

# MINNESOTA DEPARTMENT OF PUBLIC SAFETY

## STATE FIRE MARSHAL DIVISION



### FIRE STANDARD COMPLIANT CIGARETTE PROGRAM

MINNESOTA STATUTE 299F.850

### REPORT TO THE MINNESOTA LEGISLATURE

December 2018

## **SUMMARY**

Implementation of the Fire Standard Compliant (FSC) Cigarette Law, MS 299F.850-859 (see Appendix A), began on Dec. 1, 2008. Effective that date, only cigarettes meeting the requirements of the FSC program could be sold in Minnesota, the 18th state to implement similar legislation. All 50 states have now enacted similar laws based on the same national model that forms the basis of Minnesota's law.

The State Fire Marshal Division (SFMD) certifies cigarette brand styles that are in compliance with the Minnesota law. Certification must be renewed every three years 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 the American Society for Testing and Materials (ASTM) Standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes," or an equivalent test method approved by the SFMD. All Minnesota products are currently certified to the ASTM standard.

The testing standard is designed to measure the ignition propensity (that is, the likelihood of burning) of a cigarette when left unattended in an ash tray or dropped on upholstered furniture or a bare mattress. If the propensity is low, that still does not make them "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, which is usually a sample of 40 cigarettes.

The Minnesota law allowed an unspecified "grace period" for 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, 700-900 people die each year in fires caused by careless use of cigarettes. Property damage from such fires causes hundreds of thousands of 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.

## NATIONAL TESTING STANDARDS

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.



*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 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 above. 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.

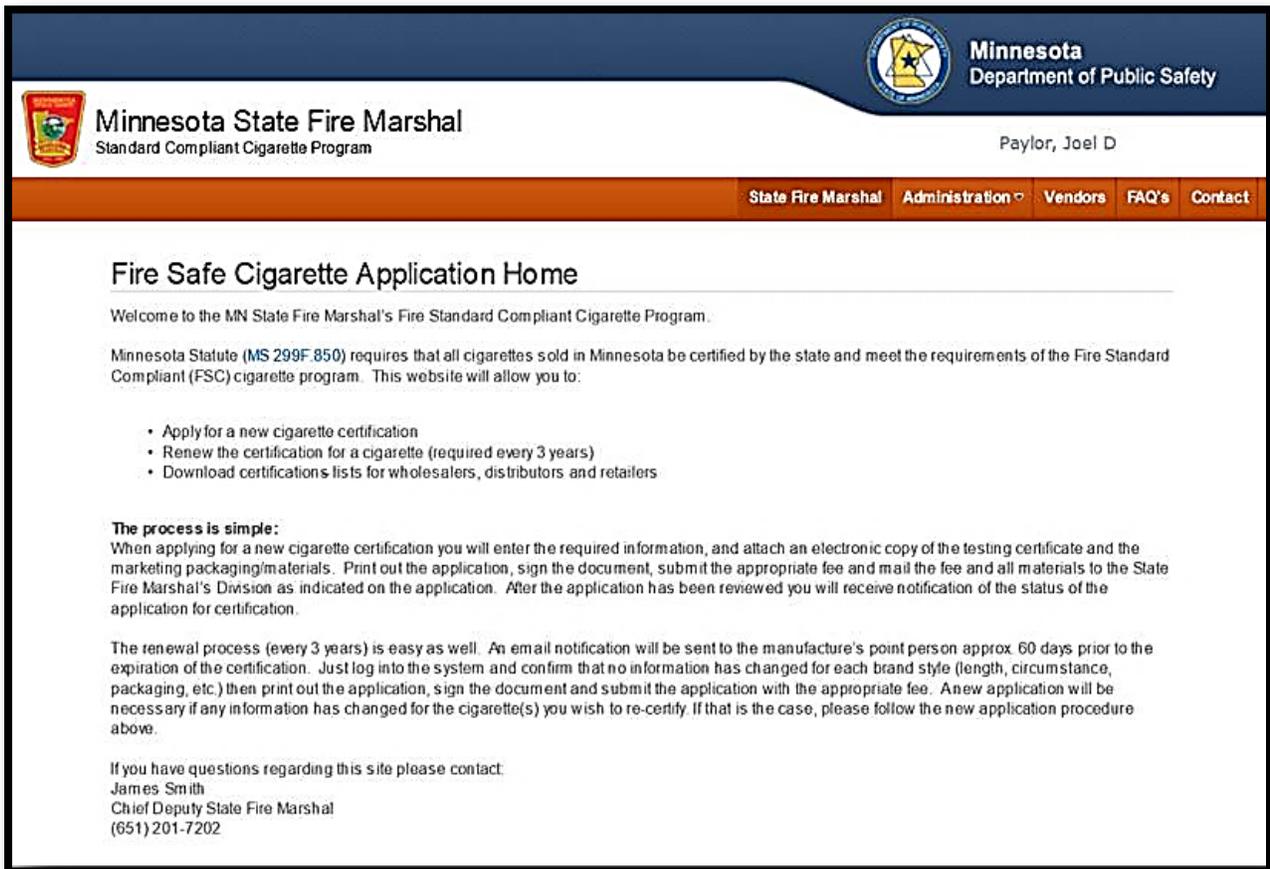
The standard allows for a 25 percent failure rate. In other words, of the 20 cigarettes in a pack, five could fail the test and the product still be considered FSC compliant.

