fire safe cigarette legislation has passed in New York, California, Vermont, Illinois, New Hampshire and Massachusetts. Legislation is pending in New Jersey, Pennsylvania and Wisconsin.

The American Burn Association has been a strong advocate for the development of fire-safe cigarettes for more than 15 years, supporting past legislation on the issue and participating in two US Government studies that successfully demonstrated the technical and economic feasibility of commercial production of fire safe cigarettes.

The American Burn Association strongly and actively supports the passage of legislation mandating the manufacture and sale of fire-safe cigarettes along with the efforts of the Fire Safe Cigarette Coalition, a national group of fire service members, consumer, elderly and disabled rights advocates, medical and public health practitioners and other who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires.. The ABA is a member of the Fire Safe Cigarette Coalition.

For more information, contact Kitty Vineyard at the American Burn Association at (312) 642-9260 or vineyard@ameriburn.org.



Certificate of Analysis

Standard Reference Material[®] 1082

Cigarette Ignition Strength Standard

This Standard Reference Material (SRM) is intended for use by test laboratories to assess and control their testing of cigarette ignition strength in accordance with ASTM Standard Methods E 2187-04 (or ASTM E2187-02b). The SRM unit consists of one carton of cigarettes containing 10 packs of 20 cigarettes each.

Certified Values and Uncertainties: A NIST certified value is a value for which NIST has the highest confidence in its accuracy and that all known or suspected sources of bias have been investigated or accounted for by NIST. The certified value for ignition strength is given in Table 1. The certified value and its uncertainty were obtained by fitting a Bayesian hierarchical model [1] to the data from the two laboratories. The model accounts for random variation both within and between laboratories. The data from each laboratory was modeled using individual binomial likelihood functions, the between-laboratory variation was modeled using a beta distribution, and non-informative prior distributions were used for all parameters in the model. The model was fit to the data using Markov chain Monte Carlo methods. The expanded uncertainty given in Table 1 is reported at the 95 % probability level. This uncertainty includes measurement variability within and between laboratories. Tests for cigarette uniformity did not show evidence of any significant variation in ignition strength between packs. A combined standard uncertainty for the certified ignition strength of $u_c = 1.65$ % should be used in further uncertainty calculations.

Table 1. Certified Values

Measurand	ASTM Method	Certified Value and Expanded Uncertainty
Ignition Strength (on 10 layers of filter paper)	E 2187-04 ^(a)	12.6 % ± 3.3 %

^(a) Standard Test Method for Measuring the Ignition Strength of Cigarettes.

NOTICE AND WARNING TO USERS: THERE ARE SUBSTANTIAL SAFETY HAZARDS ASSOCIATED WITH EXPOSURE TO BOTH PRIMARY AND SECOND-HAND SMOKE FROM CIGARETTES. THESE CIGARETTES ARE ONLY TO BE USED UNDER THE LABORATORY CONDITIONS DESCRIBED IN ASTM E2187-04.

Expiration of Certification: The certification of SRM 1082 is valid, within the measurement uncertainties specified, until 31 December 2015, provided the SRM is handled in accordance with the instructions given in this certificate (see "Instructions for Use"). This certification is nullified if the SRM is contaminated, disfigured, or otherwise modified.

Maintenance of Certification: NIST will monitor representative samples from this SRM lot over the period of its certification. If substantive changes occur that affect the certification before the expiration date, NIST will notify the purchaser. Registration (see attached sheet) will facilitate notification.

The coordination of the technical measurements leading to certification was performed by R.G. Gann of the NIST Fire Research Division.

Ignition strength measurements at NIST were made by J. Lee of the Fire Research Division.

Statistical consultation on experiment design and analysis of the certification data were performed by W.F. Guthrie of the NIST Statistical Engineering Division.

William L. Grosshandler, Chief
Fire Research Division

Robert L. Watters, Jr., Chief
Measurement Services Division

The support aspects involved in the issuance of this SRM were coordinated through the NIST Measurement Services Division.

