

**MINNESOTA DEPARTMENT OF PUBLIC SAFETY
STATE FIRE MARSHAL DIVISION**



**FIRE STANDARD COMPLIANT CIGARETTE PROGRAM
MINNESOTA STATUTE 299F.850**

**REPORT TO THE MINNESOTA LEGISLATURE
MARCH 2015**

Summary

Implementation of the Fire Standard Compliant (FSC) Cigarette Law, MS 299F.850-859, (See Appendix A) began on December 1, 2008. Effective that date only those cigarettes meeting the requirements of the FSC Program could be sold in Minnesota, the eighteenth state to implement similar legislation. All 50 states have now enacted similar laws based on the same national model that also forms the basis of Minnesota's law.

The State Fire Marshal division certifies cigarette brand styles that are in compliance with the Minnesota law after which they must be renewed to keep that brand style legal for sale in Minnesota. The certification process involves review of testing materials and product packaging for compliance with the standards established in law.

Minnesota's FSC law is not enforceable on tribal land. While all known manufacturers are now producing only FSC-certified products, some brands of non-FSC cigarettes may still be available from tribal sources and via Internet sales.

In order for a product to be certified as FSC compliant, cigarette manufacturers must design, manufacture and test each brand style to ASTM Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes," or an equivalent test method approved by the state fire marshal. All Minnesota products are currently certified to the ASTM standard.

The testing standard is designed to simulate the ignition propensity of a cigarette when left unattended in an ash tray, or dropped on upholstered furniture or a bare mattress. These are not "fire safe" cigarettes. Tossed in a trash can with combustible materials, discarded along the roadway or dropped in the mulch beneath a patio deck, a lit FSC cigarette can still start a fire. Nor is the product 100 percent safe even when dropped on upholstered furniture or a mattress. The ASTM standard allows for a failure rate of up to 25 percent of the tested product, usually a sample of 40 cigarettes.

The Minnesota law allowed an unspecified "grace period" permitting non-FSC products to be cleared from store shelves. Enforcement began in July of 2009 with random inspections of distributors, wholesalers and retail sales outlets. These inspections confirmed that all brand styles sold in Minnesota were in compliance with the statute.

Nationally, on average 365 people die each year in residential fires and 925 injuries are caused by careless use of cigarettes. Property damage from such residential fires causes on average \$326 million dollars in damage each year. With all 50 states having this legislation in place, it is anticipated these numbers will drop significantly over time. Research conducted in the 1980s predicted that FSC cigarettes would eliminate 75 percent of the cigarette-caused fire fatalities.

Web Site

The screenshot shows the Minnesota State Fire Marshal website. The header includes navigation links for 'DPS Home', 'Divisions', 'Media Center', and 'Contact DPS'. The main navigation bar lists 'State Fire Marshal', 'About', 'Fire Code', 'Programs/Services', 'Public Education', 'Training', 'MFIRS', and 'Links'. A search bar is located on the right. The main content area is titled 'FIRE STANDARD COMPLIANT CIGARETTES (FSC)'. It contains text explaining that FSC cigarettes are designed to self-extinguish if left unattended. An illustration shows a cigarette with a flame and a text box stating: 'If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these banded "speed bumps" and self-extinguish.' Below this is a table titled 'Minnesota Fire Standard Compliant Cigarette Program Statute' with three columns: 'Cigarette Fire Safety Definitions', 'Test Method and Performance Standards', and 'Certification and Product Change'. The table lists various items like 'Marking and Cigarette Packaging', 'Penalties and Remedies', 'Implementation', 'Inspection', 'Reduced Cigarette Ignition Propensity Account', 'Sale Outside of Minnesota', and 'Local Regulation'. Further down, there is a section 'For the Minnesota Fire Service' with links to 'Fire Standard Compliant Cigarette Program Presentation', 'Report form - Suspected Cigarette Caused Fires', and 'Approved Cigarette Brands Report'. The final section is 'How Will the Fire Standard Compliant Cigarette (FSC) Law Affect Manufacturers, Wholesalers, Retailers, Manufacturers and Consumers?' with a sub-section for 'Manufacturers' stating the law goes into effect on December 1, 2008.

