

HOUSE BILL REPORT

HB 1015

As Reported by House Committee On:
Commerce & Labor
General Government Appropriations

Title: An act relating to fire safety standards for novelty lighters.

Brief Description: Prohibiting the sale or distribution of certain novelty lighters.

Sponsors: Representatives Simpson, O'Brien, Haler, Ericks, Seaquist, Conway, Haigh, Hurst, Chase, Morrell, Nelson, Sells, Williams, Liias and Moeller.

Brief History:

Committee Activity:

Commerce & Labor: 1/21/09, 2/13/09 [DPS];

General Government Appropriations: 2/25/09 [DPS(CL)].

Brief Summary of Substitute Bill

- Prohibits the sale and distribution of novelty lighters.
- Authorizes the Director of Fire Protection and local agencies to enforce these provisions.
- Creates the Novelty Lighter Fire Safety Account in the custody of the State Treasurer.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152)

Background:

The Office of the State Fire Marshal, Fire Protection Bureau (Bureau) is within the Washington State Patrol and provides various services to fire districts, government agencies,

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and the public. Examples of these services include coordination of the state fire service resources for mobilization during disasters, fire incident reporting and data collection, fire code review and adoption, and construction plan reviews for fire sprinkler and alarm systems. The Bureau also regulates the fireworks and sprinkler industries. In addition, the Bureau provides high-risk fire training to fire departments and fire protection districts, hazardous materials training, and fire prevention education.

Summary of Substitute Bill:

The sale and distribution of novelty lighters is prohibited. This prohibition does not apply to novelty lighters in interstate commerce that are not intended for distribution in the state. Wholesalers and retailers may continue to sell existing inventory for 90 days after this prohibition goes into effect.

A novelty lighter has features that are attractive to children including visual effects, flashing lights, musical sounds, and toy-like designs. In determining whether a lighter can be considered a novelty lighter, the Director of Fire Protection (Director) must consider the shape of the lighter as the most important characteristic. Examples of novelty lighters are lighters that are clearly intended to be shaped like cartoon characters, toys, musical instruments, vehicles, animals, the human body, food or beverages, weaponry, furniture, sports equipment, holiday symbols, tools, fire extinguishers, cell phones, vases, boots, shoes, toasters, traffic lights, light bulbs, pens, pencils, magic markers, coffee cups, fishing poles, money, propane tanks, gas cans, cigarettes, clothing items, cameras, picture frames, or flowers. A novelty lighter is not a disposable lighter that is printed or decorated with logos, decals, artwork, or heat shrinkable sleeves.

The Director may enter into cooperative agreements with state or local agencies to act as authorized representatives of the Director for purposes of enforcement.

Several provisions are included for the enforcement of the prohibition. The Director or authorized agency may impose a civil penalty that may not exceed:

- for a manufacturer, \$10,000 per violation per day;
- for a wholesale dealer, \$1,000 per violation per day; and
- for a retail dealer, \$500 per violation per day.

At the request of the Director, the Attorney General may bring an action seeking:

- injunctive relief to prevent or end a violation;
- to recover civil penalties; or
- to recover attorneys' fees and other enforcement costs.

The Novelty Lighter Fire Safety Account (Account) is created in the custody of the State Treasurer. All receipts from the imposition of civil penalties must be deposited to the Account or into the appropriate local account. Expenditures from the Account may be used only for fire safety, enforcement, and prevention programs. Only the Director or the Director's designee may authorize expenditures from the Account.

Substitute Bill Compared to Original Bill:

The definition of "novelty lighter" is clarified to emphasize that lighters printed or decorated with logos, decals, artwork, or heat shrinkable sleeves are not included. The authority of the Director to seize and destroy lighters, and inspect the inventory of manufacturers, dealers, and transporters is removed. Penalties collected by local enforcement agencies may be deposited into appropriate local accounts instead of the Account.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a top priority for fire chiefs. Children will play with lighters if they look like toys so it is important to take measures to prevent that. These types of lighters must be kept out of the hands of children because they are indistinguishable from toys. There are legitimate reasons for having lighters, but playing with the lighters is not one of them. The prevention of fire-related deaths and serious injuries is important. A bad burn will scar a child for life. Stays in the intensive care unit and rehabilitation are costly and time-consuming.

The City of Yakima imposed a ban which was successful and largely supported by retailers. Firefighters in the city had several burns caused by novelty lighters and wanted to prevent serious injuries and fatalities. Tennessee and Maine have already imposed a ban and several other states are considering one. There is no national legislation so it is necessary to go state-by-state. Most of the information about injuries related to these lighters is anecdotal at this point because data is just beginning to be collected.

(In support with concerns) The definition of "novelty lighter" could be tightened to make sure that the ban does not reach too far. The parties are working together on language that addresses this issue. The Liquor Control Board might be a better enforcement agency and funds could be put in the Liquor Revolving Fund.

(Opposed) None.

Persons Testifying: (In support) Representative Simpson, prime sponsor; Mike Brown and Gordon Walgren, Washington State Association of Fire Chiefs; Ron Melcher, Yakima Fire Department; Carolyn Blayney, Harborview Burn Center; Mary Borges, Washington State Department of Health; and Nancy Mendoza, Northwest Burn Center.

(In support with concerns) T.K. Bentler, Washington Association of Neighborhood Stores.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells, Van De Wege and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Hinkle, Assistant Ranking Minority Member; Armstrong and Short.

Staff: Alex MacBain (786-7288)

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Commerce & Labor:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Washington Fire Chiefs' theme is that if it is predictable it is preventable. Novelty lighters will be confused with toys and children will cause fires with them. The substitute bill has a reasonable fiscal note, however, our members expect to do all the work and would expect the costs to the state to be even less. In some jurisdictions, novelty lighters have been banned and sales of the lighters stopped. Similar legislation is being proposed in ten other states. There is an interstate commerce provision in the bill which allows novelty lighters to be transported through the state, just not sold in the state.

(Opposed) None.

Persons Testifying: Mike Brown, Washington Fire Chiefs.

Persons Signed In To Testify But Not Testifying: None.