The cigarettes were purchased by NIST from Philip Morris USA (Richmond, VA).¹

INSTRUCTIONS FOR USE

Stability and Use: ASTM E2187-04 states that cigarette test specimens are to be protected from physical or environmental damage while in handling and storage. It is important that the specimens not be crushed or deformed in any manner. Careful handling is needed to ensure that the specimens are not contaminated while in storage, and that they are protected from degradation by insects. If test cigarettes are not to be used for more than one week, they are to be stored in a freezer at approximately 0 °C (32 °F).

Prior to testing, the cigarettes are to be removed from the pack(s) and conditioned at a relative humidity of 55 % ± 5 % and a temperature of 23 °C ± 3 °C (73 °F ± 5 °F) for at least 24 h. The cigarettes are to be placed in a clean, open container, with the number of cigarettes being sufficiently small to enable free air access to the specimens, for example, a maximum of 20 cigarettes in a 250 mL polyethylene or glass beaker.

Material Selection and Packaging: The state of New York, the state of Vermont, the state of California, and the dominion of Canada have enacted legislation requiring that all cigarettes sold in their jurisdictions must not exceed 25 % full-length burns using this test method. A test consists of 40 determinations, each on a substrate consisting of 10 layers of filter paper. The filter paper is to meet the weight requirements in ASTM E2187-04 and is to be conditioned prior to testing, as described in the ASTM standard.

This SRM was developed because cigarette companies, the New York Office of Fire Prevention and Control, and Health Canada indicated a need for a standard cigarette that could be used by testing laboratories and manufacturers to assess and control ignition strength testing to assure regulatory compliance and quality control. The planned cigarette was to have a target ignition strength near (a) the required pass/fail criterion and (b) the value to which cigarette companies would need to design products in order to assure success during compliance testing, which is somewhat lower than the pass/fail criterion.

After examining several prototypes, Philip Morris USA submitted the candidate standard cigarettes to NIST. The packs and cartons were printed to NIST specifications at the factory. The cigarettes themselves bear no markings.

REFERENCE

- [1] Gelman, A.; Cariin, J.B.; Stern, H.S.; Rubin, D.B.; *Bayesian Data Analysis*; Chapman and Hall: London (1995).

Users of this SRM should ensure that the certificate in their possession is current. This can be accomplished by contacting the SRM Program at: telephone (301) 975-6776; fax (301) 926-4751; e-mail srminfo@nist.gov; or via the Internet <http://www.nist.gov/srm>.

¹Certain commercial equipment, instrumentation, or materials are identified in this certificate to specify adequately the experimental procedure. Such identification does not imply recommendation or endorsement by the NIST, nor does it imply that the materials or equipment identified are necessarily the best available for the purpose.

SB

93

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/22/07

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/8/07

Labor and Commerce Committee considered SENATE BILL NO. 93

SB 93 PROFESSIONAL COUNSELORS

"An Act relating to licensed professional counselors; and relating to the unlicensed use of the title 'professional counselor.'"

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

COMMERCE	2/22/07				✓

PREVIOUS FISCAL NOTE(S):

APPROPRIATION - no fiscal note

	Scudo	Bundo	✓		
	Betsy Davis	DAVIS	✓		
CHAIR:	Ellis Ellis	Ellis	X		

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator_Betty_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Office of Senator Bettye Davis

SB 93 - Sponsored by Senator Davis

"An Act relating to licensed professional counselors; and relating to unlicensed use of the title, 'professional counselor.'"

Tentative list to testify

In Person

Pamela Watts, M. Coun., LPC, NCC, Administrator, Juneau Alliance for Mental Health, Inc. 463-3303

By Teleconference - 888-295-4546

Kerry Turnbow, LPC, Vice-Chair, Board of Professional Counselors, Hope Counseling Center, Fairbanks - 451-8208

LIO in Anchorage

Anne Henry, LPC, former Chair and member, Board of Professional Counselors 250-5244

Alaska State Legislature



Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148

Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator_Betty_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Office of Senator Bettye Davis

SB 93 - Sponsored by Senator Davis

"An Act relating to licensed professional counselors; and relating to unlicensed use of the title, 'professional counselor.'"

SPONSOR STATEMENT

SB 93 amends two sections of the Alaska Statutes concerning professional licenses and insurance as regards Licensed Professional Counselors.