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FIRE STANDARD COMPLIANT CIGARETTES (FSC)

Because it is designed to self-extinguish if left unattended, or is not actively being smoked, a fire standard compliant cigarette (FSC) cigarette reduces the burning time before the cigarette is able to ignite furniture or bedding material

The most common fire-safe technology used by cigarette manufacturers is to wrap cigarettes with two or three thin bands of less-porous paper that act as "speed bumps" to slow down a burning cigarette. If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these speed bumps and self-extinguish.

If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these banded "speed bumps" and self-extinguish.

Minnesota Fire Standard Compliant Cigarette Program Statute

Cigarette Fire Safety Definitions	Test Method and Performance Standards	Certification and Product Change
Marking and Cigarette Packaging	Penalties and Remedies	Implementation
Inspection	Reduced Cigarette Ignition Propensity Account	Sale Outside of Minnesota
Local Regulation		

For the Minnesota Fire Service

[Fire Standard Compliant Cigarette Program Presentation](#)
This program was presented to the MN fire service at the 2008 MSFCA Conference. It is available for use as a public education / information tool.

[Report form - Suspected Cigarette Caused Fires](#)
In addition to the usual MFIRS report, the MN fire service is asked to submit this report to the State Fire Marshal Division for any fire suspected to be caused by a cigarette.

[Approved Cigarette Brands Report](#)

How Will the Fire Standard Compliant Cigarette (FSC) Law Affect Manufacturers, Wholesalers, Retailers, Manufacturers and Consumers?

Manufacturers

The Minnesota FSC cigarette law goes into effect on December 1, 2008.

The State Fire Marshal Division established a Web site to disseminate FSC program information to manufacturers, wholesalers, retail outlets, the fire service and the general public. That site is located at:

<https://dps.mn.gov/divisions/sfm/programs-services/Pages/fire-standards-compliant-cigarette.aspx>

The site contains information about Minnesota's FSC law, an online report for use by the fire service to document cigarette-caused fires, a list of all FSC-certified brands and brand styles, instructions for manufacturers submitting products for certification, a link to the online certification database, instructions for wholesalers and retail outlets, general information for consumers, suggestions for safe smoking practices, and a list of FSC-certified brand styles.

Database Development

The screenshot shows the homepage of the Minnesota State Fire Marshal's Applications Portal. The page features a dark blue header with the Minnesota State Fire Marshal logo and the text "STATE FIRE MARSHAL". Below the header is a navigation bar with links for "State Fire Marshal", "User Account", "Administration", "Vendors", "FAQ's", and "Contact". The main content area is titled "FIRE SAFE CIGARETTE APPLICATION HOME" and includes a welcome message, a link to "Go to DPS Home", and a list of services: "Apply for a new cigarette certification", "Renew the certification for a cigarette (required every 3 years)", and "Download certifications lists for wholesalers, distributors and retailers". The page also contains a section titled "The process is simple:" which describes the application and renewal process. At the bottom, contact information for Robert C. Dahm, Chief Deputy State Fire Marshal, is provided.

Initial certifications were processed manually, which proved to be a time consuming procedure. In 2011 the division implemented an online certification system. The new system allows manufacturers to submit initial and renewal applications with a minimum of paperwork. It has also significantly reduced the staff time necessary to process applications.

The database is designed to automatically notify manufacturers of the expiration of brand style certifications 60, 30 and 10 days in advance of their expiration date. It also alerts division personnel when an application is filed. When the application review and approval process is complete, a notice is generated to the manufacturer listing the brands and brand styles approved or rejected.

Brand styles not renewed are moved to an expired list and removed from the list of FSC-certified brand styles list on the division's Web site. Funding for the development of this database was provided by the fees generated by the FSC program. During 2015 funding has been allocated to update and upgrade the FSC Website.

Initial and Renewal Certifications

The initial applications for certification were due by November 30, 2008. During the first three years of the program, applications for initial certification were received from 34 manufacturers, resulting in the approval of 1190 brand styles. Fee revenue totaled \$297,500. (See Appendix B)

R.J. Reynolds Company was the manufacturer with the largest number of certified brand styles (291), followed by Philip Morris USA (173) and Tantrus Tobacco LLC (93).

The first round of applications for recertification was due by November 30, 2011. Several manufacturers chose not to renew all the brand styles initially submitted. A total 795 brand styles were submitted and approved for re-certification, resulting in a re-certification fee revenue totaling \$198,750.

