

# Lighter Association Inc.

[www.lighterassociation.org](http://www.lighterassociation.org)

March 31, 2011

The Honorable Gilbert S. C. Keith-Agaran  
Chair, Judiciary Committee  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Room 325  
Honolulu, Hawaii 96813

**Re: Comments on Senate Bill 173 S2 H1 – Banning Novelty Lighters**

Dear Chair Keith-Agaran:

The Lighter Association is the national trade association of the disposable lighter, refillable lighter and utility/grill lighter industry. Our members manufacture or distribute lighters in the United States (foreign based lighter companies are not eligible for membership). Our members directly provide jobs for approximately 3,000 U.S. workers.

The Association regularly comments on municipal, state and federal laws pertaining to lighters. Generally speaking, the Association's goal is to establish stringent safety laws and regulations pertaining to lighters. All of the current federal regulations involving lighters, be they mandatory (16 CFR Part 1210 and 1212), or voluntary (ASTM F400 and ASTM F2201), were, in the first instance, drafted by the Lighter Association and its members. The Lighter Association drafted one of the first model state bills banning novelty lighters in 2007. We now support the model bill supported by the National Association of State Fire Marshals. More recently, the Association has assisted in the drafting of many municipal and state laws banning novelty lighters (lighters that resemble toys). I have testified in supports of several of these banning bills. The Association strongly supports a ban of toy like novelty lighters at the state level and at the federal level.

I am writing in this case, however, to express our opposition to SB 173 S2 H1, which, by its broad language (using the word *depict*), would ban the sale of conventional disposable and refillable lighters with artwork, such as lighters with artwork depicting a map of Hawaii, a palm tree, the U.S. flag, etc. The purpose of SB 173 is to ban *true* novelty lighters that would be confused with toys – such as a lighter designed to resemble a space ship, an ice cream cone, a watch, or even a gun. We strongly support a ban of lighters that *resemble other objects*. SB 173, however, bans all lighters that depict or resemble other objects.

Most of the previously passed state laws ban lighters that resemble other objects. And these laws all provide an exception for lighters with artwork, logos, decals or heat wrapped sleeves. See Oregon law (Enrolled House Bill 2365) attached as Attachment A, as an example. The Oregon Fire Marshal was a national leader on this issue. The proposed federal legislation also provides an exception for lighters with artwork, logos, decal or heat wrapped sleeves. See S. 723 attached as Attachment B. Senator Wyden from Oregon was the principal proponent of this legislation and his office agreed that an exception for artwork was appropriate. However, SB 173 does not provide such an exception.

We believe that this was a simple drafting issue. We noticed that SB 173 follows the language of an early version of the National Association of State Fire Marshal ("NASFM") model bill banning novelty lighters, that has been superceded. The current NASFM model bill is attached as Attachment C. The NASFM bans lighters that resemble other objects and provides a clear exception for lighters with artwork (Section 1 d.) Please note that SB 173 does NOT include Section 1. D., excepting lighters with artwork.

We have brought this issue to the attention of Senators Espero, Baker and Hee and asked them to follow the NASFM model legislation being pursued in other states and at the federal level. For your convenience, I attach my emails dated February 1, 2011 to Senators Espero and Baker, Senator Espero's email response dated February 9, 2011 and my three emails to Senator Hee dated February 14, 2011.

For some reason, none of our emails were ever entered into the testimony on the bill on the Senate side. So it may appear, unfortunately, as if the U.S. lighter industry is just presenting this issue for the first time after several hearings in the Senate and the House. However, we did submit these emails comments to the relevant committee chairs and sponsors, and I personally called the offices of Senator Espero and Hee requesting an opportunity to testify. No one responded to my telephone calls. So, in fact, we have presented our concerns about the bill at every opportunity given to us.

We are a small industry and can not afford to hire lobbyists to make our case. However, our concerns are, nonetheless, very real and directly impact the jobs of persons selling lighters in the State of Hawaii.

It is our estimate that more than one third of the approximately 900 million lighters sold in the U.S. every year have some type of logo or design on the side of the lighter. These are NOT novelty lighters, but rather regular lighters with artwork as noted above. I am also attaching photos of three disposable lighters with heat wrapped sleeves on the lighters, including one with the New York Yankees logo, one with the U.S. flag and one of a U.S. national park. These lighters will be prohibited by the language in proposed Section 132(b) (1) in SB 173 defining novelty lighters as those which "depict" other objects. A regular lighter with a flag on it, arguably depicts that object.

