

0-27-68

ORDINANCE NO. 796 B

AN ORDINANCE AMENDING SECTION 46-82 OF THE NORTH LITTLE ROCK MUNICIPAL CODE TO ADD A SECTION FOR RESTRICTIONS ON NOVELTY LIGHTERS AND TO AMEND THE SECTION ON FIREWORKS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, youth fire setting has been identified as a fast growing fire threat in the United States; and

WHEREAS, novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds and toy-like designs (see Exhibits "A" and "B" attached hereto – Exhibit "A" depicting examples of toy designs and Exhibit "B" showing actual novelty lighters purchased in the City of North Little Rock); and

WHEREAS, the U. S. Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to the danger posed to public safety (see Exhibit "C" attached hereto); and

WHEREAS, functions of novelty lighters can be achieved without posing a danger to public health and safety; and

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters; the National Fire Protection Agency, National Volunteer Fire Council, Western Fire Chiefs Association and the National Association of State Fire Marshals have lent their support to this issue; and

WHEREAS, it is in the best interests of the citizens and residents of the City that Section 46-82 of the North Little Rock Municipal Code be amended to add a section for the restriction of novelty lighters, and to amend the current section on fireworks.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That Section 46-82 of the North Little Rock Municipal Code shall be amended to read as follows:

(Editor's Note: Deletions noted by strikethrough; additions by underline.)

Sec. 46-82. Same Arkansas Fire Prevention Code – Amendments.

The Fire Prevention Code adopted to this article shall be as follows:

Section 603.11.1 in Volume II shall be amended to read:

Buildings 50 feet or more in height or containing more than two stories shall be provided with a class III standpipe system.

Section 603.11.2 in Volume II shall be amended to read:

Group R -- hotels, dormitories and motels two stories or more in height shall be provided with a class III standpipe system.

Section ~~2002.2~~ 3301.1 in Volume H I shall be amended to read:

Fireworks. Except as hereinafter provided, it shall be unlawful for any person to possess, store, manufacture, offer for sale, sell at retail, set off, ignite or otherwise explode any firecrackers or other fireworks by whatever name called within the city limits; provided that the use of fireworks for public display shall be allowed upon the approval of the fire marshal after all of the provisions of NfiPa 1123 are met and all necessary permits have been issued. Every such use or display shall be of such character and so located, discharged or fired so as not to be hazardous to property or endanger any person.

No parent or guardian of a minor shall furnish money or a thing of value to a minor for the purchase of fireworks or encourage, act in conjunction with or in any manner instigate or aid a minor in the commission of having, keeping, storing, selling, offering for sale, giving away, using, transporting or manufacturing fireworks within the corporate limits of the city. The violation of this section shall be an offense regardless of whether or not the minor shall be charged or found guilty of the offense. The commission of the offense by the minor on the property under the control or owned by the parent or guardian shall be prima facie proved that the parent or guardian aided the minor.

Exceptions:

1. Storage and handling of fireworks as permitted in Section 3304.
2. Manufacture, assembly and testing of fireworks as permitted in Section 3305.
3. The use of fireworks for display as permitted in Section 3308.

The fine or penalty for violating this provision, upon conviction in municipal court, shall not be less than \$25.00 nor more than \$500.00.

Section 3301.1.6, shall be added to Chapter 33 to read:

Novelty Lighters.

- (a) Prohibitions, inapplicability. The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the territorial jurisdiction of the City of North Little Rock is prohibited. This prohibition is inapplicable to: (1) novelty lighters which are only being actively transported through the city; or (2) novelty lighters located in a warehouse closed to the public for purposes of retail sales.
- (b) Definition. "Novelty lighter" means 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 ten years of age or younger. 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.
- (c) Exceptions. The term "novelty lighter" excludes: (1) any lighter manufactured prior to 1980; and (2) any lighter which lacks fuel or a device necessary to produce combustion or a flame.
- (d) Enforcement. The provisions of this section shall be enforced by the fire marshal, any police officer, any code enforcement officer, and any other City official authorized to enforce any provision of the North Little Rock Municipal Code.
- (e) Violation; Penalty. Any person or entity violating any provision of this section is guilty of an infraction, and upon conviction therefor, shall be subject to a fine or penalty of not less than \$25.00 nor more than \$500.00.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.