The second round of applications for recertification was due by November 30, 2014. A few manufacturers chose not to renew all the brand styles submitted in 2008 or in 2011 during the first recertification period. 667 brand styles from 17 manufacturers were submitted and approved for re-certification, resulting in recertification fee revenue totaling \$166,750 for the second round of recertification.

As of the date of this report, due to variations in the expiration date of initial certifications, a total of 829 brand styles remain certified for sale in Minnesota.

Enforcement Actions

One enforcement action was taken during the first year of the program. In spite of repeated warnings and orders to cease the sale of non-FSC products, one manufacturer continued to sell uncertified cigarettes. Legal action was initiated through the Office of the Attorney General which resulted in a stipulation agreement and compliance by the manufacturer.

With completion of the second recertification period, random inspections of retail outlets will continue to ensure manufacturers who have chosen not to re-certify certain brand styles have removed those products from retail sale.

National Testing Standard

ASTM Standard E2187-04 is the national standard against which all FSC cigarettes are tested to determine the potential for a burning cigarette to ignite materials such as a mattress (without bedding), couch, or stuffed chair.

The test is conducted by placing a burning cigarette on a test medium intended to simulate a mattress or other cloth covered furniture. An example of the testing process is shown below. The cigarette on the left, having burned to the filter, would be deemed as failing the test. The cigarette on the right, having self-extinguished, would be deemed as passing the test.



Note: The photo above is provided for illustration purposes only. It is not intended to represent the complete application of the ASTM Standard E2187-04 testing process as it would be performed in a laboratory.

The standard allows for a 25 percent failure rate. In other words, of the 20 cigarettes in a pack, 5 could fail the test and the product still be considered FSC compliant.

FSC cigarettes are not intended to prevent or reduce the potential for all fires. As with any burning material, an FSC cigarette carelessly discarded in combustible material, such as vegetation or a trash can containing combustible material, retains the potential to cause a fire.

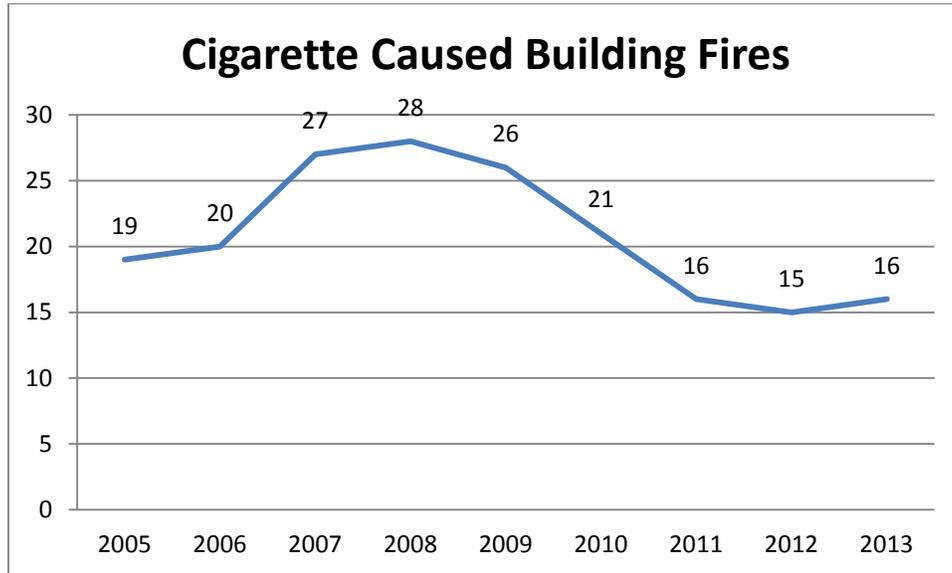
Fire Incident Reporting – Cigarette-Caused Building Fires

Information about cigarette-caused fires is obtained from two reporting sources, the Minnesota Fire Incident Reporting System (MFIRS) and a supplemental Cigarette-Caused Fire Report. The MFIRS report provides general information about the fire incident, while the supplemental report provides details directly related to the FSC program.

Minnesota Fire Incident Reporting System Data

Data from MFIRS for the years 2008 through 2013, the latest year complete data is available, was examined to determine the number of cigarette-caused fires in residential property where the item first ignited was one in which FSC products are intended to reduce the potential for ignition.