We do not believe that it was the sponsor's intention to harm legitimate businesses in the State of Hawaii selling lighters that depict other objects, but this bill, as currently drafted would adversely impact the hundreds of stores selling lighters with artwork to regular citizens of the State of Hawaii as well as to tourists visiting the State.

We would ask you to put a hold on SB 173 S2 H1 until it is amended to exclude lighters with artwork. The model bill drafted by the National Association of State Fire Marshals is an excellent bill and we would encourage you to substitute that bill, for the current version of SB 173 S2 H1 (or to simply include Section 1 d. of the model bill). This is not the time or the place to hurt legitimate companies in the State of Hawaii providing jobs for the hard working citizens of the State.

I understand that a hearing may be held on this bill next week before the House Judiciary Committee. I would like to testify by telephone, if possible. I can be reached directly at 202 253 4347, or at [info@lighterassociation.org](mailto:info@lighterassociation.org).

Thank you for your consideration of our views.

Very truly yours,



David H. Baker  
General Counsel

DB:bd  
Attachments

cc: The Honorable George R. Fontaine, Ranking Minority Member

Attachment A

76th OREGON LEGISLATIVE ASSEMBLY--2009 Regular Session

Enrolled
House Bill 2365

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection)

CHAPTER .....

AN ACT

Relating to novelty lighters; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 6 of this 2009 Act:

(1) "Audio effects" includes music, animal sounds and whistles, buzzers, beepers or other noises not pertinent to the flame-producing function of the lighter.

(2) "Distribute" means to:

(a) Deliver to a person other than the purchaser; or

(b) Provide as part of a commercial promotion or as a prize or premium.

(3) "Importer" means a person who causes a lighter to enter this state from a manufacturing, wholesale, distribution or retail sales point outside this state, for the purpose of selling or distributing the lighter within this state or with the result that the lighter is sold or distributed within this state.

(4) "Lighter" means a handheld device of a type typically used for igniting tobacco products by use of a flame.

(5) "Misleading design" means that a lighter has a shape that resembles or imitates an object other than a lighter.

(6) "Novelty lighter":

(a) Means a lighter that has misleading design, audio effects or visual effects, or that has other features of a type that would reasonably be expected to make the lighter appealing or attractive to a child less than 10 years of age.

(b) Does not mean:

(A) A lighter manufactured before January 1, 1980; or

(B) A lighter that has been rendered permanently incapable of producing a flame or otherwise causing combustion.

(7) "Sell" means to provide or promise to provide to a wholesale, retail, mail-order or other purchaser in exchange for consideration.

(8) "Visual effect":

(a) Includes flashing lights, color-changing lights and changing images; and

(b) Does not include logos, decals, decorative artwork or heat-shrinkable sleeves.

SECTION 2. (1) The State Fire Marshal may adopt rules to identify lighters or classes or types of lighters that are novelty lighters. The novelty lighters identified by the State Fire Marshal may include, but need not be limited to, lighters of misleading design that resemble or imitate:

- (a) Cartoon characters, figurines or action figures;
- (b) Toys or game pieces;
- (c) Musical instruments;
- (d) Vehicles;
- (e) Animals;
- (f) Human body parts;
- (g) Food, beverages or food or beverage packages;
- (h) Weaponry;
- (i) Furniture;
- (j) Sports equipment;
- (k) Holiday decoration;
- (l) Tools; or
- (m) Household products.

(2) The State Fire Marshal shall establish and maintain a list of lighters, and of classes and types of lighters, that the State Fire Marshal has determined to be novelty lighters. The State Fire Marshal shall make the list available to the public in electronic form or in other forms selected by the State Fire Marshal.

(3) A lighter is a contraband item subject to seizure and destruction by the State Fire Marshal or a representative of the State Fire Marshal, or by a law enforcement agency, if the lighter is:

(a) Listed, or of a class or type listed, in State Fire Marshal rules as a novelty lighter; and

(b) Offered for sale, sold or distributed in this state or manufactured or possessed for the purpose of sale or distribution in this state.

