

BILL ANALYSIS

H.B. 3787
By: Lujan
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that Texans continue to face a serious public safety risk from counterfeit and unsafe lighters that fail to meet basic safety standards. These products are often imported from foreign manufacturers, primarily in China, which operate without a U.S. legal presence. As a result, they evade inspection at ports of entry and enter the Texas marketplace undetected, where they are sold to consumers, often without retailers knowing the danger. While U.S. manufacturers voluntarily adhere to certain safety standards, these guidelines are not mandatory and imported lighters frequently bypass these standards, increasing the risk of malfunction due to fuel leaks, uncontrolled flames, or flame invisibility. Since 1994, the U.S. Consumer Product Safety Commission (CPSC) has required that all cigarette lighters be child-resistant. However, there are no federal mandates enforcing broader product safety features like flame height, extinguishing reliability, or flaring control. H.B. 3787 seeks to protect Texas families, reduce preventable injuries, and hold bad actors accountable by prohibiting a person from selling, distributing, or offering for sale in Texas any counterfeit lighter or unsafe lighter, including by providing free samples or engaging in wholesale, retail, in-person, or online sales. The bill subjects a person who knowingly violates the bill's provisions or a rule adopted under those provisions to a civil penalty.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 3787 amends the Health and Safety Code to prohibit a person from selling, distributing, or offering for sale in Texas any counterfeit lighter or unsafe lighter, including by providing free samples or engaging in wholesale, retail, in-person, or online sales. The bill's provisions expressly do not prohibit the following:

- interstate transportation of counterfeit lighters or unsafe lighters through Texas; or
- the storage of counterfeit lighters or unsafe lighters in a distribution center or warehouse located in Texas, provided the distribution center or warehouse is closed to the public and does not sell or distribute the lighters to persons in Texas.

The bill requires the state fire marshal, as soon as practicable after the bill's effective date, to adopt rules to administer the bill's provisions.

H.B. 3787 authorizes the state fire marshal to inspect the records and lighters in the possession of a person who manufactures, stores, or sells the lighters to verify compliance with the bill's

provisions. The bill subjects a person who knowingly violates the bill's provisions or a rule adopted under those provisions to a civil penalty as follows:

- for a manufacturer, wholesale dealer, or agent who knowingly sells or offers to sell a counterfeit lighter or unsafe lighter in violation of the bill's provisions, a civil penalty not to exceed \$100 for each counterfeit or unsafe lighter sold or offered for sale, but not more than \$100,000 for all violations occurring within a 30-day period;
- for a retailer who knowingly sells or offers to sell a counterfeit lighter or unsafe lighter in violation of the bill's provisions, a civil penalty not to exceed \$100 for each counterfeit or unsafe lighter sold or offered for sale, but not more than \$25,000 for all violations occurring within a 30-day period; and
- for a person who otherwise violates the bill's provisions or a rule or order adopted under those provisions, a civil penalty not to exceed \$1,000 for the first violation or \$5,000 for each subsequent violation.

The bill authorizes the attorney general, as determined by the attorney general or on request of the state fire marshal, to bring a civil action in a district court if it appears a person has violated, is violating, or is threatening to violate the bill's provisions or a rule or order adopted under those provisions, for the following:

- injunctive relief to restrain the person from continuing the violation or threat of violation;
- the assessment of a civil penalty; or
- both injunctive relief and a civil penalty.

H.B. 3787 defines the following terms:

- "counterfeit lighter" as a lighter made as an imitation of a brand name lighter in violation of the intellectual property laws of the state or of the United States;
- "lighter" as any device that:
 - operates using an electrical current or striking mechanism and any type of hydrocarbon fuel, such as benzene, butane, or naphtha; and
 - produces a small flame for the purpose of igniting a cigarette, cigar, pipe, fireplace, charcoal or gas grill, or other apparatus; and
- "unsafe lighter" as:
 - any disposable or refillable lighter that is not in compliance with each applicable provision of the American Society for Testing and Materials Standard F400-20, "Standard Consumer Safety Specification for Lighters," as it existed on January 1, 2025; or
 - any grill or utility lighter that is not in compliance with each applicable provision of the American Society for Testing and Materials Standard F2201-20, "Standard Consumer Safety Specification for Utility Lighters," as it existed on January 1, 2025.

EFFECTIVE DATE

September 1, 2025.