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013
Fires	19	20	27	28	26	21	16	15	16



This data shows a decline in the number of such fires from a high of 28 in 2008 to 16 in 2013. The FSC statute was effective December 2008. Given the grace period provided in statute for the sale of non-FSC products which existed until July 2009, 2010 is considered the first full year of the program’s implementation.

Supplemental Cigarette Caused Fire Report Data

The Minnesota fire service has been asked to voluntarily submit the one-page supplemental report to the division whenever a cigarette-caused fire occurs. This report (not a component of MFIRS) allows the division to track the compliance of cigarette brands with the new standard and determine if the manufacturer's quality controls are effective in achieving the goals of the program. In the future we may be able to consolidate this report with the MFIRS online reporting system. Until then, filing the separate report is the major source of detailed information available to evaluate the program’s effectiveness.

As of December 31, 2014, 131 reports of cigarette-caused fires were received via the Supplemental Cigarette-caused Fire Report; the first was received on December 2, 2008. Sixty-seven fires involved FSC products and 12 involved non-FSC products. Ten of the fires known to have involved non-FSC products occurred prior to July 1, 2009, the date established for the end of the “grace period” discussed earlier. Investigators were unable to determine the FSC status of the cigarettes involved in 52 of the fires.

Of the 131 fires, 114 involved structures, eleven were outside fires, three were vehicle fires, and three were “other” fires generally involving trash.

Total estimated property damage from all reported cigarette-caused fires exceeded \$3.9 million during the period of time covered by the supplemental report.

A total of 18 careless smoking deaths involving cigarettes were reported during the period of 2011 to 2014, four of which involved non-FSC products. Three of the non-FSC product deaths occurred early in the program (December 2008) while non-FSC products were still available on the market. Of the remaining 14, which did involve FSC products, the items first ignited included a stuffed chair (1), bedding (not the mattress) (1), clothing (alcohol saturated) (2), an oxygen hose (1), paper (3), cloth furniture (2), an ottoman (1), and unknown material (3).

Twelve fires were reported in which an FSC product was the source of ignition and the item first ignited was an item of furniture FSC products are not intended to ignite.

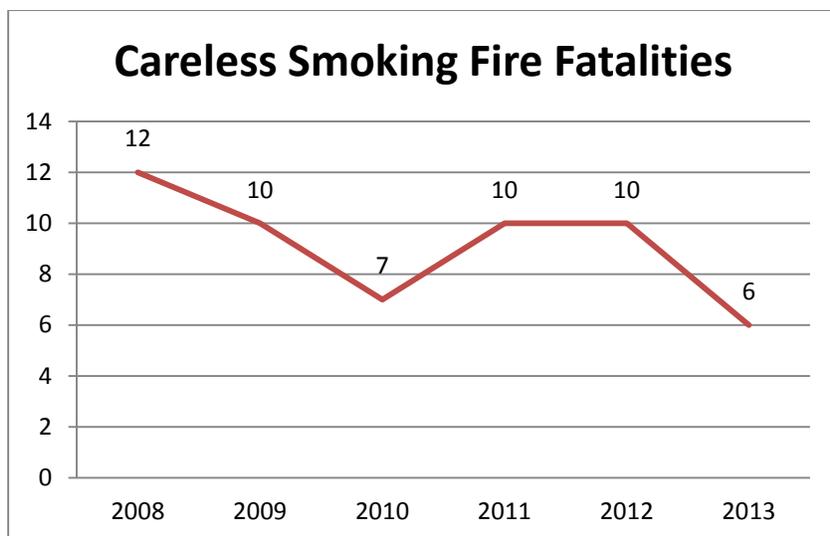
Three of the 14 deaths involving FSC cigarettes involved items (a stuffed chair, a sofa, and an ottoman) addressed by the testing standard.

Cigarette-Caused Fire Fatalities

Data from the Minnesota Fire Incident Reporting System and the Minnesota Department of Health for the years 2008 through 2013 (the latest year complete data is available) was examined to determine the number of fire fatalities where the cause of the fire was determined to be careless smoking. Data shows a decline in the number of those deaths from a high of 12 in 2008 to 6 in 2013.

