COMMITTEE REPORT

May 13, 2009

**S. 766**

Introduced by Senators Alexander, Thomas, Knotts, L. Martin, S. Martin, Nicholson, Land, Setzler, Fair and Peeler

S. Printed 5/13/09--S.

Read the first time April 29, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 766) to amend Title 23 of the 1976 Code, by adding Chapter 52, the “Novelty Lighter Prohibition Act”, to provide for the definitions and the prohibition of the sale or, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 16 of the 1976 Code is amended by adding:

“Section 16‑17‑506. (A) For purposes of this section, ‘novelty lighter’ means a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes which is designed to resemble a toy, has flashing lights, or makes musical sounds. A ‘novelty lighter’ does not include:

(1) a lighter manufactured prior to January 1, 1980;

(2) a lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame;

(3) a mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

(4) a standard lighter that is printed or decorated with logos, labels, decals, artwork, or a heat shrinkable sleeve.

(B)(1) It is unlawful for a person to sell, furnish, give, distribute, purchase for, or provide a novelty lighter to a person under the age of eighteen years.

(2) Failure to demand identification to verify a person’s age is not a defense to an action initiated pursuant to this subsection. Proof of age that is demanded, is shown, and reasonably is relied upon for the person’s proof of age is a defense to an action initiated pursuant to this subsection.

(3) A person who knowingly violates a provision of this subsection in person, by agent, or in any other way is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(4) The Office of the State Fire Marshal may investigate any complaints received concerning a violation of this subsection. Upon finding a violation, the Office of the State Fire Marshal may impose a civil penalty not to exceed five hundred dollars and may seize the novelty lighters. A person who feels aggrieved by the imposition of a civil penalty or seizure of property may, within ten days of the imposition of the civil penalty or seizure of property, appeal to the administrative law court for review as provided pursuant to Title 1, Chapter 23, Article 5.

(C)(1) A person under the age of eighteen years must not purchase, attempt to purchase, possess, or attempt to possess a novelty lighter, or present or offer proof of age that is false or fraudulent for the purpose of purchasing or possessing a novelty lighter.

(2) A person who knowingly violates a provision of this subsection in person, by agent, or in any other way commits a noncriminal offense and is subject to a civil fine of twenty‑five dollars. The civil fine is subject to all applicable court costs, assessments, and surcharges.

(3) A violation of this subsection is not a criminal or delinquent offense and no criminal or delinquent record may be maintained. A person may not be detained, taken into custody, arrested, placed in jail or in any other secure facility, committed to the custody of the Department of Juvenile Justice, or found to be in contempt of court for a violation of this subsection or for the failure to pay a fine.”

SECTION 2. This act takes effect on January 1, 2010. /

Renumber sections to conform.

Amend title to conform.

JOHN M. KNOTTS, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Labor, Licensing and Regulation indicates the provisions of this bill will have no impact on the state general fund or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

Any impact on local governments is anticipated to be minimal.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND TITLE 23 OF THE 1976 CODE, BY ADDING CHAPTER 52, THE “NOVELTY LIGHTER PROHIBITION ACT”, TO PROVIDE FOR THE DEFINITIONS AND THE PROHIBITION OF THE SALE OR DISTRIBUTION OF NOVELTY LIGHTERS AND TO PROVIDE PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 23 of the 1976 Code is amended by adding:

“CHAPTER 52

Prohibition of the Retail Sale and Distribution

of Novelty Lighters

Section 23‑52‑10. This chapter may be cited as the ‘Novelty Lighter Prohibition Act’.

Section 23‑52‑20. As used in this chapter:

(1) ‘Novelty lighter’ means a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes that is designed to appear to be a toy, feature a flashing light, or make musical sounds.

(2) ‘Novelty lighter’ does not include:

(a) a lighter manufactured prior to January 1, 1980;

(b) a lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame; or

(c) any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills.

Section 23‑52‑30. A person may not sell as retail, offer for retail sale, or distribute for retail sale or promotion in this State a novelty lighter.

Section 23‑52‑40. A person who violates this probation is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both. This section may be enforced by a state, county, or municipal law enforcement or code enforcement officer.

Section 23‑52‑50. The Office of the State Fire Marshal may investigate any complaints received concerning a violation of this chapter. Upon finding a violation, the Office of the State Fire Marshal may impose a civil penalty not to exceed five hundred dollars and may seize the novelty lighters offered for sale.”

SECTION 2. This act takes effect upon approval by the Governor.

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