

HOUSE BILL No. 6247

August 13, 2002, Introduced by Rep. Callahan and referred to the Committee on Commerce.

A bill to amend 1941 PA 207, entitled
"Fire prevention code,"
(MCL 29.1 to 29.34) by adding section 3f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3F. (1) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE
2 AMENDATORY ACT THAT ADDED THIS SECTION, THE BOARD SHALL BY RULE
3 ESTABLISH 1 OF THE FOLLOWING PERFORMANCE STANDARDS FOR THE SALE
4 OR OFFER FOR SALE OF CIGARETTES IN THIS STATE:

5 (A) A MAXIMUM TIME PERIOD WITHIN WHICH LIT CIGARETTES THAT
6 ARE NOT SMOKED MUST STOP BURNING TO MEET THE STANDARD.

7 (B) A PERFORMANCE STANDARD FOR CIGARETTES THAT THE BOARD
8 DETERMINES LIMITS THE RISK THAT LIT CIGARETTES WILL IGNITE UPHOL-
9 STERED FURNITURE, MATTRESSES, OR OTHER HOUSEHOLD FURNISHINGS,
10 OTHER THAN THE TIME PERIOD DESCRIBED IN SUBDIVISION (A).

1 (2) IN ADOPTING THE RULES ESTABLISHING THE PERFORMANCE
2 STANDARD DESCRIBED IN SUBSECTION (1), THE BOARD SHALL MEET ALL OF
3 THE FOLLOWING:

4 (A) THE BOARD SHALL CONSULT WITH THE DEPARTMENT OF COMMUNITY
5 HEALTH AND CONSIDER WHETHER CIGARETTES MANUFACTURED IN ACCORDANCE
6 WITH THE PERFORMANCE STANDARD MAY REASONABLY RESULT IN INCREASED
7 HEALTH RISKS TO CONSUMERS.

8 (B) THE BOARD SHALL ESTABLISH 1 OF THE FOLLOWING EFFECTIVE
9 DATES FOR THE RULES:

10 (i) ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF PROMULGATION.

11 (ii) IF THE BOARD FINDS THAT MANUFACTURERS CAN MEET THE PER-
12 FORMANCE STANDARD BY A DATE THAT IS EARLIER THAN 180 DAYS AFTER
13 THE DATE OF PROMULGATION, THAT DATE.

14 (C) THE BOARD SHALL PROMULGATE THE RULES IN ACCORDANCE WITH
15 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
16 24.201 TO 24.328.

17 (3) WITHIN 18 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDA-
18 TORY ACT THAT ADDED THIS SECTION, THE BOARD SHALL REPORT TO THE
19 GOVERNOR AND THE LEGISLATURE ON THE STATUS OF ITS WORK IN ADOPT-
20 ING THE RULES DESCRIBED IN THIS SECTION.

21 (4) EXCEPT AS PROVIDED IN SUBSECTION (6), BEGINNING ON THE
22 EFFECTIVE DATE ESTABLISHED UNDER SUBSECTION (2), A MANUFACTURER
23 SHALL NOT SELL OR OFFER TO SELL CIGARETTES IN THIS STATE UNLESS
24 THE MANUFACTURER HAS MET ALL OF THE FOLLOWING:

25 (A) HAS CERTIFIED IN WRITING TO THE BOARD AND THE ATTORNEY
26 GENERAL THAT THE CIGARETTES MEET THE PERFORMANCE STANDARD IN THE
27 RULES DESCRIBED IN SUBSECTION (1).

1 (B) HAS PROVIDED COPIES OF THE WRITTEN CERTIFICATION TO EACH
2 WHOLESALER WHO SELLS OR OFFERS TO SELL CIGARETTES MADE BY THE
3 MANUFACTURER IN THIS STATE.

4 (C) HAS NOTIFIED EACH RETAILER WHO SELLS OR OFFERS TO SELL
5 CIGARETTES MADE BY THE MANUFACTURER IN THIS STATE WHICH CIGA-
6 RETTES MADE BY THE MANUFACTURER ARE CERTIFIED BY THE MANUFACTURER
7 AND WHICH CIGARETTES ARE NOT CERTIFIED BY THE MANUFACTURER. THE
8 BOARD BY RULE SHALL ESTABLISH THE PROCEDURE FOR AND FORM OF
9 NOTIFICATION.