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.

## WEBSITE

The SFMD established a [page within its website](#) to disseminate FSC program information to manufacturers, wholesalers, retail outlets, the fire service and the general public.

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, and suggestions for safe smoking practices.



The screenshot shows the website for the Minnesota State Fire Marshal's Standard Compliant Cigarette Program. The header includes the Minnesota State Fire Marshal logo and the Minnesota Department of Public Safety logo. The name of the State Fire Marshal, Joel D. Paylor, is displayed. A navigation menu contains links for State Fire Marshal, Administration, Vendors, FAQ's, and Contact. The main content area is titled "Fire Safe Cigarette Application Home" and includes a welcome message, a reference to Minnesota Statute MS 299F.850, a list of actions users can take, and detailed instructions for the application and renewal processes. Contact information for James Smith, Chief Deputy State Fire Marshal, is provided at the bottom.

**Minnesota State Fire Marshal**  
Standard Compliant Cigarette Program

Minnesota Department of Public Safety

Paylor, Joel D

State Fire Marshal Administration Vendors FAQ's Contact

### Fire Safe Cigarette Application Home

Welcome to the MN State Fire Marshal's Fire Standard Compliant Cigarette Program.

Minnesota Statute (MS 299F.850) requires that all cigarettes sold in Minnesota be certified by the state and meet the requirements of the Fire Standard Compliant (FSC) cigarette program. This website will allow you to:

- Apply for a new cigarette certification
- Renew the certification for a cigarette (required every 3 years)
- Download certifications lists for wholesalers, distributors and retailers

**The process is simple:**  
When applying for a new cigarette certification you will enter the required information, and attach an electronic copy of the testing certificate and the marketing packaging/materials. Print out the application, sign the document, submit the appropriate fee and mail the fee and all materials to the State Fire Marshal's Division as indicated on the application. After the application has been reviewed you will receive notification of the status of the application for certification.

The renewal process (every 3 years) is easy as well. An email notification will be sent to the manufacture's point person approx. 60 days prior to the expiration of the certification. Just log into the system and confirm that no information has changed for each brand style (length, circumstance, packaging, etc.) then print out the application, sign the document and submit the application with the appropriate fee. A new application will be necessary if any information has changed for the cigarette(s) you wish to re-certify. If that is the case, please follow the new application procedure above.

If you have questions regarding this site please contact:  
James Smith  
Chief Deputy State Fire Marshal  
(651) 201-7202