The variation in this data from that reported above may be the result of deaths that occurred in a health care facility some length of time after the fire. Since the fire service may not have been aware of the death, it would not have been reported either through MFIRS or the Supplemental Cigarette-caused Fire Report.

Year	2008	2009	2010	2011	2012	2013
Deaths	12	10	7	10	10	6



Conclusion

While careless smoking remains a leading cause of building fires, particularly in residential property, examination of data covering the period from 2008 through 2013 shows a decline in the number of cigarette-caused building fires where the item first ignited was upholstered furniture or a mattress.

What will never be known is how many fires were prevented by the FSC standard, since it is unlikely a property owner would notify the fire department of such an occurrence.

No cigarette is “fire safe.” As with all fire prevention efforts, personal responsibility is the key to success. Smokers need constant reminders to use deep, sturdy ash trays, make certain cigarettes are extinguished, and never toss hot cigarette butts or ashes in a trash can. Those who smoke in the home should be reminded to check for cigarette butts under sofa and chair cushions, and to never smoke where oxygen is being used.

Those who smoke outdoors must remember combustible materials, such as dry grass, leaves, and similar items, can be ignited by careless disposal of any smoking material.

The FSC standard helps. The FSC law helps. People make the real difference.

APPENDIX A

299F.850 CIGARETTE FIRE SAFETY DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 299F.850 to 299F.859 have the meanings given them in this section.

Subd. 2. **Agent.** "Agent" means any person licensed by the commissioner of revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

Subd. 3. **Cigarette.** "Cigarette" means any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Subd. 4. **Manufacturer.** "Manufacturer" means:

(1) any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in the state, including cigarettes intended to be sold in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(3) any entity that becomes a successor of an entity described in clause (1) or (2).

Subd. 5. **Quality control and quality assurance program.** "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in section 299F.851, subdivision 1, paragraph (g), for all test trials used to certify cigarettes in accordance with sections 299F.850 to 299F.859.

Subd. 6. **Repeatability.** "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

Subd. 7. **Retail dealer.** "Retail dealer" means any person, other than a wholesale dealer, engaged in selling cigarettes or tobacco products.

Subd. 8. **Sale.** "Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. 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, are considered sales.

Subd. 9. **Sell.** "Sell" means to make a sale or to offer or agree to make a sale.

Subd. 10. **Wholesale dealer.** "Wholesale dealer" means any person who (1) sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale or (2) owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Sec. 11. [299F.851] TEST METHOD AND PERFORMANCE STANDARD.

Subdivision 1. **Requirements.** (a) Except as provided in this subdivision, no cigarettes may be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless (1) the cigarettes have been tested in accordance with the test method and have met the performance standard specified in this section, (2) a written certification has been filed by the manufacturer with the state fire marshal in accordance with section 299F.852, and (3) the cigarettes have been marked in accordance with section 299F.853.

(b) Testing of cigarettes must be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(c) Testing must be conducted on ten layers of filter paper.

(d) No more than 25 percent of the cigarettes tested in a test trial in accordance with this section may exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

(e) The performance standard required by this subdivision must only be applied to a complete test trial.

(f) Written certifications must be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal.

(g) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value must be no greater than 0.19.

(h) This subdivision does not require additional testing if cigarettes are tested consistent with sections 299F.850 to 299F.859 for any other purpose.

(i) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required must be conducted in accordance with this section.

Subd. 2. Permeability bands. Each cigarette listed in a certification submitted pursuant to section 299F.852 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section must have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band must be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands fully located at least 15 millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

Subd. 3. Equivalent test methods. A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in subdivision 1, paragraph (b), shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subdivision 1, paragraph (d), the manufacturer may employ such test method and performance standard to certify the cigarette pursuant to section 299F.852. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this subdivision, and the state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this subdivision, then the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under

sections 299F.850 to 299F.859. All other applicable requirements of this section apply to the manufacturer.

Subd. 4. **Civil penalty.** Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state fire marshal and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request is subject to a civil penalty not to exceed \$10,000 for each day after the 60th day that the manufacturer does not make such copies available.

Subd. 5. **Future ASTM Standards.** The state fire marshal may, by written order published in the State Register, adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in subdivision 1, paragraph (d). A determination by the state fire marshal under this subdivision is exempt from the rulemaking provisions of chapter 14, and section 14.386 does not apply.

