

The Fair Trading Act

Product safety standards - Cigarette lighters



This product safety standard helps prevent accidental fires caused by cigarette lighters that are unsafe, do not work properly or are used incorrectly, particularly by children. To help reduce the risk of injuries, as well as property damage and loss, lighters must meet certain performance, design and labelling standards. Lighters must be designed to ensure most children would not be able to operate them.

The product safety standards regulations set the official safety standard for cigarette lighters

The Product Safety Standards (Cigarette Lighters) Regulations 1998 (**Regulations**) set sections of two standards: ISO 9994:1995 and American Standard CFR 16 Part 1210 *Safety Standard for Cigarette Lighters* (the **American Standards**) with amendments as the official product safety standard that suppliers of cigarette lighters must comply with.

We use the term “product safety standard” in this fact sheet to refer to the sections of the American Standards that are identified by the Regulations.

Failure to comply with the product safety standard is a breach of the Fair Trading Act and is illegal.

If you comply with the product safety standard, you will meet your legal obligations.

Standards are revised periodically. However, your legal obligations do not change until the Regulations are amended to refer to the revised standards. This may not happen at the same time. When the Regulations are amended, we will update our fact sheet. Even if the Regulations do not require you to comply with the most recent standard, we encourage you to look at the revised standard and adopt any additional or higher product safety protections, even if they are not required by law.



What types of cigarette lighters are covered by the product safety standard?

A cigarette lighter is defined in the Regulations as a flame producing device that is designed to light cigarettes, cigars and pipes and is either:

- disposable; or
- designed to be refilled with fuel and has a customs value of less than \$3.50.

A lighter is disposable when it is designed to be thrown away when empty or if it has a separate container for fuel which is designed to be thrown away when empty.

A customs value is the value of a product at the point of import or export and may be different from the product’s retail value. You can check the customs value of goods with Customs New Zealand at www.customs.govt.nz

What types of cigarette lighters are excluded?

The product safety standard does not apply to cigarette lighters that are:

- Refillable with a customs value of more than \$3.50
- Brought into New Zealand in a person’s luggage or effects, as long as the number of lighters carried is not more than four
- Component parts used to manufacture cigarette lighters where a certificate of compliance has already been issued (See below for more information about certificates of compliance).

Who must comply with the product safety standard?

Any person who supplies, offers to supply or advertises the supply of cigarette lighters covered by the product safety standard (**cigarette lighters**) must comply. This includes:

- manufacturers, importers and distributors who supply cigarette lighters to retailers
- retailers who sell cigarette lighters instore or online to customers
- individuals who offer second-hand cigarette lighters for sale at markets or on internet auction sites.

What are the safety requirements?

The product safety standard sets out the specifications cigarette lighters must meet and the tests to be carried out to determine whether the lighters meet those specifications.

In general, cigarette lighters must:

- be child resistant
- comply with certain performance and structural requirements
- meet labelling requirements
be documented with a certificate of compliance.

The product safety standard contains more details and requirements, some of which are very technical in nature. You should read the product safety standard to make sure you understand all the requirements and testing.

What is a child resistant cigarette lighter?

In order to be certified as child resistant, a cigarette lighter must be of a kind that has been:

- tested following the test set out in section 1210.4 of the American Standard, and
- shown not to be successfully operated by at least 85% of the child test panel.

The mechanism designed or intended to make the lighter child resistant must:

- reset itself automatically after each operation of the ignition mechanism
- not impair safe operation of the lighter when used normally
- be effective for the lighter's functional life, and
- not be easily overridden or deactivated.

What are the performance requirements for cigarette lighters?

Cigarette lighters must meet performance requirements for:

1. Flame generation
2. Flame heights and heights adjustments
3. Spitting and sputtering;
4. Flame extinction
5. Sharp edges.

Flame generation

The criteria and tests are designed to make sure that accidental or self-ignition of a lighter is minimised. A flame has to be produced by the lighter being deliberately operated by hand.

The criteria and tests are designed to make sure that accidental or self-ignition of a lighter is minimised

Flame heights and height adjustments

Maximum flame heights for non-adjustable lighters are set at:

- 50 mm high for non-adjustable lighters that are not windproof
- 120 mm high for non-adjustable windproof lighters.

