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ENGROSSED SUBSTITUTE SENATE BILL 5011

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State of Washington

61st Legislature

2009 Regular Session

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kauffman, Kohl-Welles, Kline, and Keiser)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to fire safety standards for novelty lighters;  
2 adding a new chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

6 (1) "Director" means the director of fire protection appointed  
7 under RCW 43.43.938.

8 (2) "Distribute" means to do any of the following:

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

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

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

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

18 (3) "Manufacturer" means:

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

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

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

8 (4)(a) "Novelty lighter" means a lighter that can operate on any  
9 fuel, including butane or liquid fuel. Novelty lighters have features  
10 that are attractive to children, including but not limited to visual  
11 effects, flashing lights, musical sounds, and toylike designs. The  
12 term considers the shape of the lighter to be the most important  
13 characteristic when determining whether a lighter can be considered a  
14 novelty lighter.

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

18 (5) "Retail dealer" means an entity, other than a manufacturer or  
19 wholesale dealer, that engages in distributing novelty lighters.

20 (6) "Sell" means to transfer, or agree to transfer, title or  
21 possession for a monetary or nonmonetary consideration.

22 (7) "Wholesale dealer" means an entity that distributes novelty  
23 lighters to a retail dealer or other person for resale.

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

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

30 (3) The director may enter into a cooperative agreement with any  
31 state or local agency that allows the agency to act as an authorized  
32 representative of the director for enforcement purposes under this  
33 section.

34 NEW SECTION. **Sec. 3.** The director may adopt rules to carry out  
35 the requirements of this chapter.

1        NEW SECTION.    **Sec. 4.**    (1) The director may impose a civil penalty  
2 for a violation of this chapter.    The civil penalty may not exceed:

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

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

11        (2) At the request of the director, the attorney general may bring  
12 an action in the name of the state seeking:

13        (a) Injunctive relief to prevent or end a violation of this  
14 chapter;

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

17        (c) To recover attorneys' fees and other enforcement costs and  
18 disbursements.

19        (3) Penalties under this section must be deposited in either the  
20 novelty lighter fire safety account created in section 6 of this act or  
21 an account designated by the local agency with jurisdiction as  
22 authorized under section 2(3) of this act.

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

25        NEW SECTION.    **Sec. 5.**    (1) On the effective date of this section,  
26 manufacturers must immediately cease the sale or distribution of  
27 novelty lighters in this state.

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

33        NEW SECTION.    **Sec. 6.**    The novelty lighter fire safety account is  
34 created in the custody of the state treasurer.    All receipts from  
35 moneys directed to the account must be deposited into the account.  
36 Expenditures from the account may be used only for fire safety,

1 enforcement, and fire prevention programs. Only the director or the  
2 director's designee may authorize expenditures from the account. The  
3 account is subject to allotment procedures under chapter 43.88 RCW, but  
4 an appropriation is not required for expenditures.

5 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute  
6 a new chapter in Title 70 RCW.

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