
SENATE BILL 5011

State of Washington

61st Legislature

2009 Regular Session

By Senators Kauffman, Kohl-Welles, Kline, and Keiser

Read first time 01/12/09. Referred to Committee on Labor, Commerce & Consumer Protection.

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) "Novelty lighter" means a lighter that can operate on any fuel,
9 including butane or liquid fuel. Novelty lighters have features that
10 are attractive to children, including but not limited to visual
11 effects, flashing lights, musical sounds, and toylike designs.
12 "Novelty lighter" does not include disposable cigarette lighters or
13 lighters that are printed or decorated with logos, decals, artwork, or
14 heat shrinkable sleeves. The term considers the shape of the lighter
15 to be the most important characteristic when determining whether a
16 lighter can be considered a novelty lighter. This includes novelty
17 lighters that are clearly intended to be shaped like:

18 (a) Cartoon characters;

19 (b) Toys;

20 (c) Musical instruments;

21 (d) Vehicles;

22 (e) Animals;

23 (f) The human body or parts of the human body;

24 (g) Food or beverages;

25 (h) Weaponry;

26 (i) Furniture;

27 (j) Sports equipment;

28 (k) Holiday symbols;

29 (l) Tools; or

30 (m) Other equipment or household products including, but not
31 limited to, fire extinguishers, cell phones, vases, boots, shoes,
32 toasters, traffic lights, light bulbs, pens, pencils, magic markers,
33 coffee cups, fishing poles, money, propane tanks, gas cans, match
34 sticks, cigarettes, clothing items, cameras, picture frames, flowers,
35 etc.

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

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

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

5 NEW SECTION. **Sec. 2.** A person may not distribute or offer to sell
6 a novelty lighter within this state if the director determines the
7 novelty lighter is prohibited for sale or distribution under this
8 chapter.

9 NEW SECTION. **Sec. 3.** (1) The director, an authorized
10 representative of the director, or any law enforcement agency may
11 immediately seize and subject to forfeiture novelty lighters
12 distributed or offered for sale in violation of section 2 of this act.
13 The director shall destroy novelty lighters seized and forfeited under
14 this subsection. However, prior to the destruction of any novelty
15 lighters seized, the true holder of the trademark rights in the novelty
16 lighter must be permitted to inspect the novelty lighter.

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

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

23 (4) The director or an authorized representative, upon oral or
24 written demand, may inspect the inventory of novelty lighter
25 manufacturers, wholesale or retail dealers, and transporters as the
26 director or the director's authorized representative deems necessary to
27 ensure compliance with this section.

28 NEW SECTION. **Sec. 4.** The director may adopt rules to carry out
29 the requirements of this chapter.

30 NEW SECTION. **Sec. 5.** (1) The director may impose a civil penalty
31 for a violation of this chapter. The civil penalty may not exceed:

32 (a) For a manufacturer that distributes or offers to sell novelty
33 lighters to a wholesale dealer or retail dealer, ten thousand dollars
34 per violation per day.

1 (b) For a wholesale dealer that distributes or offers to sell
2 novelty lighters to retail dealers or consumers, one thousand dollars
3 per violation per day.

4 (c) For a retail dealer that distributes or offers to sell novelty
5 lighters to consumers, five hundred dollars per violation per day.

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

8 (a) Injunctive relief to prevent or end a violation of this
9 chapter;

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

12 (c) To recover attorneys' fees and other enforcement costs and
13 disbursements.

14 (3) Penalties under this section must be deposited in the novelty
15 lighter fire safety account created in section 7 of this act.

16 NEW SECTION. **Sec. 6.** (1) On the effective date of this section,
17 manufacturers must immediately cease the sale or distribution of
18 novelty lighters in this state.

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

24 NEW SECTION. **Sec. 7.** The novelty lighter fire safety account is
25 created in the custody of the state treasurer. All receipts from
26 penalties received under section 5 of this act must be deposited into
27 the account. Expenditures from the account may be used only for fire
28 safety, enforcement, and fire prevention programs. Only the director
29 or the director's designee may authorize expenditures from the account.
30 The account is subject to allotment procedures under chapter 43.88 RCW,
31 but an appropriation is not required for expenditures.

32 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
33 a new chapter in Title 70 RCW.

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