

ESSB 5011 - H COMM AMD

By Committee on Commerce & Labor

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Authority having jurisdiction" means the local organization,
6 office, or individual responsible for enforcing the requirements of the
7 state fire code.

8 (2) "Director" means the director of fire protection appointed
9 under RCW 43.43.938.

10 (3) "Distribute" means to do any of the following:

11 (a) Sell novelty lighters or deliver novelty lighters for sale by
12 another person to consumers;

13 (b) Sell or accept orders for novelty lighters that are to be
14 transported from a point outside this state to a consumer within this
15 state;

16 (c) Buy novelty lighters directly from a manufacturer or wholesale
17 dealer for resale in this state;

18 (d) Give novelty lighters as a sample, prize, gift, or other
19 promotion.

20 (4) "Manufacturer" means:

21 (a) An entity that produces, or causes the production of, novelty
22 lighters for sale in this state;

23 (b) An importer or first purchaser of novelty lighters that intends
24 to resell within this state novelty lighters that were produced for
25 sale outside this state; or

26 (c) A successor to an entity, importer, or first purchaser
27 described in (a) or (b) of this subsection.

28 (5)(a) "Novelty lighter" means a lighter that can operate on any
29 fuel, including butane or liquid fuel. Novelty lighters have features
30 that are attractive to children, including but not limited to visual

1 effects, flashing lights, musical sounds, and toylike designs. The
2 term considers the shape of the lighter to be the most important
3 characteristic when determining whether a lighter can be considered a
4 novelty lighter.

5 (b) "Novelty lighter" does not include disposable cigarette
6 lighters or lighters that are printed or decorated with logos, decals,
7 artwork, or heat shrinkable sleeves.

8 (6) "Retail dealer" means an entity at one location, other than a
9 manufacturer or wholesale dealer, that engages in distributing novelty
10 lighters.

11 (7) "Sell" means to transfer, or agree to transfer, title or
12 possession for a monetary or nonmonetary consideration.

13 (8) "Wholesale dealer" means an entity that distributes novelty
14 lighters to a retail dealer or other person for resale.

15 NEW SECTION. **Sec. 2.** (1) A person may not distribute or offer to
16 sell a novelty lighter within this state if the director determines the
17 novelty lighter is prohibited for sale or distribution under this
18 chapter.

19 (2) This section does not apply if the novelty lighters are in
20 interstate commerce and not intended for distribution in this state.

21 (3) The authority having jurisdiction shall enforce the provisions
22 of this chapter.

23 NEW SECTION. **Sec. 3.** (1) The authority having jurisdiction may
24 impose a civil penalty for a violation of this chapter. The civil
25 penalty may not exceed:

26 (a) For a wholesale dealer that distributes or offers to sell
27 novelty lighters to retail dealers or consumers, a written warning for
28 the first violation and a monetary penalty of five hundred dollars for
29 each subsequent violation.

30 (b) For a retail dealer that distributes or offers to sell novelty
31 lighters to consumers, a written warning for the first violation and a
32 monetary penalty of two hundred fifty dollars for each subsequent
33 violation.

34 (2) The authority having jurisdiction may bring an action seeking:

35 (a) Injunctive relief to prevent or end a violation of this
36 chapter;

1 (b) To recover civil penalties imposed under subsection (1) of this
2 section; or

3 (c) To recover attorneys' fees and other enforcement costs and
4 disbursements.

5 (3) Penalties under this section must be deposited in an account
6 designated by the authority having jurisdiction.

7 (4) A district court has jurisdiction over all proceedings brought
8 under this section.

9 NEW SECTION. **Sec. 4.** (1) On the effective date of this section,
10 manufacturers must immediately cease the sale or distribution of
11 novelty lighters in this state.

12 (2) On the effective date of this section, wholesalers and retail
13 dealers have a maximum of ninety days to reduce their current inventory
14 of novelty lighters. In no instance may wholesalers and retail dealers
15 sell or distribute a novelty lighter in this state after ninety days
16 from the effective date of this section.

17 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
18 a new chapter in Title 70 RCW."

19 Correct the title.

EFFECT: Defines "authority having jurisdiction" as the local
organization, office, or individual responsible for enforcing the
requirements of the state fire code.

Clarifies that the definition of "retail dealer" means an entity at
a single location.

Removes the director of fire protection's authority to enforce the
prohibition and to enter into cooperative enforcement agreements with
local governments.

Authorizes the authority having jurisdiction to enforce the
prohibition and impose civil penalties.

Eliminates the novelty lighter fire safety account.

Requires that penalties be deposited in an appropriate account
designated by the authority having jurisdiction.

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