(4) The State Fire Marshal or a representative of the State Fire Marshal, or a law enforcement agency, may seize a novelty lighter that is not described in subsection (3) of this section. Upon finding that the person from whom the lighter was seized is subject to imposition of a civil penalty under section 3 of this 2009 Act for being a manufacturer, importer, wholesaler, storer, seller or distributor of the lighter, the State Fire Marshal or a representative may order that the lighter be forfeited and destroyed.

**SECTION 3.** (1) A person may not sell, offer for sale or distribute a novelty lighter in this state. A person may not manufacture a novelty lighter in this state, or import a novelty lighter into this state, for the purpose of selling or distributing the novelty lighter within this state. A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

(2) The State Fire Marshal may impose a civil penalty against a person who violates subsection (1) of this section. The civil penalty may not exceed:

- (a) \$10,000 if the person is a manufacturer or importer of lighters.
- (b) \$1,000 if the person is a wholesaler of lighters or distributes lighters by means other than distribution directly to consumers.
- (c) \$500 if the person is:
  - (A) A retail seller of lighters; or
  - (B) A person distributing lighters, if the person is other than a manufacturer, importer or wholesaler.

(3) If a person continues to violate this section after the State Fire Marshal gives the person written notice of the violation, each day that the violation continues is a separate offense subject to a civil penalty.

(4) The State Fire Marshal shall impose civil penalties under this section as provided in ORS 183.745. For purposes of ORS 183.417, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the State Fire Marshal as described in section 2 of this 2009 Act as a novelty lighter, or is of a class or type of lighter listed by the State Fire Mar-

shal as novelty lighters. However, listing by the State Fire Marshal is not a prerequisite for finding that a lighter is a novelty lighter.

(5) All moneys collected from civil penalties under this section shall be deposited to the credit of the State Fire Marshal Fund.

**SECTION 4.** (1) The State Fire Marshal, or a representative of the State Fire Marshal, may conduct inspections to ensure compliance with section 3 of this 2009 Act. The State Fire Marshal or representative may:

(a) Have access during reasonable business hours to facilities within this state used in the business of manufacturing, importing, distributing, selling or storing lighters;

(b) Inspect the manufacturing, importing, distribution, sales or storage facilities and any lighters located at the facilities; and

(c) Inspect all business records pertaining to lighter manufacture, import, distribution, sale or storage.

(2) A person engaged in this state in the business of manufacturing, importing, distributing, selling or storing lighters shall grant the State Fire Marshal or a representative reasonable access for conducting inspections as described in subsection (1) of this section.

**SECTION 5.** The State Fire Marshal may enter into agreements with any state or local agency to allow the agency to act as a representative of the State Fire Marshal for purposes of sections 3 and 4 of this 2009 Act.

**SECTION 6.** The Attorney General may bring an action at the request of the State Fire Marshal, in the name of the state, seeking:

(1) Injunctive relief to prevent or end a violation of section 3 or 4 of this 2009 Act;

(2) To recover civil penalties imposed under section 3 of this 2009 Act;

(3) To obtain access for inspections under section 4 of this 2009 Act; or

(4) To recover attorney fees and other enforcement costs and disbursements.

**SECTION 7.** (1) Notwithstanding section 2 of this 2009 Act, the State Fire Marshal, a representative of the State Fire Marshal or a law enforcement agency may not seize a novelty lighter before the 91st day following the effective date of this 2009 Act.

(2) Section 3 of this 2009 Act applies to:

(a) The manufacture or import of lighters on or after the effective date of this 2009 Act; and

(b) The sale or distribution of lighters on or after the 91st day following the effective date of this 2009 Act.

**SECTION 8.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House February 4, 2009

.....  
Chief Clerk of House

.....  
Speaker of House

Passed by Senate February 23, 2009

.....  
President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....  
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....  
Secretary of State

Attachment B

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**Protect Children from Dangerous Lighters Act of 2009 (Introduced in Senate)**

S 723 IS

111th CONGRESS

1st Session

**S. 723**

To prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes.

**IN THE SENATE OF THE UNITED STATES****March 26, 2009**

Mr. WYDEN (for himself, Ms. COLLINS, Mr. DODD, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

**A BILL**

To prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Protect Children from Dangerous Lighters Act of 2009'.



