



---

---

## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

---

---

**2007 Assembly Bill 717**

**Assembly Amendments 1 and 2**

*Memo published:* March 7, 2008

*Contact:* Richard Sweet, Senior Staff Attorney (266-2982)  
Jessica Karls, Staff Attorney (266-2230)

**2007 Assembly Bill 717** requires that cigarettes sold in Wisconsin meet a fire safety performance standard (“standard”). Each manufacturer that sells or offers to sell cigarettes in Wisconsin must file a written certification with the Department of Commerce (Commerce), certifying that each type of cigarette listed in the certification meets the standard, and pay a \$250 fee to Commerce for each type of cigarette listed in the certification. The manufacturer must also mark the cigarettes to show that the cigarettes meet the standard. The marking must be in 8-point or larger type and must be *a modification of the universal product code (UPC) that results in a visible mark being printed* at or near the UPC. The bill also provides that a city, village, town, or county may enact and enforce an ordinance or adopt and enforce a resolution regulating the fire safety performance of cigarettes that are sold or that are offered to be sold in Wisconsin only if the ordinance is in strict conformity with the provisions of the bill.

**Assembly Amendment 1** removes the requirement that the marking be a modification of the UPC resulting in a visible mark. The amendment also removes the provision regarding municipal authority to enact and enforce ordinances or adopt and enforce resolutions regulating the fire safety performance of cigarettes. Lastly, the amendment requires that the certification fee paid by the manufacturer be credited to the appropriation in s. 20.143 (3) (j), Stats.

**Assembly Amendment 2** makes the following changes to the bill:

- Under the bill, each cigarette manufacturer is required to pay to Commerce a fee of \$250 for each “type” of cigarette listed in a written certification filed with the department regarding testing and compliance with applicable fire safety performance standards. The amendment modifies this to provide that the fee is \$1,000 for each “brand family”, rather than “type”, of cigarette listed in the certification. The amendment further provides that the fee applies to all cigarettes within the brand family and includes any new cigarette that is included in the three-year certification period. The manufacturer is required to pay the fee upon filing each certification for a new brand family.

- The bill provides that if a manufacturer has certified a type of cigarette and makes any change after the certification that is likely to alter its compliance with the applicable fire safety performance standard, no person may offer for sale or sell that type of cigarette unless the manufacturer retests the cigarette in accordance with the applicable testing method specified in the bill. The amendment also includes a reference to the provision of the bill that allows Commerce to approve an alternative test method.
- The amendment provides that the provisions of the bill dealing with testing do not require additional testing if cigarettes have been tested for another purpose with methods that are in accordance with the testing methods recognized under those provisions of the bill.
- The amendment modifies one of the exceptions in the bill from the general prohibition on selling or offering for sale cigarettes that are not tested, do not meet applicable fire safety performance standards, are not certified, or are not marked. Under the exception in the bill, the prohibition does not apply to the selling or the offering for sale of cigarettes solely for the purpose of consumer testing that is conducted by a manufacturer or under the control and direction of a manufacturer if all the following conditions are met: (1) the purpose of the testing is to evaluate consumer acceptance of the cigarettes; (2) the testing involves only the number of cigarettes that is reasonably necessary for the testing; and (3) the testing is in a controlled setting where the cigarettes are either smoked onsite or are returned to the person administering the test at the conclusion of the testing. The amendment deletes the third condition in this exception.
- The amendment modifies the provision of the bill that allows seizure of cigarettes acquired, owned, imported, possessed, kept, stored, made, sold, distributed, or transported in violation of the bill. The amendment specifies that the seizure provision applies to cigarettes that have not been marked as provided in the bill.

### Legislative History

The Assembly Committee on Public Health recommended adoption of Assembly Amendment 1, and passage of the bill as amended, both by votes of Ayes, 7; Noes, 1.

The Assembly adopted Assembly Amendments 1 and 2, and passed the bill as amended, all by voice votes.

RNS:wu:jb;wu