Subd. 6. **Report to legislature.** The state fire marshal shall review the effectiveness of this section and report findings every three years to the legislature and, if appropriate, make recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations must be submitted no later than January 2 of each three-year period.

Subd. 7. **Inventory before state standards.** The requirements of subdivision 1 do not prohibit wholesale or retail dealers from selling their existing inventory of cigarettes on or after the effective date of this section if the wholesale or retail dealer can establish that state tax stamps were affixed to the cigarettes before the effective date of this section, and if the wholesale or retail dealer can establish that the inventory was purchased before the effective date of this section in comparable quantity to the inventory purchased during the same period of the previous year.

Subd. 8. **Implementation.** This section must be implemented in accordance with the implementation and substance of the New York "Fire Safety Standards for Cigarettes."

Sec. 12. [299F.852] CERTIFICATION AND PRODUCT CHANGE.

Subdivision 1. **Attestation.** Each manufacturer shall submit to the state fire marshal a written certification attesting that each cigarette listed in the certification:

- (1) has been tested in accordance with section 299F.851; and
- (2) meets the performance standard set forth in section 299F.851, subdivision 1, paragraph (d).

Subd. 2. **Description.** Each cigarette listed in the certification must be described with the following information:

- (1) brand or trade name on the package;
- (2) style, such as light or ultra light;
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor, such as menthol or chocolate, if applicable;
- (6) filter or nonfilter;
- (7) package description, such as soft pack or box;
- (8) marking approved in accordance with section 299F.853;

(9) the name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(10) the date that the testing occurred.

Subd. 3. **Information availability.** The certifications must be made available to the attorney general for purposes consistent with this section and the commissioner of revenue for the purposes of ensuring compliance with this subdivision.

Subd. 4. **Recertification.** Each cigarette certified under this subdivision must be recertified every three years.

Subd. 5. **Fee.** For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a \$250 fee, to be deposited in the reduced cigarette ignition propensity account described in section 299F.857.

Subd. 6. **Retesting.** If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by sections 299F.850 to 299F.859, that cigarette must not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in section 299F.851 and maintains records of that retesting as required by section 299F.851. Any altered cigarette that does not meet the performance standard set forth in section 299F.851 may not be sold in this state.

Sec. 13. [299F.853] MARKING AND CIGARETTE PACKAGING.

(a) Cigarettes that are certified by a manufacturer in accordance with section 299F.852 must be marked to indicate compliance with the requirements of section 299F.851. The marking must be in eight-point type or larger and consist of:

(1) modification of the product UPC code to include a visible mark printed at or around the area of the UPC code, which may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of sections 299F.850 to 299F.859.

(b) A manufacturer shall use only one marking and shall apply this marking uniformly for all brands marketed by that manufacturer and all packages, including but not limited to packs, cartons, and cases.

(c) The state fire marshal must be notified as to the marking that is selected.

(d) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve any marking in use and approved for sale in New York pursuant to the New York "Fire Safety Standards for Cigarettes." Proposed markings are deemed approved if the state fire marshal fails to act within ten business days of receiving a request for approval.

(e) No manufacturer shall modify its approved marking unless the modification has been approved by the state fire marshal in accordance with this section.

(f) Manufacturers certifying cigarettes in accordance with section 299F.852 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the package marking

utilized by the manufacturer pursuant to this section for each retail dealer to which the wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to whom they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the commissioner of revenue, the attorney general, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

Sec. 14. [299F.854] PENALTIES AND REMEDIES.

Subdivision 1. Wholesale. (a) A manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section 299F.851 is liable to a civil penalty:

- (1) for a first offense, not to exceed \$10,000 per each sale of such cigarettes; and
- (2) for a subsequent offense, not to exceed \$25,000 per each sale of such cigarettes.

(b) However, the penalty against any such person or entity for a violation under paragraph (a) must not exceed \$100,000 during any 30-day period.

Subd. 2. Retail. (a) A retail dealer who knowingly sells cigarettes in violation of section 299F.851 is liable to a civil penalty for a first offense, not to exceed:

(1) \$500, and for a subsequent offense, not to exceed \$2,000, per each sale or offer for sale of such cigarettes, if the total number sold or offered for sale does not exceed 1,000 cigarettes; or

(2) \$1,000, and for a subsequent offense, not to exceed \$5,000, per each sale or offer for sale of such cigarettes, if the total number sold or offered for sale exceeds 1,000 cigarettes.

