

# Legislative Analysis

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## NOVELTY LIGHTERS

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**House Bill 6130 (Substitute H-1)**

**Sponsor: Rep. Jeff Mayes**

**Committee: Regulatory Reform**

**Complete to 6-24-08**

## **A SUMMARY OF HOUSE BILL 6130 AS REPORTED FROM COMMITTEE 6-24-08**

### **BACKGROUND INFORMATION:**

In 1994, the Consumer Product Safety Commission adopted a safety standard requiring that all disposable and novelty lighters be manufactured to child resistant standards, meaning that a lighter be resistant to successful operation by children younger than five years of age.

The Code of Federal Regulations defines "novelty lighter" to mean *a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children under 5 years of age. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel (16 CFR, Part 1210).* The sale of novelty lighters was not otherwise restricted.

The National Fire Incident Reporting System has only recently begun collecting data on fires started by novelty lighters. However, young children reportedly started almost 14,000 structure fires in 2002, and some studies show that lighters are used more often than matches by children. In fall of 2007, two children in Arkansas were killed in a fire started by a novelty lighter shaped like a motorcycle. Children have also been killed or injured in several other states in recent years. Even adults have been burned by novelty lighters, primarily because it is not always clear where the flame will appear.

Novelty lighters were banned by the European Union in 2006; more recently, the National Association of State Fire Marshals has taken up the cause to ban the lighters in the U.S.

### **THE CONTENT OF THE BILL:**

House Bill 6130 would add a new section to the Fire Prevention Code (MCL 29.3f) to ban the retail sale of novelty lighters. Under the bill, a person could not sell at retail, offer for retail sale, or distribute for retail sale or promotion within the state a novelty lighter.

A violation would be a civil violation for which a fine of not more than \$500 could be imposed. The bill's provisions could be enforced by the State Fire Marshal or a state, county, or municipal law enforcement officer.

The bill would not apply to novelty lighters being transported through the state or in a distribution center that was closed to the public for purposes of retail sales.

The bill would define "novelty lighter" to mean a mechanical or electrical device typically used for igniting cigarettes, pipes, or cigars that was designed to appear to be toy, features a flashing light, or makes musical sounds. Novelty lighter would not include any of the following:

- A lighter manufactured before January 1, 1980.
- A lighter incapable of being fueled or lacking a device necessary to produce combustion or flame.
- Any mechanical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills.

#### **FISCAL IMPACT:**

The bill would have no budgetary impact on the Department of Labor and Economic Growth. The Bureau of Fire Services could incur additional costs to carry out the bill, although such costs would not be significant.

The bill would have an indeterminate, but likely negligible, fiscal impact on the judiciary due to the possible increase in administrative duties. In addition, it is unclear what fiscal impact the civil violation fine revenue would have. "Civil violations" and "civil fines" are treated differently than "civil infractions," which go to fund public libraries and county law libraries under the Michigan State Constitution of 1963 (Article 8, Section 9). Unless a civil violation is labeled a "civil infraction," it cannot be presumed to be subject to the provisions of the Revised Judicature Act. One could presume that MCL 18.1443 would apply, which states that "[e]xcept as provided by law, all money received by the various state agencies for whom appropriations are made by a budget act shall be forwarded to the state treasurer and credited to the state general fund." However, it is unclear whether civil violation fines collected amount to "money received." In conclusion, where civil violation fines are not dedicated to a specific fund, as is the case with HB 6130, the allocation of fine revenue remains unclear.

#### **POSITIONS:**

The Department of Labor and Economic Growth supports the bill. (6-24-08)

A representative of the Bay City Fire Department/Fire Marshal testified in support of the bill. (6-24-08)

The Michigan Fire Service Coalition supports the bill. (6-24-08)

The Michigan Fire Safety Board supports the bill. (6-24-08)

The Michigan Fire Inspectors Society supports the bill. (6-24-08)

The Michigan Distributors and Vendors Association (MDVA) supports the bill. (6-24-08)

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