
HOUSE BILL No. 1056

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-12.

Synopsis: Novelty lighters. Requires the state fire marshal to identify and publish a list of novelty lighters. Makes the manufacture or import of a novelty lighter for sale, distribution, or resale a Class A infraction. Makes the sale or distribution, other than at retail, of a novelty lighter a Class B infraction. Makes the retail sale or distribution of a novelty lighter a Class C infraction. Provides that funds collected as judgments for novelty lighter infractions are to be deposited in the fire and building services fund rather than the state general fund. Authorizes the state fire marshal to enter into agreements with local agencies for the enforcement of novelty lighter laws. Provides that the state fire marshal or a designated local officer may seize and destroy novelty lighters. Authorizes the state fire marshal and designated officers to search facilities and records related to the business of selling, distributing, manufacturing, or importing lighters. Provides that the attorney general may bring various actions at the request of the state fire marshal to enforce novelty lighter laws. Authorizes the fire prevention and building safety commission to adopt rules to implement the novelty lighter law.

Effective: July 1, 2012.

Frye R

January 9, 2012, read first time and referred to Committee on Veterans Affairs and Public Safety.

C
O
P
Y



Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

C
O
P
Y

HOUSE BILL No. 1056



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-12-6-1, AS AMENDED BY P.L.101-2006,
2 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 1. (a) The fire and building services fund is
4 established for the purpose of defraying the personal services, other
5 operating expense, and capital outlay of the following:
6 (1) The department.
7 (2) The education board and the rules board.
8 (3) The commission.
9 (b) The fund shall be administered by the department. Money
10 collected for deposit in the fund shall be deposited at least monthly
11 with the treasurer of state.
12 (c) The treasurer of state shall deposit the following collected
13 amounts in the fund:
14 (1) Fire insurance policy premium taxes assessed under section 5
15 of this chapter.
16 (2) Except as provided in section 6(d) of this chapter, all fees
17 collected under this chapter.



1 (3) Any money not otherwise described in this subsection but
2 collected by the division of fire and building safety.

3 (4) Any money not otherwise described in this subsection but
4 collected by the department, commission, education board, or
5 rules board and designated for distribution to the fund by statute
6 or the executive director of the department.

7 (5) A fee collected by the education board for the issuance of a
8 certification under IC 22-14-2-7.

9 **(6) Funds collected as judgments for infractions under**
10 **IC 22-12-11-8.**

11 (d) The treasurer of state shall invest the money in the fund not
12 currently needed to meet the obligations of the fund in the same
13 manner as other public funds may be invested.

14 (e) Money in the fund at the end of a fiscal year does not revert to
15 the state general fund.

16 SECTION 2. IC 22-12-11 IS ADDED TO THE INDIANA CODE
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2012]:

19 **Chapter 11. Novelty Lighters**

20 **Sec. 1. As used in this chapter, "designated officer" refers to a**
21 **law enforcement or public safety officer who is a party to and**
22 **operating under an agreement entered into under section 6 of this**
23 **chapter.**

24 **Sec. 2. As used in this chapter, "lighter" means a handheld**
25 **device that is typically used for igniting or lighting a cigarette or**
26 **tobacco product. The term does not include a lighter that:**

27 **(1) was manufactured before January 1, 1980; or**

28 **(2) has been rendered permanently incapable of producing a**
29 **flame or otherwise causing combustion.**

30 **Sec. 3. As used in this chapter, "listed novelty lighter" means a**
31 **novelty lighter that is on the list published by the state fire marshal**
32 **under section 5 of this chapter.**

33 **Sec. 4. As used in this chapter, "novelty lighter" means a lighter**
34 **that has one (1) or more of the following characteristics:**

35 **(1) A toy-like appearance, including the physical form of an**
36 **animal, animated character, a vehicle, weaponry, a telephone,**
37 **or food.**

38 **(2) Entertaining audio or visual effects. For purposes of this**
39 **subdivision, visual effects do not include logos, decals,**
40 **decorative artwork, or heat shrinkable sleeves.**

41 **(3) Any other feature or appearance that would reasonably be**
42 **expected to make the lighter:**

