

## **BILL ANALYSIS**

C.S.H.B. 90  
By: Martinez, "Mando"  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Toy-like lighters have caused deadly fires across the country. Many of these lighters look like animals, miniature cars, mobile phones, cameras, fishing lures, stacks of coins, markers, and doll accessories, and therefore are attractive to children. There are also toy-like lighters that look like tools, such as tape measures, drills, hammers, and paint brushes.

C.S.H.B. 90 prohibits the sale or distribution for retail sale or promotion in Texas of a toy-like lighter to protect the public.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the state fire marshal in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 90 amends the Health and Safety Code to prohibit a person from selling or distributing for retail sale or promotion in Texas a toy-like lighter. The bill creates a Class C misdemeanor offense for a person who violates the prohibition. The bill establishes that such provisions do not prohibit the transportation of toy-like lighters through Texas or the storage of toy-like lighters in a warehouse or distribution center closed to the public. The bill defines "toy-like lighter" to mean a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes that resembles in physical form or function articles designed or intended for play by children under 10 years of age. The bill exempts from the prohibition a lighter, manufactured before January 1, 1980, that does not contain fuel and does not have a device necessary to produce combustion or a flame. The bill also exempts a mechanical or electrical device used primarily to ignite fuel for a fireplace or a charcoal or gas grill, as well as a disposable or refillable lighter printed or decorated with a logo, label, decal, artwork, or heat-shrinkable sleeve or designed as a souvenir to resemble an icon of a destination.

C.S.H.B. 90 authorizes the state fire marshal to adopt rules to administer the provisions added by the bill.

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 90 prohibits the sale of a "toy-like lighter," rather than a "novelty lighter" as in the original and defines "toy-like lighter," rather than a "novelty lighter" as in the original. The substitute in its definition of the term refers to a device that in physical form or function resembles articles designed or intended for play by children under 10 years of age, rather than one that resembles articles commonly recognized as appealing to or intended for use by children.

under 18 years of age as in the original. The substitute includes reference to lighters that play musical notes or have flashing lights, whereas the original instead includes reference to a lighter that has entertaining audio or visual effects. The substitute removes, from the examples contained in the original, lighters that resemble toys other than toy animals, food, or beverages, and adds as examples lighters that resemble weapons, furniture, sports equipment, tools, and holiday decorations. The substitute differs from the original by exempting from the prohibition a device used primarily to ignite fuel for a fireplace or grill and a disposable or refillable lighter having specified printing or decoration or design as a souvenir to resemble an icon of a destination. The substitute differs from the original by removing a prohibition on the manufacturing of a novelty lighter and by specifying that the prohibited distribution is the distribution for retail sale or promotion in Texas. The substitute adds a provision not in the original permitting the transportation and storage of a toy-like lighter.