

Proposed

Kansas State Fire Marshal

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 1:00 p.m., Thursday, July 7, 2011 in the Senate Room of the Jayhawk Towers Building, 700 SW Jackson, Topeka, KS 66603 to consider proposed Kansas Administrative Regulations K.A.R. 22-25-1, 22-25-2, 22-25-3, 22-25-4, 22-25-5 and 22-25-6, which pertain to the reduced cigarette ignition propensity. These regulations are proposed on a permanent basis.

K.A.R. 22-25-1. This regulation defines the terms used in Article 25 – Reduced Cigarette Ignition Propensity.

K.A.R. 22-25-2. This proposed regulation explains the requirements for the sale of cigarettes.

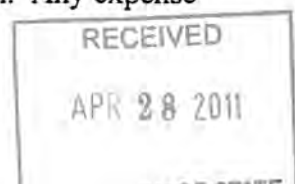
K.A.R. 22-25-3. This proposed regulation explains where to certification forms may be requested and submitted.

K.A.R. 22-25-4. This proposed regulation outlines exceptions.

K.A.R. 22-25-5. This proposed regulation clarifies the recertification requirement.

K.A.R. 22-25-6. This proposed regulation explains the process of administrative hearings.

The Kansas State Fire Marshal will receive the funds from the program. The Kansas Attorney General's office and the Department of Revenue are both under contract with the Kansas State Fire Marshal's office to perform services to the program. Any expense



or cost to these agencies will be paid out of the program funds. These regulations primarily clarify costs set forth in KSA 31-601 *et seq.* Proposed regulation 22-25-2 clarifies that each cigarette manufacturer must pay the filing fee of \$250 per cigarette brand variety certification period (every three years.) Proposed regulation 22-25-5 clarifies that each cigarette manufacturer must retest cigarette brands varieties before each certification period (every three years). Testing costs will vary depending on the testing facility that is used.

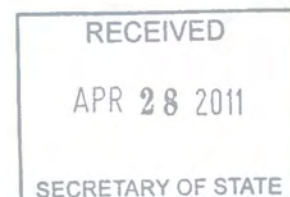
This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Carolyn Lowry, Administrative Specialist, 700 SW Jackson, Suite 600, Topeka, KS 66603. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentations to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Carolyn Lowry at the address above or by calling (785) 296-8984.

Handicapped parking is located on the west side of Jayhawk Towers on the corner of 7th and Jackson. The west entrance to the building is accessible to individuals with disabilities.



Copies of the regulation and the economic impact statement may be obtained at the address above or by calling Carolyn Lowry at (785) 296-8984 or emailing her at carolyn.lowry@ksfin.ks.gov.



**ARTICLE 25.
REDUCED CIGARETTE IGNITION PROPENSITY**

22-25-1. Definitions. (a) "ASTM" shall mean the American society for testing and materials or its successor organization.

(b) "Attorney general" shall mean the attorney general of the state of Kansas.

(c) "Cigarette brand variety" shall mean the following:

- (1) Style, including lights, ultra lights, and low tar;
- (2) length in millimeters;
- (3) circumference in millimeters;
- (4) flavor, including menthol and chocolate;
- (5) filter or non-filter; and
- (6) package description, including soft pack or box.

(d) "Consumer testing" shall mean an assessment of cigarettes that is conducted by, or under the control and direction of, a manufacturer for the purpose of evaluating consumer acceptance of the cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for the assessment.

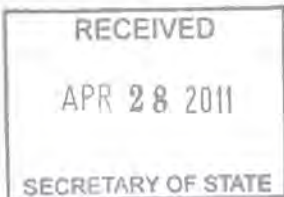
(e) "Sale" shall mean any transfer of title or possession, or both, or exchange or barter, conditional or otherwise, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money shall be considered sales of cigarettes.

(f) "State fire marshal" shall mean the fire marshal of the state of Kansas.

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(g) "UPC symbol" shall mean the symbol signifying the universal product code. (Authorized by and implementing K.S.A. 2008 Supp. 31-611; effective P-
_____.)

