

103^D CONGRESS
2^D SESSION

H. R. 3885

To direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1994

Mr. MOAKLEY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as “Fire
5 Safe Cigarette Act of 1994”.

6 (b) **FINDINGS.**—The Congress finds that—

7 (1) cigarette ignited fires are the leading cause
8 of fire deaths in the United States,

9 (2) in 1990 there were 1,200 deaths from ciga-
10 rette ignited fires, 3,360 civilian injuries from such

1 fires, and \$400 million in property damage caused
2 by such fires,

3 (3) over 100 children are killed each year from
4 cigarette related fires,

5 (4) the results accomplished under the Ciga-
6 rette Safety Act of 1984 and the Fire Safe Cigarette
7 Act of 1990 complete the necessary technical work
8 for a cigarette fire safety standard,

9 (5) it is appropriate for the Congress to require
10 by law the establishment of a cigarette fire safety
11 standard for the manufacture and importation of
12 cigarettes,

13 (6) the most recent study by the Consumer
14 Product Safety Commission found that the cost of
15 the loss of human life and personal property from
16 not having a cigarette fire safety standard is
17 \$4,000,000,000 a year, and

18 (7) it is appropriate that the regulatory exper-
19 tise of the Consumer Product Safety Commission be
20 used to implement a cigarette fire safety standard.

21 **SEC. 2. CIGARETTE FIRE SAFETY STANDARD.**

22 (a) IN GENERAL.—Not later than one year after the
23 date of the enactment of this Act, the Consumer Product
24 Safety Commission shall by rule issue a cigarette fire safe-
25 ty standard for cigarettes to reduce the risk of ignition

1 presented by cigarettes. In establishing the standard the
2 Commission shall—

3 (1) consult with the National Institute of
4 Standards and Technology and make use of its ca-
5 pabilities as it deems necessary and seek the advice
6 and expertise of other Federal and State agencies
7 engaged in fire safety, and

8 (2) take into account the final report to the
9 Congress made by the Commission and the Tech-
10 nical Advisory Group established under section 3 of
11 the Fire Safe Cigarette Act of 1990 in which it was
12 found that cigarettes with a low ignition propensity
13 are already on the market.

14 (b) STOCKPILING.—The Commission shall include in
15 the rule issued under subsection (a) a prohibition of stock-
16 piling of cigarettes to which the standard issued under
17 subsection (a) will not apply. For purposes of this sub-
18 section, the term “stockpile” means the manufacturing or
19 importing of a cigarette between the date a standard is
20 issued under subsection (a) and the date the standard is
21 to take effect at a rate greater than the rate the cigarettes
22 were manufactured or imported for the one year period
23 ending on the date the standard was issued.

1 (c) PROCEDURE.—The rule under subsection (a)
2 shall be issued in accordance with section 553 of title 5,
3 United States Code.

4 (d) EFFECTIVE DATE.—The Commission shall pre-
5 scribe the effective date of the rule issued under subsection
6 (a), except that such date may not be later than 2 years
7 after the date of the enactment of this Act.

8 (e) JUDICIAL REVIEW.—

9 (1) GENERAL RULE.—Any person who is ad-
10 versely affected by a rule issued under subsection (a)
11 may, at any time before the 60th day after the Com-
12 mission issues the rule, file a petition with the
13 United States Court of Appeals for the District of
14 Columbia Circuit or for any other circuit in which
15 such person resides or has its principal place of busi-
16 ness to obtain judicial review of the rule. A copy of
17 the petition shall be forthwith transmitted by the
18 clerk of the court to the Secretary. The Commission
19 shall file in the court the record of the proceedings
20 on which the Commission based the rule as provided
21 in section 2112 of title 28, United States Code.

22 (2) ADDITIONAL EVIDENCE.—If the petitioner
23 applies to the court for leave to adduce additional
24 evidence, and shows to the satisfaction of the court
25 that such additional evidence is material and that

1 there was no opportunity to adduce such evidence in
2 the proceeding before the Commission, the court
3 may order such additional evidence (and evidence in
4 rebuttal thereof) to be taken before the Commission
5 in a hearing or in such other manner, and upon such
6 terms and conditions, as the court deems proper.
7 The Commission may modify the Commission's find-
8 ings as to the facts, or make new findings, by reason
9 of the additional evidence so taken, and the Commis-
10 sion shall file such modified or new findings, and the
11 Commission's recommendations, if any, for the
12 modification of the rule.

13 (3) COURT JURISDICTION.—Upon the filing of
14 a petition under paragraph (1), the court shall have
15 jurisdiction to review the rule of the Commission, as
16 modified, in accordance with chapter 7 of title 5,
17 United States Code.

18 **SEC. 3. ENFORCEMENT.**

19 (a) PROHIBITION.—No person may manufacture or
20 import a cigarette unless the cigarette is in compliance
21 with a cigarette fire safety standard issued under section
22 2(a).

23 (b) PENALTY.—A violation of subsection (a) shall be
24 considered a violation of section 19 of the Consumer Prod-
25 uct Safety Act.

1 **SEC. 4. PREEMPTION.**

2 (a) IN GENERAL.—This Act and the cigarette fire
3 safety standard promulgated under section 2(a) do not
4 preempt or otherwise affect in any way any law of a State
5 or political subdivision which prescribes a fire safety
6 standard for cigarettes which is more stringent than the
7 standard promulgated under section 2(a).

8 (b) DEFENSES.—In any civil action for damages
9 compliance with the fire safety standard promulgated
10 under section 2(a) may not be admitted as a defense.

11 **SEC. 5. DEFINITIONS.**

12 For purposes of this Act:

13 (1) The term “Commission” means the
14 Consumer Product Safety Commission.

15 (2) The term “cigarette” has the meaning pre-
16 scribed by section 3 of the Federal Cigarette Label-
17 ing and Advertising Act.

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