

# HOUSE BILL REPORT

## ESSB 5011

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**As Reported by House Committee On:**  
Commerce & Labor

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

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

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kauffman, Kohl-Welles, Kline and Keiser).

**Brief History:**

**Committee Activity:**

Commerce & Labor: 3/20/09, 3/25/09 [DPA].

**Brief Summary of Engrossed Substitute Bill  
(As Amended by House)**

- Prohibits the sale and distribution of novelty lighters.
- Authorizes jurisdictions that enforce the State Fire Code to enforce the prohibition and impose civil penalties.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. 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 State Building Code (Code) is a set of national model codes and standards, adopted into state law by reference, that regulate the construction, reconstruction, rehabilitation, or repair of residential, commercial, and industrial buildings and structures throughout the state. The Code currently includes the following model codes: the International Building Code; the International Residential Code; the International Mechanical Code; the International Fire Code; the Uniform Plumbing Code, but not those provisions relating to fuel gas piping; the

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State Energy Code; the State Ventilation and Indoor Air Quality Code; and certain provisions of the National Fuel Gas Code.

The minimum standards and requirements of the Code are applicable in all cities and counties. A local government may enact a provision different from the Code as long as it does not fall below minimum standards. Local jurisdictions are responsible for enforcing the Code. Any county or city that does not have a building department must contract with another county, city, or inspection agency approved by the county or city for enforcement of the Code within its jurisdictional boundaries.

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### **Summary of Amended 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. The term considers the shape of the lighter to be the most important characteristic when determining whether a lighter can be considered a novelty lighter. A novelty lighter is not a disposable lighter that is printed or decorated with logos, decals, artwork, or heat shrinkable sleeves.

The "authority having jurisdiction" is defined as the local organization, office, or individual responsible for enforcing the requirements of the State Fire Code. The authority having jurisdiction has authority to enforce the prohibition.

Several provisions are included for the enforcement of the prohibition. The authority having jurisdiction may impose a civil penalty that may not exceed:

- for a wholesale dealer, a written warning for the first violation and \$500 for each subsequent violation; and
- for a retail dealer, a written warning for the first violation and \$250 for each subsequent violation.

The authority having jurisdiction 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.

### **Amended Bill Compared to Original Bill:**

The "authority having jurisdiction" is defined as the local organization, office, or individual responsible for enforcing the requirements of the State Fire Code. The authority having jurisdiction has authority to enforce the prohibition. The Director of Fire Protection's authority to enforce the prohibition and to enter into cooperative enforcement agreements with local governments is removed.

The definition of "retail dealer" is clarified to mean an entity at a single location.

The Novelty Lighter Fire Safety Account is eliminated and penalties must be deposited in an account designated by the authority having jurisdiction.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended 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 bill did well in the Senate and some of the penalty and enforcement provisions were changed. The changes to the penalties section are good because merchants will be warned before they are fined.

The proposed amendment makes it clear that local agencies that are already enforcing the State Fire Code will be responsible for enforcing this prohibition. Having local agencies enforce this is more appropriate. This amendment will remove all of the fiscal impact from the Washington State Patrol. There should also be an amendment to clarify that the definition of "retail dealer" refers to an entity at a single location. Many businesses have several locations. This is similar to the alcohol and tobacco laws.

If it is predictable, it is preventable. These lighters will confuse children and hurt them. This is a significant issue for the safety of children in the state.

(Opposed) None.

**Persons Testifying:** Senator Kauffman, prime sponsor; T.K. Bentler, Washington Association of Neighborhood Stores; Mike Brown, Washington State Association of Fire Chiefs; and Mike Matlick, Washington State Fire Marshal's Office.

**Persons Signed In To Testify But Not Testifying:** None.