## **SEC. 2. FINDINGS.**

Congress makes the following findings:

- (1) Lighters are inherently dangerous products containing flammable fuel.
- (2) If lighters are used incorrectly or used by children, dangerous and damaging consequences may result.
- (3) Novelty lighters are easily mistaken by children and adults as children's toys or as common household items.
- (4) Novelty lighters have been the cause of many personal injuries to children and adults and property damage throughout the United States.

## **SEC. 3. NOVELTY LIGHTER DEFINED.**

(a) In General- In this Act, the term 'novelty lighter' means a device typically used for the igniting or lighting of cigarettes, cigars, or pipes that has a toy-like appearance, has entertaining audio or visual effects, or resembles in any way in form or function an item that is commonly recognized as appealing, attractive, or intended for use by children of 10 years of age or younger, including such a device that takes toy-like physical forms, including toy animals, cartoon characters, cars, boats, airplanes, common household items, weapons, cell phones, batteries, food, beverages, musical instruments, and watches.

(b) Exclusion- Such term does not include standard disposable and refillable lighters that are printed or decorated with logos, labels, decals, artwork, or heat shrinkable sleeves.

## **SEC. 4. BAN ON NOVELTY LIGHTERS.**

(a) Banned Hazardous Substance- A novelty lighter shall be treated as a banned hazardous substance as defined in section 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) and the prohibitions set out in section 4 of such Act (15 U.S.C. 1263) shall apply to novelty lighters.

(b) Application- Subsection (a) applies to a novelty lighter--

- (1) manufactured on or after January 1, 1980; and
- (2) that is not considered by the Consumer Product Safety Commission to be an antique or an item with significant artistic value.

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Attachment C

### NASFM Model State Bill – Sale of Novelty Lighters

On March 24, 2008, the Governor of Maine signed into law Bill #LD2081, Public Law, Chapter 510, 123<sup>rd</sup> Maine State Legislature, An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters. The Model Bill below is adapted from the Maine law.

#### **An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters**

**Whereas**, novelty lighters have features that are attractive to children, including visual effects, flashing lights, musical sounds and toy-like designs; and

**Whereas**, the federal Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to their danger to public safety; and

**Whereas**, fire setting by juveniles has been identified as the fastest growing fire threat in the United States, with more than 300 people killed annually, 30% of whom are children, and almost \$1 billion in property destroyed; and

**Whereas**, in \_\_\_\_\_ (state) \_\_\_\_\_ fire setting by juveniles has resulted in several deaths and millions of dollars in property damage and destruction; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of \_\_\_\_\_ (state) \_\_\_\_\_ and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of \_\_\_\_\_ as follows:**

**Section 1. Definition.** For purposes of this Act, "novelty lighter" means a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that is designed to resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, food or beverage, or similar articles, or that plays musical notes, or has flashing lights for entertainment or has other entertaining features. A novelty lighter may operate on any fuel, including butane, isobutane or liquid fuel. "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;

C. Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

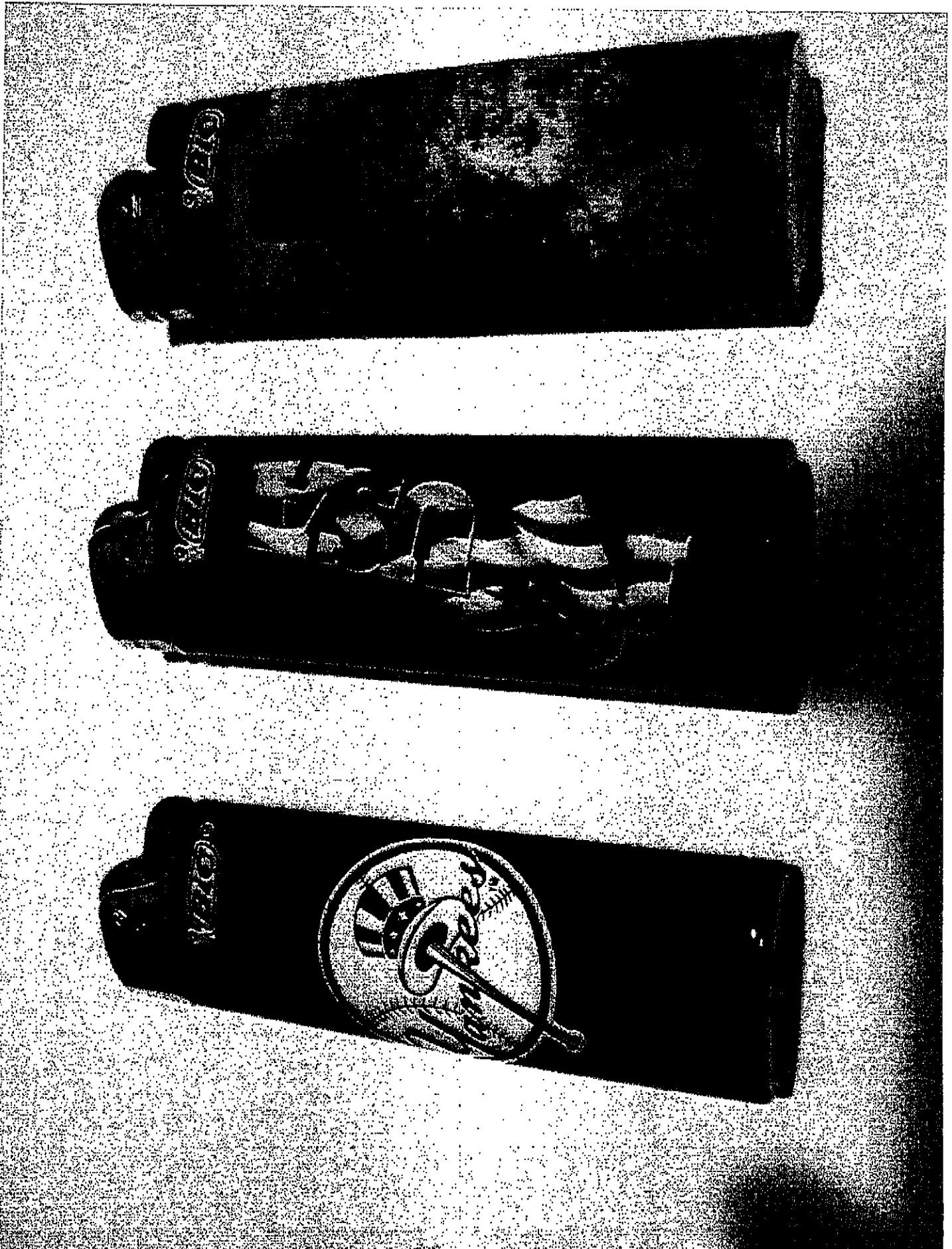
D. Standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves.

**Section 2. Prohibition; penalty.** A person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter. A person who violates this section commits a civil violation for which a fine of not more than \$500 may be imposed.

**Section 3. Exception.** The prohibition specified in section 2 does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.

**Section 4. Enforcement.** This section may be enforced by the State Fire Marshal's Office; a state, county or municipal law enforcement officer; or a municipal code enforcement officer.

**Section 5. Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.



**David Baker**

---

**From:** David Baker [david.baker@dhbakerlaw.com]  
**Sent:** Tuesday, February 01, 2011 8:24 AM  
**To:** 'senesperero@capitol.hawaii.gov'; 'senbaker@capitol.hawaii.gov'  
**Cc:** 'Bernie Knapp'; 'David Baker, General Counsel'; 'Jeff Duke'; 'Matt McLoughlin'; 'Steve Burkhart'  
**Subject:** Today's Hearing on Senate Bill 173

<http://www.firemarshals.org/data/nasfmmmodelstatebillnoveltylightersREVJan09.pdf>

Dear Senators Espero and Baker: I am the General Counsel of the U.S. Lighter Association based in Washington, D.C. Our association is completely opposed to novelty lighters. We drafted the first model legislation to ban novelty lighter back in the 2006-7 time frame. We now support the model legislation promoted by the fire marshal service. See link above.

I would respectfully request that you substitute this bill, for your new bill, S.B. No. 173. This version of the model bill is being adopted in the other states that have passed novelty lighter legislation. I believe that you are working off an earlier 2008 version of the model bill, which was inadvertently left on the internet after the new version was adopted.