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22-25-2. Requirements for the sale of cigarettes. (a) Except as otherwise provided in K.S.A. 31-603(h) and amendments thereto, no cigarette shall be offered for sale or sold in the state or offered for sale or sold to any person located in this state unless all of the following conditions are met:

- (1) The cigarette testing requirements of K.S.A. 31-603, and amendments thereto, are met.
- (2) The certification requirements of K.S.A. 31-604, and amendments thereto, are met.
- (3) The cigarette marking requirements of K.S.A. 31-605, and amendments thereto, are met.
- (4) The fees specified in K.S.A. 31-604(f), and amendments thereto, and any applicable regulations are paid in full.
- (5) The state fire marshal, based on paragraphs (a)(1), (2), (3), and (4), has approved the cigarette.

(b) If the cigarette is approved according subsection (a), written notification shall be sent to the manufacturer by the state fire marshal or the state fire marshal's designee. (Authorized by and implementing K.S.A. 2008 Supp. 31-611; effective P- _____.)

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22-25-3. Certification forms and requirements. (a) Certification forms may be requested from the state fire marshal's office.

(b) If any certification form, including all required documentation, is incomplete, the state fire marshal's office or its designee shall notify the manufacturer in writing that the submission is incomplete. All missing information and documentation shall be submitted to the state fire marshal's office within 30 days of notification. If the submission is still incomplete after 30 days, the fees shall not be refunded or considered part of that submission or any other request.

(c) Each manufacturer submitting a certification form to the state fire marshal's office shall also submit a copy of that form, including all required documentation, to the attorney general's office at the same time. (Authorized by K.S.A. 2008 Supp. 31-611; implementing K.S.A. 2008 Supp. 31-604 and K.S.A. 2008 Supp. 31-611; effective P- _____.)

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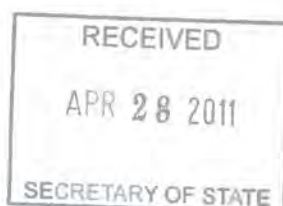
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22-25-4. Exceptions. The requirements of the fire safety standard and firefighter protection act and this article shall not be construed to prohibit the sale of cigarettes solely for the purpose of consumer testing as defined in K.A.R. 22-25-1. (Authorized by and implementing K.S.A. 2008 Supp. 31-611; effective P- _____.)

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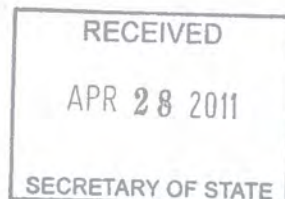
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22-25-5. Recertification requirement. Each cigarette shall be retested before recertification as required by K.S.A. 31-604(d), and amendments thereto. (Authorized by and implementing K.S.A. 2008 Supp. 31-611; effective P- _____.)

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22-25-6. Administrative hearings. (a) Each administrative citation issued pursuant to this regulation shall be scheduled for hearing before the state fire marshal within 60 days of issuance.

(b) Each hearing under subsection (a) shall meet the requirements of the Kansas administrative procedure act, K.S.A. 77-501 et seq. and amendments thereto. (Authorized by K.S.A. 2008 Supp. 31-611; implementing K.S.A. 2008 Supp. 31-606 and 31-611; effective P- _____.)

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Sam Brownback, Governor

**KANSAS STATE FIRE MARSHAL'S OFFICE
ECONOMIC IMPACT STATEMENT
K.A.R. 22-25-1 – 22-25-6**

Proposed

I. Summary of Amended Regulations, Including its Purpose.

The proposed regulations clarify definitions and procedures established under the Fire Safety Standards and Firefighter Protection Act, K.S.A. 31-601 – 31-613.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

The proposed regulations are not mandated by federal law and do not exceed the requirements of federal law.

III. Anticipated Economic Impact upon the Kansas State Fire Marshal's Office.

The Kansas State Fire Marshal will receive the funds from the program.

IV. Anticipated Financial Impact upon Other Governmental Agencies.

The Kansas Attorney General's office and the Department of Revenue are both under contract with the Kansas State Fire Marshal's office to perform services to the program. Any expense or cost to these agencies will be paid out of the program funds.

V. Anticipated Financial Impact upon Private Business or Individuals.

These regulations primarily clarify costs set forth in KSA 31-601 *et seq.* Proposed regulation 22-25-2 clarifies that each cigarette manufacturer must pay the filing fee of \$250 per cigarette brand variety certification period (every three years.) Proposed regulation 22-25-5 clarifies that each cigarette manufacturer must retest cigarette brands varieties before each certification period (every three years). Testing costs will vary depending on the testing facility that is used.

VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

None.