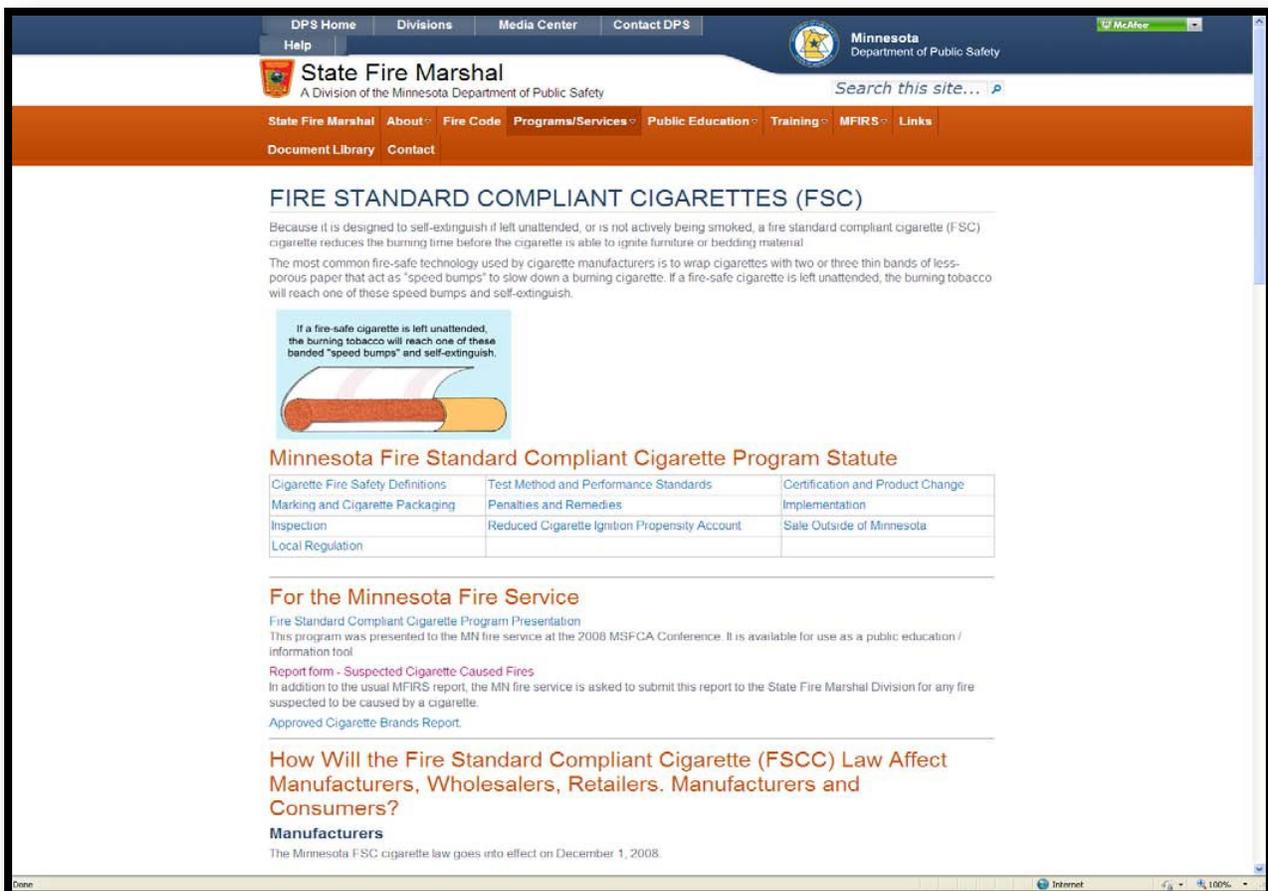
## DATABASE DEVELOPMENT

Initial certifications were processed manually, which proved to be a time-consuming procedure. In 2011, the SFMD 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 SFMD website.

Funding for the development of this database was provided by the revenue generated by the FSC program fees schedule.



The screenshot shows the website for the Minnesota State Fire Marshal, a division of the Minnesota Department of Public Safety. The page is titled "FIRE STANDARD COMPLIANT CIGARETTES (FSC)". It explains that FSC cigarettes are designed to self-extinguish if left unattended. A diagram shows a cigarette with "speed bumps" on the filter. Below the diagram is a table of links for the Minnesota Fire Standard Compliant Cigarette Program Statute. The table has three columns: Cigarette Fire Safety Definitions, Test Method and Performance Standards, and Certification and Product Change Implementation. The first column contains links for Marking and Cigarette Packaging, Inspection, and Local Regulation. The second column contains links for Penalties and Remedies and Reduced Cigarette Ignition Propensity Account. The third column contains links for Implementation and Sale Outside of Minnesota. Below the table, there are sections for "For the Minnesota Fire Service" and "How Will the Fire Standard Compliant Cigarette (FSC) Law Affect Manufacturers, Wholesalers, Retailers, Manufacturers and Consumers?".

**State Fire Marshal**  
A Division of the Minnesota Department of Public Safety

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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 Implementation
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.

## **REVENUES**

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.

- **This resulted in a total of \$297,500 in fee revenues.**

The first round of applications for recertification was due by Nov. 30, 2011. Several manufacturers chose not to renew all the brand styles initially submitted. A total 795 brand styles were submitted and approved for recertification.

- **This resulted in a total of \$198,750 in fee revenues.**

As of December 2018, 20 manufacturers certified or renewed applications for 1,064 brands/styles of cigarettes for sale in Minnesota.

- **This resulted in a total of \$266,000 in fee revenues.**

R.J. Reynolds Company was the manufacturer with the largest number of certified brand styles (262), followed by Philip Morris USA (184) and Xcaliber International, LTD., LLC (115).

## **ENFORCEMENT ACTIONS**

Random inspections of retail outlets have (and will) continued to ensure that cigarettes sold in Minnesota are only from manufacturers who have had their brands certified.