Please note that your bill, as currently drafted, bans regular lighters with artwork, such as BIC, Calico or Swedish Match disposable lighters with the word OAHU and a palm tree on the face of the lighter. It also bans Zippo and Ronson refillable lighters with artwork such as an outline of the island comprising the State of Hawaii. I do not think that is what you intended to do here.

Please see section 1 d in the fire marshal model bill above which clarifies that regular lighters with artwork are not novelty lighters. The federal legislation introduced by Senator Wyden also includes this exact language. I think all stakeholders agree that lighters with artwork are NOT novelty lighters.

I would also respectfully request an opportunity to testify by telephone at your hearing today. I could call in at 10:30 pm eastern time, if the hearing starts at 3:30 pm your time. I can readily explain our concerns and answer any questions the committee might have. I have testified before several other state legislatures, the New York City Council, etc.

I have called your offices several times last week and yesterday, but have not received a call back. So I am hoping that this email will find its way to you!

Thank you for your assistance.

Very truly yours,

David H. Baker  
General Counsel

Lighter Association  
1701 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006  
[www.lighterassociation.org](http://www.lighterassociation.org)

202 253 4347 Cell  
202 330 5092 eFax

david.baker@dhbakerlaw.com  
dhbaker.law@aol.com

**David Baker**

---

**From:** David Baker [david.baker@dhbakerlaw.com]  
**Sent:** Monday, February 14, 2011 8:29 AM  
**To:** 'senhee@Capitol.hawaii.gov'  
**Subject:** FW: Today's Hearing on Senate Bill 173

Dear Senator Hee: I am now attaching my email exchange with Senator Espero. As you can see, I mis-spelled Espero in the email address. However, fortunately, I did not mis-spell Baker, which I have some familiarity with.

Any help you could provide we would greatly appreciate.

Thanks, David

David H. Baker  
 General Counsel

Lighter Association, Inc.  
[www.lighterassociation.org](http://www.lighterassociation.org)

-----Original Message-----

**From:** Sen. Will Espero [mailto:senespero@Capitol.hawaii.gov]  
**Sent:** Wednesday, February 09, 2011 11:36 PM  
**To:** 'david.baker@dhbakerlaw.com'  
**Subject:** RE: Today's Hearing on Senate Bill 173

Aloha,

This testimony did not get to me on time. You had a typo in my e-mail. Please make certain your testimony gets to the Judiciary Committee if a hearing is scheduled. The Chair is Clayton Hee.  
 Will Espero

-----Original Message-----

**From:** David Baker [mailto:david.baker@dhbakerlaw.com]  
**Sent:** Tuesday, February 01, 2011 7:24 AM  
**To:** senespero@capitol.hawaii.gov; senbaker@capitol.hawaii.gov  
**Cc:** 'Bernie Knapp'; 'David Baker, General Counsel'; 'Jeff Duke'; McLoughlin, Matt (ATL); 'Steve Burkhart'  
**Subject:** Today's Hearing on Senate Bill 173

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202 253 4347 Cell  
202 330 5092 eFax

[david.baker@dhbakerlaw.com](mailto:david.baker@dhbakerlaw.com)  
[dhbakerlaw@aol.com](mailto:dhbakerlaw@aol.com)

**David Baker**

---

**From:** David Baker [david.baker@dhbakerlaw.com]  
**Sent:** Monday, February 14, 2011 8:32 AM  
**To:** 'senhee@Capitol.hawaii.gov'  
**Subject:** Emailing: nasfmmodeIstatebillnoveltylightersREVJan09.pdf

Dear Senator Hee: Here is the text of the model bill on novelty lighters. It has been adopted virtually verbatim by many of the states banning novelty lighters. Please note Section 1. d, which excludes lighters with artwork.

Thank you again for your assistance.

David H. Baker  
General Counsel

**Lighter Association**  
1701 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006  
[www.lighterassociation.org](http://www.lighterassociation.org)

202 253 4347 Cell  
202 330 5092 eFax

[david.baker@dhbakerlaw.com](mailto:david.baker@dhbakerlaw.com)  
[dhbakerlaw@aol.com](mailto:dhbakerlaw@aol.com)

3/29/2011



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**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of \_\_\_\_\_ (state) \_\_\_\_\_ and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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- 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;

C. Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

D. Standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves.

**Section 2. Prohibition; penalty.** A person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter. A person who violates this section commits a civil violation for which a fine of not more than \$500 may be imposed.

