

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 192
Judiciary

(Delegate Malone, *et al.*)

Criminal Law - Sale of Novelty Lighters - Prohibition

This bill prohibits a person from selling or offering to sell a “novelty lighter” at retail or distributing a novelty lighter for retail sales in this State. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition does not apply to (1) a lighter manufactured before January 1, 1980; (2) transportation of a novelty lighter through the State; or (3) storage of a novelty lighter in a warehouse that is not open for retail sales. The bill creates exemptions for lighters that are primarily used for grilling purposes, not capable of being fueled or producing combustion or flame, or standard lighters decorated with artwork or a heat shrinkable sleeve.

The bill defines a “novelty lighter” as a mechanical or electrical device that (1) is typically used for lighting cigarettes, cigars, or pipes; (2) has entertainment features or is designed to resemble a cartoon character or certain objects, including a toy, gun, or vehicle; and (3) operates on any fuel.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill’s penalty provisions. Any increase in District Court cases as a result of the bill can be handled with existing budgeted State resources.

Local Effect: Enforcement can be handled with existing budgeted local resources.

Small Business Effect: Potential minimal impact on retailers or distributors who, as a result of this bill, are no longer able to sell novelty lighters or distribute novelty lighters for retail sales.

Analysis

Background: According to the U.S. Fire Administration (USFA), over 2,500 children under the age of 14 died or were injured in a fire in 2004. Children under four years of age were the most at risk. In 1994, the U.S. Consumer Products Safety Commission approved safety standards requiring lighters and certain novelty lighters to be child-resistant.

In response to injuries, deaths, and accidental fires at the hands of children who mistook novelty lighters for toys or other objects, several states have enacted legislation banning novelty lighters. The USFA reports that 10 states (Arkansas, Louisiana, Maine, Nevada, New Jersey, North Carolina, Oregon, Tennessee, Virginia, and Washington) have enacted legislation banning or limiting the sale of novelty or toy-like lighters. Legislation did not pass in 14 states, including California, where Governor Arnold Schwarzenegger vetoed a ban on novelty lighter sales, citing the state's fiscal woes and a lack of evidence that novelty lighters are responsible for accidental fires more than regular lighters.

The City of Laurel became the first municipality in the State to pass an ordinance banning the sale of novelty lighters. The ban took effect on September 1, 2009.

On February 11, 2007, the European Union adopted a decision banning the sale of nonchild resistant and novelty lighters.

Local Fiscal Effect: According to the following jurisdictions, the bill's requirements can be handled with existing resources: Baltimore City; The City of Laurel; Montgomery County; and Worcester County. However, Washington County advises that the bill's enforcement requirements will require the resources of 0.25 of a sheriff's deputy position to answer complaints, issue citations, and appear in court. The Department of Legislative Services advises that the bill is likely to result in a small number of violations, and any enforcement duties generated by the bill can be handled with existing resources.

Additional Information

Prior Introductions: SB 226 of 2010 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 191 of 2010, as amended, passed the House of Delegates and received a hearing in the Senate Judicial Proceedings Committee. No further action was taken.

Cross File: SB 112 (Senator Glassman, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City; Montgomery, Washington, and Worcester counties; Judiciary (Administrative Office of the Courts); U.S. Fire Administration; msnbc.com; National Association of State Fire Marshalls; Maryland State Fire Prevention Commission; U.S. Consumer Product Safety Commission; General Product Safety Directive Committee; European Union; Department of Legislative Services

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