

## 2003 SENATE BILL 519

March 2, 2004 – Introduced by Senators ROBSON, BROWN and RISSER, cosponsored by Representatives MILLER, KREIBICH and BERCEAU. Referred to Committee on Economic Development, Job Creation and Housing.

1     **AN ACT** *to amend* 20.143 (3) (j); and *to create* 101.19 (1) (k), 165.25 (4) (ag) and  
2           167.35 of the statutes; **relating to:** establishing fire safety standards for  
3           cigarettes, granting rule-making authority, making an appropriation, and  
4           providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Current law does not require cigarettes to meet any standards with regard to fire safety. This bill requires the Department of Commerce (department), by rule, to establish fire safety standards that all cigarettes sold or offered for sale in this state must meet. In particular, the fire safety standards must require cigarettes to stop burning within a specified period of time if the cigarettes are not smoked and must require cigarettes to meet performance standards with regard to reducing the risk of certain household fires.

Under the bill, every cigarette manufacturer that desires to permit cigarettes it manufactures to be sold or offered for sale in this state must certify to the department that the cigarettes meet all applicable fire safety standards. The manufacturer must also provide a copy of this certification to each wholesaler that is authorized to sell cigarettes in this state and that purchases the cigarettes from the manufacturer. With certain limited exceptions, the bill prohibits the sale of uncertified cigarettes in this state.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.143 (3) (j) of the statutes is amended to read:

2           20.143 (3) (j) *Safety and building operations.* The amounts in the schedule for  
3 the purposes of chs. 101, 145, and 168 and ss. 167.35, 236.12 (2) (a), 236.13 (1) (d) and  
4 (2m), and 236.335. All moneys received under ch. 145, ss. 101.177 (4) (a) 4., 101.178,  
5 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.9205 (3), 101.9208 (1) (b),  
6 101.9213 (8), 101.935, 101.951 (2), 101.952 (2), 101.955 (2), 101.973 (7), and 236.12  
7 (7), and 2001 Wisconsin Act 16, section 9110 (3z), shall be credited to this  
8 appropriation.

9           **SECTION 2.** 101.19 (1) (k) of the statutes is created to read:

10           101.19 (1) (k) Processing certifications filed by cigarette manufacturers under  
11 s. 167.35 (3) (a).

12           **SECTION 3.** 165.25 (4) (ag) of the statutes is created to read:

13           165.25 (4) (ag) The department of justice shall furnish legal services upon  
14 request of the department of commerce under s. 167.35 (6).

15           **SECTION 4.** 167.35 of the statutes is created to read:

16           **167.35 Fire safety standards for cigarettes. (1) DEFINITIONS.** In this  
17 section:

18           (a) “Cigarette” means any roll of tobacco wrapped in paper or any substance  
19 other than tobacco.

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1 (b) “Cigarette vending machine” means any mechanical device that  
2 automatically dispenses cigarettes when money or tokens are deposited in the device  
3 in payment for the cigarettes.

4 (c) “Cigarette vending machine operator” means a person who acquires  
5 cigarettes and sells them through the use of cigarette vending machines that he or  
6 she owns, operates, or services and that are located on premises that are owned or  
7 under the control of other persons.

8 (d) “Department” means the department of commerce.

9 (e) “Wholesaler” means a person who has a permit authorizing the person to  
10 sell cigarettes at wholesale in this state to any of the following:

- 11 1. A person who sells cigarettes at retail.
- 12 2. A cigarette vending machine operator.
- 13 3. Another person who sells cigarettes at wholesale.

14 **(2) FIRE SAFETY STANDARDS.** The department shall promulgate rules  
15 establishing fire safety standards for all cigarettes sold or offered for sale in this  
16 state. The rules shall establish standards that reduce the risk of fire caused by  
17 cigarettes. In promulgating the rules, the department shall consult with the  
18 department of health and family services to ensure that the rules do not establish  
19 fire safety standards that result in increased health risks to individuals who smoke  
20 cigarettes. The rules shall establish at least one of the following fire safety standards  
21 for all cigarettes sold or offered for sale in this state, in addition to other fire safety  
22 standards that the department of commerce determines are appropriate:

23 (a) That the cigarettes, if ignited, stop burning within a time period specified  
24 in the rules if no individual inhales through the cigarettes during that period.

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1 (b) That the cigarettes meet performance standards specified in the rules that  
2 are established for the purpose of limiting the risk that the cigarettes will ignite  
3 upholstered furniture, mattresses, or other household furnishings.

4 **(3) CERTIFICATION FILED BY CIGARETTE MANUFACTURER.** (a) Every cigarette  
5 manufacturer that desires to permit cigarettes it manufactures to be sold or offered  
6 for sale in this state shall file a written certification with the department, certifying  
7 that the cigarettes meet all applicable fire safety standards contained in the rules  
8 promulgated under sub. (2). Upon filing a certification under this subsection, a  
9 cigarette manufacture shall provide a copy of the certification to every wholesaler  
10 that purchases the cigarettes that are the subject of the certification from the  
11 cigarette manufacturer.

12 (b) The department shall promptly forward a copy of each certification it  
13 receives under par. (a) to the attorney general. The department shall establish a  
14 procedure by which persons who sell cigarettes at retail in this state and cigarette  
15 vending machine operators in this state may obtain notification of which cigarettes  
16 are the subject of a certification filed under par. (a).

17 (c) The department shall establish a fee under s. 101.19 (1) (k) for processing  
18 certifications filed under par. (a).

19 **(4) SALE OF UNCERTIFIED CIGARETTES PROHIBITED.** (a) Except as provided in par.  
20 (b), no person may sell cigarettes in this state, unless the cigarettes are the subject  
21 of a certification filed under sub. (3) (a).

22 (b) Paragraph (a) does not prohibit any person from selling cigarettes or  
23 offering to sell cigarettes that are not the subject of a certification filed under sub.

24 (3) (a), if the cigarettes are to be sold in another state or outside of the United States.

