

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-02-22
FIRE STANDARD COMPLIANT CIGARETTES**

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0780-02-22-.01 DEFINITIONS.

- (1) As used in this chapter, unless the context otherwise requires, the definitions of terms contained in T.C.A. § 68-102-502 are applicable.
- (2) "Attorney general" means the attorney general and reporter or the attorney general's designee;
- (3) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;
- (4) "State fire marshal" means the commissioner of commerce and insurance or the commissioner's designee;

Authority: T.C.A. §§ 68-102-502 and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.

0780-02-22-.02 CERTIFICATIONS.

- (1) Each manufacturer shall submit to the state fire marshal a written certification on a form provided by the state fire marshal containing the information required in T.C.A. § 68-102-504, along with the name and address of the true holder of the trademark rights.
- (2) Each written certification shall include a non-refundable fee as provided in T.C.A. § 68-102-504 payable to the Tennessee State Fire Marshal for each brand family of cigarettes listed in a certification.
- (3) A certification will be considered complete if all information required by T.C.A. § 68-102-504 and the name of the true holder of the trademark rights in a cigarette brand appears in the submission form.
- (4) The state fire marshal will promptly notify a manufacturer if a certification is incomplete, and will provide the manufacturer a reasonable opportunity to correct the incomplete certification. The certification will remain invalid until properly completed and re-submitted to the state fire marshal.

(Rule 0780-02-22-.02, continued)

Authority: T.C.A. §§ 68-102-504 and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.

0780-02-22-.03 TEST STANDARDS.

- (1) Testing of cigarettes shall meet the requirements in T.C.A. § 68-102-503.
- (2) Alternative testing
 - (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in T.C.A. § 68-102-503(a)(1) shall propose a test method and performance standard for the cigarette to the state fire marshal.
 - (b) In proposing an alternative test method and performance standard, the manufacturer of the cigarette shall:
 - (i) describe why the cigarette cannot be tested in accordance with the test method specified in T.C.A. § 68-102-503(a)(1);
 - (ii) describe the test method and performance standard requesting to be used;
 - (iii) specify if the test method and performance method is based on a recognized national standard;
 - (iv) describe how the test method and performance standard requesting is equivalent to the standards contained in T.C.A. § 68-102-503(a); and
 - (v) provide information as to whether another state has approved the alternative test method and performance standard for the cigarette or any other cigarette.
 - (c) Upon a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in T.C.A. § 68-102-503(a)(3), or a determination that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are equivalent to those contained in T.C.A. § 68-102-503(a) and officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette, the state fire marshal shall approve the proposed test method.
 - (d) If the state fire marshal approves the proposed test method, the manufacturer may employ such test method.

Authority: T.C.A. §§ 68-102-503 and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.

0780-02-22-.04 MARKINGS.

Cigarettes that are certified by a manufacturer in accordance with T.C.A. § 68-102-504 and this chapter shall be marked as required by T.C.A. § 68-102-505.

(Rule 0780-02-22-.04, continued)

Authority: T.C.A. §§ 68-102-505 and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.

0780-02-22-.05 CIVIL PENALTIES.

The state fire marshal may assess a civil penalty for each separate violation of T.C.A. Title 68, Chapter 102, Part 5 pursuant to T.C.A. § 68-102-506.

- (1) In determining the amount of a civil penalty the state fire marshal may consider the following factors:
 - (a) whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of non-compliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§ 68-102-503, 68-102-506 and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.

0780-02-22-.06 FORFEITURES AND SEIZURES OF CIGARETTES.

A notice of forfeiture or seizure of cigarettes, forfeited pursuant to T.C.A. § 68-102-506(e) or seized pursuant to T.C.A. § 68-102-506(g), will be mailed to the true holder of the trademark rights in the cigarette brand in order to afford the true holder an opportunity to inspect the cigarettes. Forfeited or seized cigarettes may be destroyed sixty (60) days after the mailing of the notice of forfeiture or seizure.

Authority: T.C.A. §§ 68-102-506(e) and (g), and 68-102-507. **Administrative History:** Original rule filed September 29, 2009; effective December 28, 2009.