The maximum flame height for a lighter fitted with a mechanism to adjust the flame height is 150 mm. At its lowest setting, the flame cannot be higher than 50 mm. Prior to sale, the height should be adjusted so that the flame will not be higher than 125 mm when first used.

An adjustable lighter, when used in the normal way, must need a deliberate action by the user to either increase or decrease the flame height. The lighter must also have markings to show a user how to reduce or increase the flame height.

Spitting and sputtering

The lighter cannot spit, sputter or flare a flame.

Flame extinction

The flame on the lighter must go out when no longer in use.

Sharp edges

The lighter must have no sharp edges that could cause accidental cuts or abrasions when the lighter is being used in a normal way.

What must cigarette lighters be marked with?

The manufacturer or importer must mark each cigarette lighter with the following information, which can be in code form:

- the time when the lighter was manufactured (not to exceed a period of more than 31 days); and
- the manufacturer's identity, or a private label with a code mark or another label by which the seller can identify the manufacturer if the buyer asks for this information.

It is illegal to sell cigarette lighters where there is no certificate of compliance

What must a certificate of compliance include?

Each shipment of cigarette lighters must be accompanied with a certificate of compliance. This certificate does not have to follow any specific format, but it must contain the following information:

- a statement that the lighters comply with the child resistance requirements in the American Consumer Product Safety Standard for cigarette lighters (16 CFR 1210);
- the name and address of the manufacturer or importer issuing the certificate;
- the month and year of manufacture; and
- the physical address where the lighters were manufactured if this is different to the manufacturer's address.

It is illegal to sell cigarette lighters where there is no certificate of compliance.

Do importers need to provide a certificate of compliance?

Yes, importers must provide a certificate of compliance with the imported product to New Zealand Customs Service when the cigarette lighter shipment enters New Zealand.

The importer or the seller must also provide the certificate of compliance to Customs or the Commerce Commission within ten days of being asked for the certificate.

Who is responsible for making sure cigarette lighters I supply are safe?

You are responsible for ensuring that the cigarette lighters you sell comply with the product safety standard.

You must not rely on cigarette lighters complying with the product safety standard just because a supplier has offered to sell them to you.

You must procure a certificate of compliance to confirm the lighters comply with the product safety standard. It is illegal to sell cigarette lighters where there is no certificate of compliance. Distributors and retailers should request to see a copy of the certificate of compliance.

If you have any concern about the safety of the cigarette lighters you have for sale, do not sell them.

What can happen if I supply a cigarette lighter that does not comply with the product safety standard?

It is an offence under section 30 of the Fair Trading Act to supply, offer to supply or advertise for supply a cigarette lighter that does not comply with the product safety standard. The Commerce Commission, who enforces the Fair Trading Act, may take a prosecution against you in court.

There can be serious consequences for businesses that a court finds to have broken the law. Companies can be fined up to **\$600,000** for each breach and an individual up to **\$200,000**. Where a company is a repeat offender, directors and those involved in the management of the company can be banned from involvement in the management of any company for a period of up to 10 years.

In addition to any action taken by the Commerce Commission, you may have to conduct a recall of any cigarette lighters you have supplied which do not carry the correct labelling or have not been properly tested. Information on carrying out a product recall is available from Trading Standards at the Ministry of Business, Innovation and Employment. www.consumeraffairs.govt.nz



Where can I get more information about the product safety standard?

ISO 9994:1995 Standard is available for purchase from Standards New Zealand by calling 0800 782 632, or via its website: www.standards.co.nz.

The American Standard CFR 16 Part 1210 Safety Standard for Cigarette Lighters is available online from the US Government Printing Office: www.access.gpo.gov

You can access the Regulations and the Fair Trading Act online at the government's legislation website www.legislation.govt.nz. The information on this website is free.

EXAMPLE

Warnings for breach of product safety standard

A nationwide trader was warned for failing to comply with the product safety standard as its novelty lighter (which also had a laser attached) had no certificate of compliance and the lighters were not marked properly. A second trader was also warned as its cigarette lighters had been manufactured in a way that would not prevent them from being accidentally started and they came with no flame adjustment mechanism or flare control. The lighters were also being sold without the required markings.

This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

You can subscribe for information updates at www.comcom.govt.nz/subscribe

Contact us with information about possible breaches of the laws we enforce:

Phone: 0800 943 600 **Write:** Enquiries Team, PO Box 2351, Wellington 6140 **Email:** contact@comcom.govt.nz