Section 1 of the bill amends AS 08.29.0100(a) regarding unlicensed use of the title, "professional counselor" and clarifies words, letters, or abbreviations reasonably confused with the titles of "licensed professional counselor," "professional counselor," and "licensed counselor." SB 93 better protects the public from unlicensed individuals misusing these titles and misrepresenting themselves as having the same qualifications of licensed professional counselors who must complete formal educational requirements with a masters degree or higher in this area; pass a license qualifying exam; and complete lengthy supervised practice for not less than two years.

Section 2 amends AS 21.36.090(d), the insurance provision that prohibits discrimination against licensed service providers under a group health insurance policy if that service is within the scope of the provider's occupational license. SB 93 adds Licensed professional Counselors to the long list of "providers" in this category. SB 93 will also increase access to needed services for some who formerly were excluded because Licensed Professional Counselors were not included with other health care professionals in the non-discrimination clause of insurance statute, AS21.36.090(d).

Licensed Professional Counselors (LPCs) make up about 1/3 of all mental health professionals in the State of Alaska and represent the same proportion of all counselors working in state funded mental health and substance abuse treatment facilities. Officially established ten years ago, last year the Legislature approved a statutory change to allow LPCs to practice "psychotherapy" and make Title 47 civil commitment evaluations.

SB 93 helps ensure third party billing parity for LPCs while it allows them to be included with other health care professionals in this area. SB 93 will better protect and better serve the public and has a zero (\$0.00) fiscal note.



Juneau Alliance for Mental Health, Inc.

*Quality Community-Based Mental Health Services
Since 1985*

March 2, 2007

Senator Bettye Davis
State Capitol, Room 30
Juneau, Alaska 99801

Dear Sen. Davis:

I am pleased to write in support of SB 93, "Professional Counselors". As an employer of mental health professionals, this legislation is important because it helps ensure client access to behavioral health services provided by qualified professionals.

- It clarifies the appropriate use of the term "professional counselor" which protects persons seeking mental health services
- It allows Licensed Professional Counselors to be included with other health care professionals in the non-discrimination clause of the insurance statutes.

Alaska is challenged with recruiting and retaining a qualified behavioral health workforce. Over 1/3 of all masters level counselors working in State-funded mental health and substance abuse treatment programs are Licensed Professional Counselors; they constitute almost 1/3 of all licensed mental health professionals in Alaska.

The fact that LPCs are not currently included with other health care professionals in the non-discrimination clause of the insurance statutes, serves to reduce access to needed services for some, and to reduce opportunities for agency reimbursement for services rendered by qualified professionals.

In closing, Medicaid regulations have recognized and reimbursed for services provided by Alaskan LPC's for years and recently, on a national level, the Department of Veterans Affairs has approved reimbursement for Nationally Certified (professional) Counselors who meet essentially the same qualifications as the State of Alaska criteria for LPCs. I strongly support passage of this legislation, in the best interests of all Alaskans.

Respectfully,

Pamela L. Watts, M.Coun., LPC, NCC
Administrator

3406 Glader Hwy
Juneau, Alaska 99801

Tel. (907) 463-3303
Fax: (907) 463-6858
pam@jamhi.org

Shawnie Olson - Counseling Services



Box 2914
Homer, AK 99603
907-235-8808 or 235-8886

February 24, 2007

Dear Senator Ellis,

As Chair of the Labor and Commerce Committee, you will be reading through a bill that was just introduced on February 22, 2007 by Senator Davis. Senate Bill No. 93 concerns Licensed Professional Counselors and I would like to speak briefly about this bill:

Section 1 of the bill deals with professional title. It has come to the Board of Professional Counselors' attention that some individuals are utilizing the title "professional counselor" when indeed they are not licensed. In AS 08.29.100, we sought to prevent misuse of our title for public protection. We included "licensed professional counselor" and "licensed counselor" but neglected to consider the use of "professional counselor". We are trying to amend this error at this time. When the public seeks mental health care, they have a right to anyone they desire. However, if they want someone with licensure, we want those who have a license to be clearly specified so that the public is never misled. On a very personal note, I feel that we are trying to maintain the integrity of our profession.