## **FIRE INCIDENT REPORTING – CIGARETTE-CAUSED BUILDING FIRES**

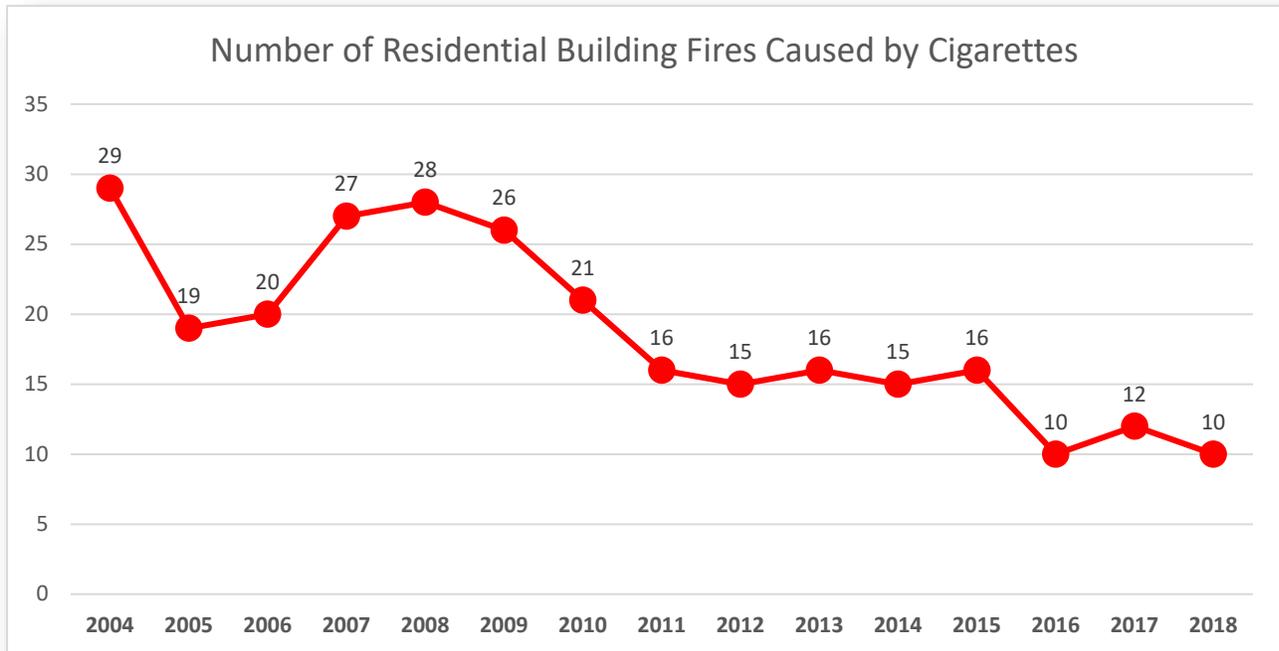
Information about cigarette-caused fires is obtained from two reporting sources: The Minnesota Fire Incident Reporting System (MFIRS) and a supplemental Cigarette-Caused Fire Report. The MFIRS report provides general information about the fire incident, while the supplemental report provides details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

### Minnesota Fire Incident Reporting System Data

Data from MFIRS for the years 2004 through 2017, the latest year complete data is available, was examined to determine the number of cigarette-caused fires in residential properties where the item first ignited was one for which FSC products are intended to reduce the potential for ignition (such as upholstery).

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012
Fires	29	19	20	27	28	26	21	16	15

Year	2013	2014	2015	2016	2017	2018*
Fires	16	15	16	10	12	10



\* 2018 data was incomplete at the time of this report

This data shows a decline in the number of such fires from a high of 29 in 2004 to 10 in 2016 and 2018 (preliminary but incomplete data). The FSC statute was effective December 2008. Given the grace period provided in the 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.

Data for two five-year periods of time (one period before enactment and implementation of the FSC program and the other period of the most recent years) shows a 43.9 percent decrease in cigarette-caused residential building fires.

<b>Years:</b>	<b>Average Number of Residential Building Fires Caused by Cigarettes</b>
2004-2008	24.6
2013-2017	13.8

## **CIGARETTE-CAUSED FATALITIES**

Data from the MFIRS and the Minnesota Department of Health for the years 2008 through 2018 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 5 in 2018. (Note: 2018 data is considered “incomplete” until it is finalized in May 2019. There are instances in which a fire victim does not succumb to their injuries until well after the reported fire.)

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018*
Deaths	12	10	7	10	10	6	9	9	7	11	5

\*2018 data incomplete until finalized in May 2019



## **CONCLUSION**

Although careless smoking remains a concerning cause of building fires, particularly in residential property, examination of data covering the period from 2008 through 2018 shows a decline in the number of cigarette-caused building fires where the item first ignited was upholstered furniture or a mattress. What the data cannot show is the number of fires *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 that 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 never to 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.