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# Notice of Public Hearing to Solicit Comments

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

**Agency/Board/Commission:** Department of Commerce and Insurance  
**Division:** Division of Fire Prevention  
**Contact Person:** Patrick Merkel  
500 James Robertson Parkway,  
Davy Crockett Tower, 5<sup>th</sup> Floor  
**Address:** Nashville, TN 37243  
**Phone:** 615-741-2199  
**Email:** Patrick.merkel@state.tn.us

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

**ADA Contact:** Don Coleman  
500 James Robertson Parkway,  
Davy Crockett Tower, 5<sup>th</sup> Floor  
**Address:** Nashville, TN 37243  
**Phone:** 615-741-0481  
**Email:** [Don.coleman@state.tn.us](mailto:Don.coleman@state.tn.us)

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway
Address 2:	Room 160
City:	Nashville
Zip:	37209
Hearing Date:	04/16/09
Hearing Time:	9:00 a.m.
	<input checked="" type="checkbox"/> CST <input type="checkbox"/> EST

**Additional Hearing Information:**

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to solicit public comments on the drafting of rules to implement T. C. A. §§ 68-102-501 et seq., the "Fire Safety Standard and Firefighter Protection Act" (Chapter 920 of Public Acts of 2008).

**Revision Type (check all that apply):**

Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
0780-2-22	Fire Safe Cigarettes
<b>Rule Number</b>	<b>Rule Title</b>
0780-2-22-.01	Definitions
0780-2-22-.02	Certification
0780-2-22-.03	Test Standards
0780-2-22-.04	Markings
0780-2-22-.05	Civil Penalties

Chapter 0780-2-22  
Fire Safe Cigarettes  
New Rules

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0780-2-22-.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) "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;

Authority: T.C.A. §§ 68-102-502 and 68-102-507

0780-2-22-.02 Certification

- (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.
- (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 submittal for certification will be considered incomplete if all information required by T. C. A. § 68-102-504 is not completed.
- (4) An incomplete certification submittal shall expire twelve (12) months from the date of receipt.

Authority: T.C.A. §§ 68-102-504 and 68-102-507

0780-2-22-.03 Test Standards

The testing of cigarettes shall meet the requirements in T. C. A. § 68-102-503.

Authority: T.C.A. §§ 68-102-503 and 68-102-507

0780-2-22-04 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.

Authority: T.C.A. §§ 68-102-505 and 68-102-507

0780-2-22-05 Civil Penalties

The Commissioner 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 Commissioner 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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of the public hearing as proposed by the agency.



Date: 02/26/09

Signature: [Handwritten Signature]

Name of Officer: Patrick W. Merkel

Title of Officer: Chief Counsel for Fire Prevention and Law Enforcement

Subscribed and sworn to before me on: 2/26/09

Notary Public Signature: [Handwritten Signature]

My commission expires on: 3/5/12

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Filed with the Department of State on: 02/27/09

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[Handwritten Signature]  
Tre Hargett  
Secretary of State