SECTION 3: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: It is hereby found and determined that the passage of this Ordinance is necessary in order to insure the proper and orderly growth of this land and of the City of North Little Rock, Arkansas, and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

8/13/07

APPROVED:


Mayor Patrick H. Hays


SPONSOR:


Mayor Patrick H. Hays

ATTEST:


Diane Whitbey, City Clerk

APPROVED AS TO FORM:


C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED 11:47 A.M. _____ P.M.
BY City Atty Carter
DATE 8.7.07
Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas
RECEIVED by A Hodge

0-07-68

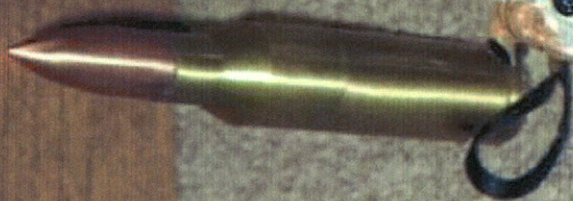
The pictures below look like toys but are actually lighters.



Exhibit A

0-07-68

Exhibit B



U.S. CONSUMER PRODUCT SAFETY COMMISSION



Office of Compliance

Requirements¹ for Cigarette Lighters, 16 C.F.R. Part 1210

What is the purpose of the rule that requires certain lighters to be child-resistant?

This rule reduces injuries and deaths that occur when children under the age of 5 light fires while playing with cigarette lighters. The rule covers disposable and novelty cigarette lighters and requires generally that:

- (1) at least 85% of the children who test a surrogate (dummy) lighter in the manner described below must not be able to make it work;
- (2) the mechanism or system that makes the lighter child-resistant must reset automatically each time someone tries to light the lighter;
- (3) the child-resistant mechanism must not impair the safe operation of the lighter when the lighter is used in a normal and convenient manner;
- (4) the child-resistant mechanism must work properly for the reasonably expected life of the lighter; and
- (5) users must not be able to easily override or undo the child-resistant mechanism.

Lighters that do not meet these requirements are in violation of the Consumer Product Safety Act. 15 U.S.C. 2057 and 2068(a)(1).

Where can I find the requirements for lighters?

The standard is published in the Code of Federal Regulations in Title 16, Part 1210.

What is a lighter?

A lighter is a flame-producing product that consumers commonly use to light cigarettes, cigars, and pipes, although it may be used to light other materials. The term "lighter" does not include matches or any other lighting device intended primarily to light materials other than smoking materials. When used in this summary, the term "lighter" includes only the disposable and novelty lighters defined below.

What is a disposable lighter?

A disposable lighter is a lighter that either:

- (1) cannot be refilled with fuel or
- (2) uses a gas such as butane, isobutane, propane, or other liquefied hydrocarbon under pressure, and has a Customs Value or price from the manufacturing

factory under \$2.25. (This value is adjusted every 5 years, if necessary, according to percentage changes in the monthly wholesale price index from June 1993.)

What is a novelty lighter?

In general, novelty lighters have features that make them attractive to children under five.

Novelty lighters include lighters that depict or resemble articles commonly recognized as appealing to or intended for use by children under 5 years of age, such as cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages. They also include lighters with features entertaining to children, such as visual effects like flashing lights or sound effects like musical notes. A novelty lighter may operate on any fuel, including butane or liquid fuel. Novelty lighters are subject to the requirements for child-resistance regardless of their Customs Value or factory price.

What is a surrogate lighter?

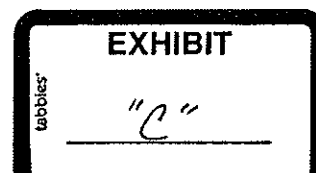
A surrogate lighter is a substitute for an actual working lighter. Surrogate lighters are used for testing so that the children tested do not have to try to operate real lighters. A surrogate lighter approximates the appearance, size, weight, and shape of an actual lighter intended for use by consumers. It does not have fuel, and must also be identical to the actual lighter in all characteristics that might affect child resistance, including the method of operation and the force(s) needed to operate the lighter. When operated, a surrogate produces a sound or visual signal to let the tester know that it has been operated in a manner that would have caused the actual lighter to light.

How do you test a cigarette lighter to make sure it is child resistant?

If you need to test a lighter, we recommend that you find a qualified lighter-testing laboratory in the U.S. to perform the test. A list of testing facilities known to the staff is available from the Office of Compliance or on the Commission's Web Site at: <http://www/cpsc.gov>. Also, you should review the test protocol carefully to make sure that you comply with all of the testing requirements.

