

SUBJECT: Prohibition and penalty for the sale of toy-like lighters in this state

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Solomons, Menendez, Cook, Farabee, Gallego, Geren, Harless, Jones, Lucio, Maldonado, Oliveira, Swinford, S. Turner

1 nay — Craddick

0 absent

1 present not voting — Hilderbran

WITNESSES: For — Chris Barron, State Firemen's & Fire Marshals' Association; Tom Dimas, Weslaco Fire Department; Don Jansen, Texas Fire Marshal's Association; (*Registered, but did not testify:* Santiago Cuellar, Weslaco Fire Department)

Against — None

On — (*Registered, but did not testify:* Paul Maldonado, Texas Department of Insurance)

DIGEST: CSHB 90 would amend the Health and Safety Code by adding ch. 797 which would prohibit the sale, or distribution for retail sale or promotion, of toy-like lighters in this state. An offense would be a class C misdemeanor (maximum fine of \$500).

"Toy-like lighter" would be defined as a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes that resemble items designed or intended for play by children under 10 years of age.

Storage of toy-like lighters in a facility closed to the public or their transportation through the state would not be prohibited.

The prohibition would not apply to:

- a lighter manufactured before January 1, 1980, that did not contain fuel, and did not have a device necessary to produce a combustion or flame;
- a mechanical or electrical device used primarily to ignite fuel for a fireplace or charcoal or gas grill; or
- a disposable or refillable lighter decorated with a logo, label, decal, artwork, or heat-shrinkable sleeve or designed to resemble an icon of a destination.

The state fire marshal could adopt rules to administer this bill.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after this date.

**SUPPORTERS
SAY:**

CSHB 90 would protect the public, and especially children, by prohibiting the sale and distribution of toy-like lighters in Texas. Deadly fires have been caused across the country by these lighters. These objects are easily mistaken for toys and so are enticing to children. They do not have disclaimers and are inherently dangerous.

By allowing the storage or transportation of toy-like lighters in Texas, the bill would avoid interstate commerce concerns.

**OPPONENTS
SAY:**

While it is important to protect children, outlawing an object is no substitute for parental responsibility. Ultimately, it is up to each parent to keep his or her child safe.