Section 2 of this bill deals with an amendment that adds "licensed professional counselors" to the list of health care providers in the state of Alaska. As you are probably aware, LPCs were officially established in the state ten years ago. Through Title 47 they were classified as "mental health professionals". Last year the Legislature made a statutory change to clarify that LPCs practice "psychotherapy". Licensed Professional Counselors constitute about one-third of all licensed mental health professionals in the state of Alaska. We make up more than one-third of all counselors working in state funded mental health and substance abuse treatment facilities. Despite these facts, Alaskans are often refused reimbursement by their insurance companies because we are not on this provider list and some mental health facilities and substance abuse treatment facilities are restricted in their ability to serve insured clients because their insurance companies will not reimburse for LPC services. We are seeking to get our clients reimbursed as well as to support public, state funded mental health and substance abuse treatment facilities.

The Board of Professional Counselors would truly appreciate your support of this bill and any effort you can make to see it scheduled soon because of this short session. We would like to avoid additional client costs that another year of waiting would create. Thank you so much for your time and energy on our behalf.

Most sincerely,

Shawnie Olson, Chair
Board of Professional Counselors

Dana Owen

From: Sen. Johnny Ellis
Sent: Tuesday, March 06, 2007 10:29 AM
To: k.kade@att.net
Subject: RE: Senate Bill 93 - and the Deaf

Thx for your msg. I do plan to support the bill. I have scheduled it for a hearing before the Senate Labor and Commerce Committee today at 1:30.

From: k.kade@att.net [mailto:k.kade@att.net]
Sent: Monday, March 05, 2007 10:16 PM
To: Sen. Johnny Ellis
Subject: Senate Bill 93 - and the Deaf

To: Senator Johnny Ellis

Hello I want to request that you support Senate Bill 93. I am an LPC and would like to have guarantee of third party reimbursement for the work that I do. I am one of the few professionals who knows American Sign Language and having third party reimbursement would help Deaf and hard of hearing people have a greater selection of professionals from which to choose. Thank-you for your time and efforts in regards to these regulations.

Kaya T. Kade, LPC
1805 Academy Drive, Suite 206
Anchorage, AK 99507

3/6/2007

SB

97

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/26/07

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 97

SB 97 ALASKA NATIVE ART IDENTIFICATION SEALS

"An Act relating to identification seals for certain articles created or crafted in the state by Alaska Native persons; relating to the Alaska State Council on the Arts; and making certain identification seal violations unfair trade practices."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
<hr/>
HOUSE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Bunde	✓			
	Davis	✓			
	Trust	X			
CHAIR:	Ellis	X			

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens

Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264



Sponsor Statement for Senate Bill 97

"An Act relating to identification seals for certain articles created or crafted in the state by Alaska Native persons; relating to the Alaska State Council on the Arts; and making certain identification seal violations unfair trade practices"

Senate Bill 97 seeks to improve the statutes governing the administration of the Silver Hand program. The Silver Hand program was created to help promote the creation, appreciation, and sale of Alaska Native art of the highest quality. Alaska Natives have a great variety of artistic traditions stretching back for millennia and which are still an important part of life today. Alaska Native art shares the cultures of Alaska Native peoples and enriches the lives of all Alaskans today. It is admired around the world, and is a vital part of the personal and community expression of Alaska Native identity. Alaska Native art is also highly valued in the marketplace, both within the state boundaries, and nationally and internationally. For so many reasons, it is good for all Alaskans to promote the creation of Alaska Native art and to ensure the legitimacy of Alaska Native art.

SB 97 will make several targeted changes to the law under which the Alaska State Council on the Arts administers the Silver Hand program. Among the changes it seeks to effect, it will delete obsolete references to agents, refers to the creations of Alaska Native artists with the term art instead of handicraft, clarifies the penalty for violating the Silver Hand laws and that sale and purchase of Silver Hand seals is prohibited, and sets out clearly the conduct related to Silver Hand seals that is not allowed.

SB 97 will take a good program and make it better. I urge your support passage of this legislation.

