

Memorandum in Opposition to AB 2200: The "Fire-Safe Cigarette Act of 1998"

Summary: AB 2200 would require the State Fire Marshal to develop and adopt cigarette fire safety performance standards by July 1, 1999. No indication is given as to how the State Fire Marshal could accomplish this highly technical and complex assignment, how the state would fund the massive research that federal studies have determined is essential, or how the State will make up the excise tax revenues it stands to lose.

- Six years of federally funded research on the issue of "fire-safe" cigarettes concluded with a report that questioned the effectiveness of a cigarette fire safety standard and noted that such regulations may do more harm than good. This research, concluded in 1993 with a final report to the U.S. Congress from the Consumer Product Safety Commission (CPSC), stated "it is unclear that such a standard will effectively address the number of cigarette-ignited fires." Other findings reported to Congress by CPSC:
 - The studies have produced conflicting findings on what changes, if any, might make cigarettes less likely to cause fires.
 - The safety benefits, if any, of a standard have not been determined.
 - Comprehensive health studies would be essential, since "even a small increase in the risk of an adverse health effect could result in a great increase in human and economic costs." These complex studies include work which was judged impractical by CPSC because of the costs or length of time involved or for which adequate test methodology was non-existent.
 - Whether smokers would accept cigarettes that meet such standards is unknown; experimental prototypes have been found to produce significantly increased levels of "tar," carbon monoxide and nicotine.
 - The development of a standard would be beyond the technical capability of the CPSC; and no recommendation was made that Congress authorize or fund further studies into developing a cigarette fire performance standard.
- The "Cigarette Extinction Test Method," which AB2200 would require the State Fire Marshal to adopt, was determined by the CPSC to be the least suitable approach for future research on a cigarette fire performance standard.
- AB 2200 would divert the limited resources of the State Fire Marshal away from fire safety programs that are known to work and give the office six months to solve complex multidisciplinary technical issues that six years of federal research and several million dollars failed to resolve. The State Fire Marshal's office would be overwhelmed with complex, technical issues that the CPSC, Department of Health and Human Services, and the National Institute of Standards and Technology failed to resolve.

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- **AB2200 overlooks the fact that careless smoking fire deaths in California have dropped by 80% since 1985 as a result of proven fire safety strategies, such as California's ground-breaking work on upholstered furniture standards, the wider use of smoke detectors, improved fire safety education, and mattress fire resistance standards. In fact, California fire deaths attributed to careless smoking have seen a greater decline (by nearly 40%) since 1985 than fire deaths of all other types combined. In addition, careless smoking fires now only make up 4% of all California fires, according to the California Fire Incident Reporting System. Although even a single fire death is one too many, CPSC noted in its 1993 report that "not all smoking fires are addressable" by regulatory measures. No state law or regulation can change the fact that cigarettes are meant to be lit.**
- **Claims that a "fire-safe" cigarette standard would prevent real-world fires have been rejected. In *Kearny v. Philip Morris*, a federal court ruled that the claim that federal laboratory research on cigarettes could predict whether an actual fire would occur "does not survive reasoned scrutiny." The Canadian Minister of National Health and Welfare also reported in April 1996 that it has not been "determined whether a 'fire-safe' cigarette would contribute to an overall improvement to the health of Canadians."**
- **Since CPSC noted that the commercial feasibility of cigarettes meeting a "fire-safe" standard, including the "Cigarette Extinction Test Method," is still in question, the likely effect of a California standard is that it would exacerbate the already severe problem of cigarette smuggling, and put nearly \$900 million in annual state tobacco and sales tax revenues at risk. In 1995, a spokesman for the California Board of Equalization, John Ledford, stated that "our best estimate is that the annual impact [of cigarette smuggling] is somewhere between \$50 million and \$125 million lost to the state." Such tax losses represent as much as 18% of California's tax-paid sales. If the proposed "fire-safe" standard leads to the removal of the most popular brands of cigarettes from the California market, California can be expected to be overrun by contraband product. The economic cost of lost excise, sales, and income tax revenues, and further diversion of cigarette sales from law-abiding retailers would do terrible economic harm to California.**

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