**Section 3. Exception.** The prohibition specified in section 2 does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.

**Section 4. Enforcement.** This section may be enforced by the State Fire Marshal's Office; a state, county or municipal law enforcement officer; or a municipal code enforcement officer.

**Section 5. Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dilir.director@hawaii.gov](mailto:dilir.director@hawaii.gov)

April 4, 2011

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran:

Subject: S.B. 173, S.D. 2, H.D. 1 Relating to Fire Protection

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support S.B. 173, S.D. 2, H.D. 1, which proposes to ban retail sales and the distribution of novelty lighters in the state.

The SFC and the HFD also recommend an additional exclusion to Section 2(c) to read as follows:

"This section shall not apply to novelty lighters that are manufactured in the state or transported through the state, exclusively for sale, offer for sale, or distribution outside the state. This section shall also not include any lighter manufactured prior to 1980 or any lighter that lacks fuel or a component necessary to produce flame or combustion or standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves."

The reason for the pre-1980 exclusion is to not disrupt the antiques/collector's market for old, vintage novelty lighters. According to the Lighter Association, a national trade organization, the novelty lighters this bill seeks to ban did not arrive into the U.S. until the mid-1990s. The exclusion refers to disposable and refillable lighters that are printed or decorated with logos, labels, etc.; are regular lighters that are made to advertise or promote a product or tourist destination; and should be considered standard-type

The Honorable Gilbert Keith-Agaran, Chair  
Page 2  
April 4, 2011

lighters. These exclusions are standard statute language that other states have adopted to ban novelty lighters.


Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs. Since 1996, the Consumer Product Safety Commission recalled thousands of novelty lighters due to their danger to public safety. According to the National Fire Protection Association (NFPA), children playing with lighters or matches from 2004 to 2008 accounted for 57,700 fires, 113 civilian deaths, 916 injuries, and \$286 million in property loss. In addition, 47% of individuals who started fires using lighters or matches and 65% of the fatal victims were five years old or younger. In the City and County of Honolulu during the period 2003-2010, 48 fires were started by children playing with lighters. This resulted in two fire deaths and 15 fire-related injuries and property and content damage estimated at \$3,915,900.

Many local and national public safety agencies, including the NFPA, the Western Fire Chiefs Association, and the National Association of State Fire Marshals, support the prohibition and distribution of novelty lighters. The function of a lighter can be achieved without the novelty attraction, which only serves to invite dangerous behavior that results in tragedy and destruction. To date, 14 states have banned the sale and distribution of novelty lighters.

The SFC and the HFD urge your committee's support on the passage of S.B. 173, S.D. 2, H.D. 1 with the recommended revisions.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

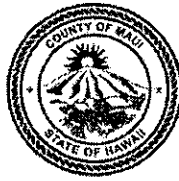
Sincerely,



KENNETH G. SILVA  
Chair

KGS/LR:cn

ALAN M. ARAKAWA  
MAYOR



JEFFREY A. MURRAY  
CHIEF

ROBERT M. SHIMADA  
DEPUTY CHIEF

**COUNTY OF MAUI**  
DEPARTMENT OF FIRE AND PUBLIC SAFETY

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919  
EMAIL: fire.dept@mauicounty.gov

April 4, 2011

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran:

Subject: S.B. 173, S.D. 2, H.D. 1 Relating to Fire Protection

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & Public Safety (MFD) and a member of the State Fire Council (SFC). The MFD and the SFC support S.B. 173, S.D. 2, H.D. 1, which proposes to ban retail sales and the distribution of novelty lighters in the state.

The MFD and the SFC also recommend an additional exclusion to Section 2(c) to read as follows:

"This section shall not apply to novelty lighters that are manufactured in the state or transported through the state, exclusively for sale, offer for sale, or distribution outside the state. This section shall also not include any lighter manufactured prior to 1980 or any lighter that lacks fuel or a component necessary to produce flame or combustion or standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves."