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 99901-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 5, 2007

SUBJECT: Sectional Summary of SB 97 relating to identification seals for certain articles created or crafted in the state by Alaska Native persons. (Work Order No. 25-LS0405\M)

TO: Senator Gary Stevens
Attn: Doug Letch
JB

FROM: Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 44.27.050 to conform the description of the identification seal duties of the Alaska State Council on the Arts to the changes made in this bill.

Section 2. Amends the list of unfair trade practices in the state's unfair trade practices act to add the identification seal conduct prohibited under AS 45.65.055.

Section 3. Amends the criteria that determine who may obtain an identification seal. Amends the criteria that determine which articles the seal may be affixed to.

Section 4. Amends the description of the responsibility of the Alaska State Council on the Arts relating to identification seals. Conforms the language to other changes made in this bill and adds fee collection responsibility.

Section 5. Amends AS 45.65.030(a) to conform to other changes made in this bill and to require that a space, rather than a blank line, be included for the artist's name and the place of origin of the article.

Section 6. Amends AS 45.65.040(a) to remove the reference to an agent in order to reflect that a permit can only be issued by the Alaska State Council on the Arts.

Section 7. Amends AS 45.65.040(d) to require the Alaska State Council on the Arts to determine whether a person is eligible for the permit, as well as whether an article is eligible for an identification seal. Deletes the reference to an agent.

Senator Gary Stevens

March 5, 2007

Page 2

Section 8. Amends AS 45.65.040(e) to allow a person to report an identification seal violation and to delete the reference to agents.

Section 9. Adds a new section that describes the conduct that is prohibited when dealing with identification seals.

Section 10. Amends AS 45.65.060(a) to refer to the new sec. 45.65.055 (prohibited conduct), to describe what will be considered a misdemeanor with regard to identification seals. Adds a definition of "knowingly" and deletes "willfully."

Section 11. Amends AS 45.65.060(c) to conform the language to other changes made in the Act.

Section 12. Amends the definition to define "authentic Alaska Native art" as art that is created or crafted by an Alaska Native person.

Section 13. Amends the definition section to add definitions of "Alaska Native person," "art," "identification seal," "original," and "recognized Alaska tribe."

Section 14. Repeals certain provisions of AS 45.65.

If I may be of further assistance, please advise.

TLB:ljw
07-109.ljw

SILVER HAND - SB 97



This symbol is your guarantee that this is a genuine article made in Alaska handcrafted and finished by an Alaska Native artist or craftsman

Artist: _____
Origin: _____
Permit No: _____





Celebrating 40 years of support for the arts in Alaska

Senator Johnny Ellis, Chair
Alaska State Senate
Chair, Senate Labor and Commerce Committee
Sent via email

March 7, 2007

Dear Senator Ellis and members of the committee:

The Alaska State Council on the Arts (ASCA) would like to lend our support to the passage of SB 97, relating to the Silver Hand Program.

This statute revision will strengthen the relationship between our agency and the Alaska Native artists we serve in many respects. One of the primary tenets of the Silver Hand program is the mark of authenticity for the over 1400 artists that our program represents, and for the thousands of visitors to our state who purchase this work every year.

A major study conducted of Alaska Native Artists last year under the auspices of the Ford Foundation found that almost 90% of the artists surveyed felt that the counterfeit native art market in the state is an enormous problem. While ASCA can't prohibit the sale of native art knock-offs, we certainly can strength our own resident's ability to sell work through our Silver Hand program, and inform the buying public about our program.

Another revision will incorporate the expansion of allowable materials that Native Artists can use in their work and still be in our program. Currently, only natural materials can be used, which means that many of our most well known contemporary Native artists are not eligible for the Silver Hand program. This revision will correct that problem.

The economic impact of the arts in Alaska is certainly worth mentioning. In 2001, the MacDowell Group did a survey of Alaska Arts and Crafts Industry – all sectors – and found that over 4,500 Alaskans earned income from arts-related activity, and in 2001, Alaska artists earned an estimated \$20 million. Total direct employment in the creative industry was approximately \$40 million in annual income, including profit and non profit sectors.

Although the consumer numbers are not conclusive, the same survey cited above indicated that 30% of Alaskans who purchased art in 2001, bought only Alaska Native work, and 56% of those consumers said they looked for the Silver Hand symbol when