(b) However, the penalty against any retail dealer must not exceed \$25,000 during any 30-day period.

Subd. 3. False certification. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to this subdivision is, for a first offense, liable to a civil penalty of at least \$75,000, and for a subsequent offense a civil penalty not to exceed \$250,000 for each false certification.

Subd. 4. Violation of other provision. Any person violating any other provision in sections 299F.850 to 299F.859 is liable to a civil penalty for a first offense not to exceed \$1,000, and for a subsequent offense a civil penalty not to exceed \$5,000, for each violation.

Subd. 5. Forfeiture. Cigarettes that have been sold or offered for sale that do not comply with the performance standard required by section 299F.851 are subject to forfeiture under section 297F.21 and, upon judgment of forfeiture, shall be destroyed; provided, however, that before destroying any cigarettes seized in accordance with section 297F.21, which seizure is hereby authorized, the true holder of the trademark rights in the cigarette brand must be permitted to inspect the cigarette.

Subd. 6. Remedies. In addition to any other remedy provided by law, the state fire marshal or attorney general may institute a civil action in district court for a violation of this section, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation under this section, including enforcement costs relating to the specific violation and attorney fees. Each violation of sections 299F.850 to 299F.859 or of rules adopted under sections 299F.850 to 299F.859 constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

Sec. 15. [299F.855] IMPLEMENTATION.

Subdivision 1. **Rules.** The commissioner of public safety, in consultation with the state fire marshal, may adopt rules, pursuant to chapter 14, necessary to effectuate the purposes of sections 299F.850 to 299F.859.

Subd. 2. **Commissioner of revenue.** The commissioner of revenue in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under chapter 297F, may inspect cigarettes to determine if the cigarettes are marked as required by section 299F.853. If the cigarettes are not marked as required, the commissioner of revenue shall notify the state fire marshal.

Sec. 16. [299F.856] INSPECTION.

To enforce sections 299F.850 to 299F.859, the attorney general and the state fire marshal may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is hereby directed and required to give the attorney general and the state fire marshal the means, facilities, and opportunity for the examinations authorized by this section.

Sec. 17. [299F.857] REDUCED CIGARETTE IGNITION PROPENSITY ACCOUNT.

The reduced cigarette ignition propensity account is established in the state treasury. The account consists of all money recovered as penalties under section 299F.854 and fees collected under section 299F.852, subdivision 5. The money must be deposited to the credit of the account and, in addition to any other money made available for such purpose, is appropriated to the state fire marshal for costs associated with sections 299F.850 to 299F.859.

Sec. 18. [299F.858] SALE OUTSIDE OF MINNESOTA.

Sections 299F.850 to 299F.859 do not prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 299F.851 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in Minnesota.

Sec. 19. [299F.859] LOCAL REGULATION.

Notwithstanding any other provision of law, the local governmental units of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of sections 299F.850 to 299F.858 or with any policy of this state expressed by sections 299F.850 to 299F.858, whether that policy be expressed by inclusion of a provision in sections 299F.850 to 299F.858 or by exclusion of that subject from sections 299F.850 to 299F.858.

APPENDIX B
 Total Certified Fire Standard Compliant Cigarettes
 By Manufacturer/Total Fee Revenue

ExpiryDate	11/30/2017
Manufacturer Name	Count
British American Tobacco-Switzerland	5
Commonwealth Brands, Inc.	59
Grand River Enterprises Six	45
Kretek International, Inc.	1
KT&G	25
Liggett Group LLC	68
Lignum-2, Inc.	9
Lorillard Tobacco Company	43
NASCO Products, LLC	4
Philip Morris USA Inc.	153
R.J. Reynolds Tobacco Co., Inc.	135
Santa Fe Natural Tobacco Company, Inc.	13
Sherman's 1400 Broadway NYC, LTD.	23
Smokin Joes	34
Tantus Tobacco LLC	16
Vector Tobacco, Inc.(dba Medallion Brands)	25
Winner Company	9
Grand Total	667

Certification fee per brand style	\$250.00
Total Fee Revenue	\$166,750.00