The reason for the pre-1980 exclusion is to not disrupt the antiques/collector's market for old, vintage novelty lighters. According to the Lighter Association, a national trade organization, the novelty lighters this bill seeks to ban did not arrive into the U.S. until the mid-1990s. The exclusion refers to disposable and refillable lighters that are printed or decorated with logos, labels, etc.; are regular lighters that are made to advertise or promote a product or tourist destination; and should be considered standard-type

The Honorable Gilbert Keith-Agaran, Chair  
Page 2  
April 4, 2011

lighters. These exclusions are standard statute language that other states have adopted to ban novelty lighters.

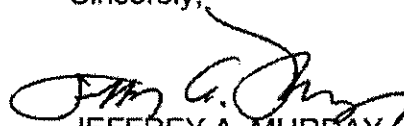
Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs. Since 1996, the Consumer Product Safety Commission recalled thousands of novelty lighters due to their danger to public safety. According to the National Fire Protection Association (NFPA), children playing with lighters or matches from 2004 to 2008 accounted for 57,700 fires, 113 civilian deaths, 916 injuries, and \$286 million in property loss. In addition, 47% of individuals who started fires using lighters or matches and 65% of the fatal victims were five years old or younger. In the City and County of Honolulu during the period 2003-2010, 48 fires were started by children playing with lighters. This resulted in two fire deaths and 15 fire-related injuries and property and content damage estimated at \$3,915,900.

Many local and national public safety agencies, including the NFPA, the Western Fire Chiefs Association, and the National Association of State Fire Marshals, support the prohibition and distribution of novelty lighters. The function of a lighter can be achieved without the novelty attraction, which only serves to invite dangerous behavior that results in tragedy and destruction. To date, 14 states have banned the sale and distribution of novelty lighters.

The MFD and the SFC urge your committee's support on the passage of S.B. 173, S.D. 2, H.D. 1 with the recommended revisions.

Should you have any questions, please call SFC Administrator Socrates Bratakos at 723-7151.

Sincerely,

  
JEFFREY A. MURRAY  
Fire Chief



**Bernard P. Carvalho, Jr.**  
Mayor



**Robert F. Westerman**  
Fire Chief

**Gary K. Heu**  
Managing Director

**John T. Blalock**  
Deputy Fire Chief

**KAUA'I FIRE DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
3083 Akahi Street, Suite 101, Līhu'e, Hawai'i 96766  
TEL (808) 241-4980 FAX (808) 241-6508

April 4, 2011

The Honorable Gilbert Keith-Agaran, Chair  
Committee on Judiciary  
House of Representatives  
State Capitol, Room 302  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran:

**Subject: S.B. 173, S.D. 2, H.D. 1 Relating to Fire Protection**

I am Robert F. Westerman, Fire Chief of the Kauai Fire Department (KFD) and a member of the State Fire Council (SFC). The SFC and the KFD support S.B. 173, S.D. 2, H.D. 1, which proposes to ban retail sales and the distribution of novelty lighters in the state.

The SFC and the KFD also recommend an additional exclusion to Section 2(c) to read as follows:

"This section shall not apply to novelty lighters that are manufactured in the state or transported through the state, exclusively for sale, offer for sale, or distribution outside the state. This section shall also not include any lighter manufactured prior to 1980 or any lighter that lacks fuel or a component necessary to produce flame or combustion or standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves."

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The Honorable Gilbert Keith-Agaran, Chair  
April 4, 2011  
Page 2

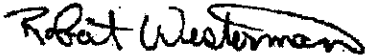
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Many local and national public safety agencies, including the NFPA, the Western Fire Chiefs Association, and the National Association of State Fire Marshals, support the prohibition and distribution of novelty lighters. The function of a lighter can be achieved without the novelty attraction, which only serves to invite dangerous behavior that results in tragedy and destruction. To date, 14 states have banned the sale and distribution of novelty lighters.

The SFC and the KFD urge your committee's support on the passage of S.B. 173, S.D. 2, H.D. 1 with the recommended revisions.

Please call me at (808) 241-4980 should you have any questions regarding this matter.

Sincerely,



Robert Westerman  
Fire Chief, County of Kaua'i

RFW/eld