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AB-3112 Controlled substances: butane. (2017-2018)

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Assembly Bill No. 3112

CHAPTER 595

An act to add Section 11107.2 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3112, Grayson. Controlled substances: butane.

Existing law prohibits or restricts the sale of certain consumer goods, including items that contain certain chemicals, within the state for public health or safety reasons. Violations of these provisions are subject to criminal or civil penalties, as specified.

This bill would make it unlawful to sell to any customer any quantity of nonodorized butane. The bill would exempt from the prohibition certain consumer items such as lighters and small containers of nonodorized butane used to refill these items. The bill would authorize a civil penalty to be assessed for the violation of these provisions. The bill would authorize specified local and state officials to bring a civil action to enforce these provisions.

This bill would become operative on July 1, 2019.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11107.2 is added to the Health and Safety Code, to read:

11107.2. (a) Except as otherwise provided in subdivision (b), it is unlawful for a manufacturer, wholesaler, reseller, retailer, or other person or entity to sell to any customer any quantity of nonodorized butane.

(b) The limitations in subdivisions (a) shall not apply to any of the following transactions:

(1) Butane sold to manufacturers, wholesalers, resellers, or retailers solely for the purpose of resale.

(2) Butane sold to a person for use in a lawful commercial enterprise, including, but not limited to, a volatile solvent extraction activity licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code or a medical cannabis collective or cooperative described in subdivision (b) of Section 11362.775 of this code, operating in compliance with all applicable state licensing requirements and local regulations governing that type of business.

(3) The sale of pocket lighters, utility lighters, grill lighters, torch lighters, butane gas appliances, refill canisters, gas cartridges, or other products that contain or use nonodorized butane and contain less than 150 milliliters of butane.

(4) The sale of any product in which butane is used as an aerosol propellant.

(c) (1) Any person or business that violates subdivision (a) is subject to a civil penalty of two thousand five hundred dollars (\$2,500).

(2) The Attorney General, a city attorney, a county counsel, or a district attorney may bring a civil action to enforce this section.

(3) The civil penalty shall be deposited into the General Fund if the action is brought by the Attorney General. If the action is brought by a city attorney, the civil penalty shall be paid to the treasurer of the city in which the judgment is entered. If the action is brought by a county counsel or district attorney, the civil penalty shall be paid to the treasurer of the county in which the judgment is entered.

(d) As used in this section, the following definitions shall apply:

(1) "Customer" means any person or entity other than those described in paragraphs (1) and (2) of subdivision (b) that purchases or acquires nonodorized butane from a seller during a transaction.

(2) "Nonodorized butane" means iso-butane, n-butane, butane, or a mixture of butane and propane of any power that may also use the words "refined," "pure," "purified," "premium," or "filtered," to describe the butane or butane mixture, which does not contain ethyl mercaptan or a similar odorant.

(3) "Sell" or "sale" means to furnish, give away, exchange, transfer, deliver, surrender, distribute, or supply, in exchange for money or any other consideration.

(4) "Seller" means any person, business entity, or employee thereof that sells nonodorized butane to any customer within this state.

(e) This section shall become operative on July 1, 2019.