10 (5) EXCEPT AS PROVIDED IN SUBSECTION (6), BEGINNING ON THE
11 EFFECTIVE DATE ESTABLISHED UNDER SUBSECTION (2), A PERSON SHALL
12 NOT SELL OR OFFER TO SELL CIGARETTES IN THIS STATE THAT HAVE NOT
13 BEEN CERTIFIED BY THE MANUFACTURER UNDER SUBSECTION (4)(A).

14 (6) IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON ONLY
15 SELLS OR OFFERS TO SELL CIGARETTES IN ANOTHER STATE OR OUTSIDE OF
16 THE UNITED STATES.

17 (7) A WHOLESALER OR ANY OTHER PERSON WHO SELLS OR OFFERS TO
18 SELL CIGARETTES AT WHOLESALE WHO KNOWINGLY VIOLATES
19 SUBSECTION (5) IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN
20 \$10,000.00 FOR EACH VIOLATION.

21 (8) A RETAILER OR ANY OTHER PERSON WHO SELLS OR OFFERS TO
22 SELL CIGARETTES AT RETAIL WHO KNOWINGLY VIOLATES SUBSECTION (5)
23 IS SUBJECT TO 1 OF THE FOLLOWING FOR EACH VIOLATION:

24 (A) IF THE TOTAL NUMBER OF CIGARETTES SOLD OR OFFERED FOR
25 SALE IS 1,000 OR LESS, A CIVIL FINE OF NOT MORE THAN \$500.00 FOR
26 THAT SALE OR OFFER TO SELL.

1 (B) IF THE TOTAL NUMBER OF CIGARETTES SOLD OR OFFERED FOR
2 SALE IS MORE THAN 1,000, A CIVIL FINE OF NOT MORE THAN
3 \$1,000.00 FOR THAT SALE OR OFFER TO SELL.

4 (9) IN ADDITION TO ANY PENALTY PRESCRIBED BY LAW, A MANUFAC-
5 Turer WHO KNOWINGLY MAKES A FALSE CERTIFICATION UNDER SUBSECTION
6 (4) IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR
7 EACH FALSE CERTIFICATION.

8 (10) THE BOARD SHALL ADMINISTER AND THE ATTORNEY GENERAL
9 SHALL ENFORCE THIS SECTION. IN ADDITION TO ANY OTHER REMEDY FOR
10 A VIOLATION OF THIS SECTION, THE ATTORNEY GENERAL MAY BRING AN
11 ACTION TO RESTRAIN FURTHER VIOLATIONS OF THIS SECTION AND FOR
12 OTHER APPROPRIATE RELIEF.

13 (11) THE CIGARETTE FIRE SAFETY FUND IS CREATED IN THE STATE
14 TREASURY. THE BOARD SHALL ADMINISTER THE FUND. THE STATE TREA-
15 SURER SHALL DIRECT THE INVESTMENT OF MONEY IN THE FUND. THE
16 BOARD SHALL USE THE MONEY IN THE FUND AND EARNINGS FROM INVEST-
17 MENT OF THE MONEY EXCLUSIVELY FOR THE PURPOSE OF FIRE SAFETY AND
18 PREVENTION PROGRAMS. ANY CIVIL FINES ORDERED IN AN ENFORCEMENT
19 PROCEEDING FOR A VIOLATION OF THIS SECTION AND ANY OTHER MONEY
20 APPROPRIATED OR MADE AVAILABLE FOR THOSE PROGRAMS SHALL BE DEPOS-
21 ITED IN THE FUND.

22 (12) AS USED IN THIS SECTION:

23 (A) "CIGARETTE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
24 THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422.

25 (B) "FUND" MEANS THE CIGARETTE FIRE SAFETY FUND CREATED IN
26 SUBSECTION (10).

1 (C) "MANUFACTURER" MEANS THAT TERM AS DEFINED IN SECTION 2
2 OF THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422.

3 (D) "PERSON" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
4 TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422.

5 (E) "RETAILER" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
6 THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422.

7 (F) "WHOLESALE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
8 THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422.