

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1171  
Protection Act Enforcement Fund

Reduced Cigarette Ignition Propensity Standard and Firefighter

**SPONSOR(S):** Legg

**TIED BILLS:** HB 1167

**IDEN./SIM. BILLS:** SB 2584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Jobs &amp; Entrepreneurship Council</u>	_____	<u>Livingston/Topp</u>	<u>Thorn</u>
2) <u>Policy &amp; Budget Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

HB 1167, tied to this bill, creates s. 633.042, F.S., to implement requirements that all cigarettes sold in Florida be tested in accordance with specific test methods and meet specified performance standards.

This bill creates the Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act Enforcement Fund as s. 633.042(5)(f)1., F.S. The balance in the trust fund remains in the trust fund at the end of any fiscal year to be available for carrying out the purposes of the fund. The trust fund is to be terminated on January 1, 2014, unless terminated sooner.

The bill creates a new trust fund, therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

The bill provides an effective date of January 1, 2010, if HB 1167 or substantially similar legislation is adopted in the same legislative session and becomes law.

This bill does not have any costs associated with it; however, it is linked with HB 1167 which is expected to create expenditures for the Department of Business and Professional Regulation.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present situation

Section 19(f), Art. III of the State Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

The State Constitution also specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. A bill that creates a trust fund should specify the trust fund's date of termination.

Furthermore, the Legislature has articulated statutory criteria, s. 215.3207, F.S., governing the establishment of trust funds. The statutory language creating a trust fund must, at a minimum, specify the following:

- The name of the trust fund;
- The agency or branch of state government responsible for the administration of the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of monies or receipts to be credited to or deposited in the trust fund.

##### Effect of proposed changes

HB 1171 creates s. 633.042(5)(f)1., F.S., which provides for the Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act Enforcement Fund.

This bill specifies that the trust fund revenues be made available to the Division of Alcoholic Beverages and Tobacco to support processing, testing, enforcement, and oversight activities required by the provisions of HB 1167.

HB 1167, tied to this bill, places the new cigarette testing program with the Division of Alcoholic Beverages and Tobacco, with compliance inspections placed with the Department of Revenue. The bill requires manufacturers to submit written certification that each cigarette listed in the certification has been tested and meets the performance standards in accordance with the provisions of the bill. The fee for each cigarette certified is \$250, and certification fees can be increased annually by the Division of Alcoholic Beverages and Tobacco to cover the costs of the processing, testing, enforcement, and oversight activities required by the bill

HB 1171 specifies that the fund consist of certification fees submitted by manufacturers as required under HB 1167.

#### C. SECTION DIRECTORY:

Section 1. Creates a new trust fund as a depository to receive certification fee revenues relating to the Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act.

Section 2. Effective date - January 1, 2010, if HB 1167 or substantially similar legislation is adopted in the same legislative session and becomes law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

This bill does not have any costs associated with it; however, it is linked with HB 1167 which is expected to create expenditures for the Department of Business and Professional Regulation.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply creates a state trust fund should the tied bill, HB 1167, become law.

2. Other:

The bill creates a new trust fund, therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

### B. RULE-MAKING AUTHORITY:

NA

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**