C
O
P
Y



1 (A) appealing or attractive to; or
 2 (B) seem to be intended for use by;
 3 a child less than ten (10) years of age.
 4 **Sec. 5. (a) The state fire marshal shall:**
 5 (1) identify by brand name or type lighters that are novelty
 6 lighters; and
 7 (2) publish a list of novelty lighters identified under
 8 subdivision (1) on the Internet web site of the department of
 9 homeland security.
 10 (b) The state fire marshal shall update the list published under
 11 subsection (a) at least once each year.
 12 **Sec. 6. The state fire marshal may enter into a written**
 13 **agreement with a local law enforcement agency or public safety**
 14 **agency under which the local law enforcement officers or public**
 15 **safety officers will investigate violations of and otherwise enforce**
 16 **this chapter.**
 17 **Sec. 7. (a) A person may not:**
 18 (1) sell;
 19 (2) distribute;
 20 (3) offer to sell or distribute;
 21 (4) manufacture; or
 22 (5) otherwise possess for sale or distribution;
 23 a listed novelty lighter in Indiana.
 24 (b) A person may not import a listed novelty lighter into
 25 Indiana.
 26 (c) This section does not prohibit the following:
 27 (1) The transport of novelty lighters through Indiana to a
 28 destination outside Indiana.
 29 (2) The storage of novelty lighters in a warehouse or
 30 distribution center that is closed to the public.
 31 **Sec. 8. (a) A person who:**
 32 (1) manufactures a listed novelty lighter for sale, distribution,
 33 or resale in Indiana; or
 34 (2) imports into Indiana a listed novelty lighter for sale,
 35 distribution, or resale;
 36 commits a Class A infraction.
 37 (b) A person who sells or distributes a listed novelty lighter,
 38 other than at retail, commits a Class B infraction.
 39 (c) A person who sells or distributes a listed novelty lighter at
 40 retail commits a Class C infraction.
 41 (d) Each violation of this section constitutes a separate
 42 infraction.

COPY



1 (e) Notwithstanding IC 34-28-5-5(c), the funds collected as a
 2 judgment for an infraction under this section shall be deposited in
 3 the fire and building services fund established by IC 22-12-6-1.

4 Sec. 9. (a) To determine compliance with this chapter, the state
 5 fire marshal or a designated officer has the right to do the
 6 following during reasonable business hours:

7 (1) Enter a facility that is used in the business of selling,
 8 distributing, manufacturing, or importing lighters.

9 (2) Inspect a facility described in subdivision (1) and all
 10 lighters located at the facility.

11 (3) Inspect all business records of an entity that sells,
 12 distributes, manufactures, or imports lighters.

13 (b) A person who:

14 (1) engages in the business of selling, distributing,
 15 manufacturing, or importing lighters; or

16 (2) owns or operates a facility described in subsection (a)(1);
 17 shall grant reasonable access to the state fire marshal or a
 18 designated officer to conduct an inspection under subsection (a).

19 Sec. 10. (a) If the state fire marshal or designated officer
 20 discovers listed novelty lighters, the state fire marshal or
 21 designated officer may seize and take possession of the listed
 22 novelty lighters. The state fire marshal may not seize and take
 23 possession of a novelty lighter described in section 7(c) of this
 24 chapter. The seized novelty lighters are forfeited to the state. The
 25 state fire marshal or designated officer shall, within a reasonable
 26 time after the seizure, destroy the confiscated novelty lighters.

27 (b) The confiscation or destruction of novelty lighters does not
 28 relieve a person of any penalties imposed for violation of this
 29 chapter.

30 Sec. 11. Upon the request of the state fire marshal, the attorney
 31 general may bring an action:

32 (1) for injunctive relief to prevent or end a violation of section
 33 7 of this chapter;

34 (2) to obtain access for an inspection under section 9 of this
 35 chapter;

36 (3) to recover attorney's fees and other costs incurred by the
 37 state fire marshal or a designated officer in enforcing this
 38 chapter; or

39 (4) to obtain other appropriate relief.

40 Sec. 12. The commission may adopt rules under IC 4-22-2 to
 41 implement this chapter.

C
O
P
Y