The qualification test uses at least one, but no more than two, test panels of 100 children between the ages of 42

¹ This document is a general unofficial summary of the cigarette lighter standard and does not replace the requirements published in 16 C.F.R. Part 1210. This summary does not include all of the details included in those requirements, particularly those involved in conducting tests on lighters for child-resistance. For those details, please refer to the regulation or contact the Office of Compliance.



and 51 months to test surrogate lighters. Each panel is divided into 3 groups – 30 children 42 through 44 months old, 40 children 45 through 48 months old, and 30 children 49 through 51 months old. Approximately ⅓ of the children in each group must be boys. The test procedure allows a small variation in the size of each group and in the number of boys and girls in each group. Each child in the test panel must live within the United States, and have no illness, injury, or disability that would interfere with the child's ability to operate the test lighters. No child may participate in more than one test panel or test more than one model of a cigarette lighter. Before any child participates in a test, a parent or legal guardian must agree in writing to let the child participate. Two children at a time participate in the test in a well-lighted room that is familiar to them and is free from distractions. A tester first operates a surrogate lighter in the presence of the children without letting them see what he or she is doing, so that they will know what sound or visual signal the surrogate makes when it is operated successfully. The tester then gives each child a surrogate lighter, and asks the children to try to make the same sound or signal. Each child has five minutes to try to do this.

If a child succeeds in making the sound or signal, he or she is not tested further and that child's test is counted as a failure of the lighter that the surrogate represents. The tester shows any child who does not succeed in the first five minutes how to make the surrogate make the sound or signal. The child then has five more minutes to try to operate the surrogate successfully. Any child who succeeds in operating it in the second five minutes is also counted as a lighter failure.

For a lighter to pass, at least 85% of the children tested must be unable to operate the surrogate lighter. For the first 100-child test panel, if 10 or fewer children operate the surrogate successfully, the lighter that the surrogate represents passes. If 19 or more children succeed, the lighter fails. In either case, no further testing is necessary. If 11 through 18 children in the first panel operate the surrogate lighter successfully, the second 100-child panel is tested. In that case, the lighter fails if 31 or more of the total 200 children tested operate the surrogate successfully.

Are there other requirements?

Yes. After conducting qualification tests on surrogate lighters, manufacturers and importers must certify that the lighters they sell comply with the standard. Certification assures that the child-resistant mechanisms on lighters produced for sale perform as effectively as the mechanisms on the tested surrogates. A certificate must be based on a reasonable testing program of lighters sampled during production or on a test of each lighter produced for sale. Every manufacturer and importer of lighters subject to the standard must also label each

lighter, must keep records of child testing in English on paper, microfiche, or similar media, and must give those records within 48 hours to any designated officer or employee of the Commission who asks for them within 48 hours. Please refer to the standard for the specific requirements for labeling and record keeping.

In addition, at least 30 days before any manufacturer or importer imports into or distributes in the United States any model of lighter subject to the standard, the manufacturer or importer must provide a written report to the Office of Compliance that includes:

- (1) The name, address and principal place of business of the manufacturer or importer,
- (2) A detailed description of the lighter model to be imported or distributed and of the child-resistant feature(s) used on that model,
- (3) A description of the testing done to establish that the lighter is child resistant, including a description of the surrogate lighter tested, the specifications for the surrogate lighter, a summary of the results of all such tests, the dates the tests were performed, the location(s) of such tests, and the identity of the organization that conducted the tests,
- (4) An identification of the place or places that the lighters were or will be manufactured,
- (5) The location(s) where the records of testing of the lighter are kept, and
- (6) A prototype or production sample of the lighter model for which the report is submitted.

Are there any standards for other hazards presented by lighters?

The Standard Consumer Safety Specification for Lighters, ASTM F400-97, addresses such issues as flame generation, flame control, flame-height adjustment, spitting or sputtering and flaring, flame extinguishing, and structural integrity. The ASTM standard also provides that each lighter be accompanied by instructions or warnings, or both, explaining the proper way to use the lighter.

Where can I find additional information?

You can obtain the Safety Standard for Cigarette Lighters, 16 C.F.R. Part 1210, from the Commission's Web Site at: <http://www.cpsc.gov>. For more information on the requirements for lighters contact the Consumer Product Safety Commission, Office of Compliance, Washington, D.C. 20207, telephone: (301) 504-7913, <mailto:sect15@cpsc.gov>.

For copies of the Standard Consumer Safety Specification for Lighters (ASTM F 400) contact the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, telephone: (610)-832-9500, Fax (610)-832-9555, or visit <http://www.astm.org>.