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STEPHEN D. COAN
STATE FIRE MARSHAL

MEMORANDUM

TO: Heads of Fire Department

FROM: Stephen D. Coan
State Fire Marshal

DATE: November 1, 2010

SUBJECT: Novelty Lighters

As you may be aware, the Governor signed into law "An Act Prohibiting the Use of Novelty Lighters" on August 9, 2010. This law becomes effective November 7, 2010. On or after that date, this new law prohibits the manufacture, sale, exchange, storage or transportation of any novelty lighter.

In general, a novelty lighter is defined as a mechanical or electrical device, which produces a flame and due to its physical or audio features, would appeal to a child under the age of 10. Such features are those that resemble cartoon characters, toy gun, watch, musical instrument, etc. and which plays musical notes or otherwise displays flashing lights. The thrust of the statute is to prohibit toy like novelty lighters. Violations of the statute are punishable by fines not less than \$500 nor more than \$1,000 or by imprisonment for not more than one year, or both.

The statute contains several exceptions for novelty lighters: (i) collectibles manufactured before January 1, 1980; (ii) disposable or refillable lighters with logos, labels, or other artwork printed on the lighter or on a shrink wrapped sleeve, provided they do not otherwise resemble a novelty lighter; and (iii) lighters not intended for sale or use in the Commonwealth, being transported or temporarily being stored while in interstate commerce.

This is a criminal law. Like all crimes, they are subject to the filing of a criminal complaint in a court of competent jurisdiction (typically, District Court). As a practical matter, the Head of the Fire Department (or his designee) should order the individual to cease and desist from the selling, storage, or distribution of these lighters, in violation of the statute (M.G.L. Chapter 148, section

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60) and order them off the shelves. If there is no compliance or an unwillingness for the owner to comply, the Head of the Fire Department may seek a criminal complaint in the District Court having jurisdiction.

For your convenience, I have enclosed a fact sheet on novelty lighters and a copy of the new law. I strongly encourage you to distribute these two documents to all retail outlets in your community and follow up with a site visit to those locations to ensure compliance.

If you have any questions please contact the Code Compliance and Enforcement Unit at (978) 567-3375 or in Western, Massachusetts at (413) 587-3181.

Chapter 276 of the Acts of 2010

AN ACT PROHIBITING THE USE OF NOVELTY LIGHTERS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Chapter 148 of the General Laws is hereby amended by adding the following section:-

Section 60. (a) For the purposes of this section, “novelty lighter” shall mean a mechanical or electrical device manufactured for the purpose of producing a flame to light cigarettes, cigars or pipes and which, due to the physical or audio features of the device, excluding its capability of producing a flame, would reasonably be expected to cause the lighter to be appealing or attractive to a child under the age of 10 including, but not limited to, lighters that resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, beverage, sporting equipment or that is capable of playing musical notes or displaying flashing lights.

(b) Whoever manufactures, offers for sale, sells, exchanges, gives away, stores or transports any novelty lighter shall be punished by a fine of not less than \$500 and not more than \$1,000 or by imprisonment for not more than 1 year, or both.

(c) This section shall not apply: (i) to a novelty lighter manufactured before January 1, 1980 and which is considered a collectible item within the collectible trade; (ii) to a disposable or refillable lighter with a logo, label, decal or artwork printed thereon or on heat shrinkable sleeves attached thereto but which does not otherwise resemble a novelty lighter; or (iii) if not intended for sale or use in the commonwealth, to the interstate transportation of a novelty lighter or to the temporary storage of a novelty lighter while in interstate commerce.

Approved, August 9, 2010.



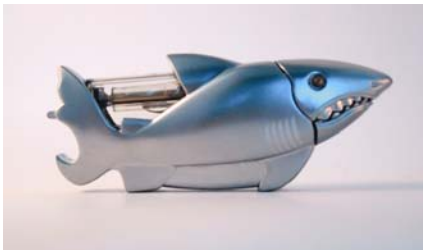
Novelty Lighters: Important Retailer Information



A message from the Department of Fire Services
and State Fire Marshal, Stephen D. Coan

On August 9, 2010, Governor Patrick signed into law "An Act Prohibiting the Use of Novelty Lighters." This law becomes effective November 7, 2010. On or after that date, this new law prohibits the manufacture, sale, exchange, storage or transportation of any novelty lighter throughout the Commonwealth of Massachusetts. **Violations of the statute are punishable by fines not less than \$500 nor more than \$1,000 or by imprisonment for not more than one year, or both.** See copy of law attached.

Whether being confused for toys or played with for their likeness to toys, lighters such as those below, have been the cause of many tragic fires. Below are examples of various types of available novelty lighters. This is NOT all-inclusive:



Beware! Lighters of this nature are not yet illegal nationwide. Even though your supplier may still offer these items for sale, you **MUST** not offer for sale, sell, exchange, give away, or stock them in your establishment. Questions? Contact the State Fire Marshal's Office at (978) 567-3712.