

By: Puente

H.B. No. 1223

A BILL TO BE ENTITLED

AN ACT

relating to performance standards for toilets sold in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) water conservation measures will make the most effective use of the state's water resources;

(2) the state's water plan has achieved significant water conservation through the installation in new construction of toilets using 1.6 gallons per flush and through the replacement of inefficient toilets with toilets using 1.6 gallons per flush;

(3) many parts of the state could suffer water shortages and the state could suffer a financial burden if the water savings expected to be achieved by this Act do not occur;

(4) some current gravity toilets will use significantly more water than 1.6 gallons per flush because of their design;

(5) toilet standards should ensure good performance;

(6) water conservation measures result in reduced energy use for pumping and treatment of water; and

(7) reduced energy use improves air quality.

SECTION 2. Section 372.002, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1) and (b-2) to read as follows:

(a) A person may not sell, offer for sale, distribute, or

1 import into this state a plumbing fixture for use in this state  
2 unless:

3 (1) the plumbing fixture meets the water saving  
4 performance standards provided by Subsections [~~Subsection~~] (b) and  
5 (b-1); and

6 (2) the plumbing fixture is listed by the commission  
7 under Subsection (c).

8 (b-1) In addition to the requirements of Subsection (b)(4),  
9 the commission by rule shall establish specifications and testing  
10 procedures for toilets to ensure the performance and water  
11 efficiency of toilets. The specifications and testing procedures  
12 must ensure that:

13 (1) a toilet either:

14 (A) has a maximum tank capacity of not more than  
15 2.0 gallons of water; or

16 (B) discharges a maximum volume of not more than  
17 2.0 gallons of water when field adjustment of the original  
18 equipment tank trim is set at the toilet's maximum water use  
19 setting;

20 (2) the maximum volume of water discharged by a toilet  
21 that has an original equipment flush valve seal that is a flapper or  
22 other sealing device does not exceed 2.0 gallons when the flapper or  
23 sealing device is replaced with a standard seal and the field  
24 adjustment of tank trim is set at the toilet's maximum water use  
25 setting;

26 (3) a toilet tank equipped with a flush valve contains  
27 a flapper that tests demonstrate will remain leak free after being

1 used with toilet tank consumer products that contain bleach and  
2 other chemical agents that may degrade flappers;

3 (4) any in-tank barrier, bucket, or dam that is  
4 designed to restrict, retard, or slow the flow of water through the  
5 open flush valve is tamper-proof or permanently affixed to the  
6 tank, so that any attempt to remove the barrier, bucket, or dam by  
7 cutting or breaking the barrier, bucket, or dam renders the entire  
8 tank unusable;

9 (5) the flapper valve chain, if any, is formed of  
10 plastic or metal as a beaded or link chain;

11 (6) the fill valve is a pilot valve type; and

12 (7) the toilet removes at least 250 grams of media  
13 using a maximum performance testing protocol adopted by the  
14 commission.

15 (b-2) In adopting rules under Subsection (b-1), the  
16 commission shall consult for guidance the standards proposed in the  
17 Los Angeles Department of Water and Power's Requirement for  
18 Ultra-Low-Flush Toilets Supplementary Purchase Specification to  
19 the ASME A112.19.2.M and ASME A112.19.6 and the Maximum Performance  
20 Testing Protocol (MaP). The commission shall review any subsequent  
21 amendments to the standards and determine whether the later  
22 versions of the standards meet the intent of this section and should  
23 be adopted as the new standards. The commission by rule may adopt  
24 the new standards if the commission determines the new standards  
25 meet the intent of this section.

26 (c) The commission shall make and maintain a current list of  
27 plumbing fixtures that are certified to the commission by the

1 manufacturer or importer to meet the water saving performance  
2 standards established by Subsections [~~Subsection~~] (b) and (b-1).  
3 The manufacturer or importer must submit test results from an  
4 independent laboratory to verify that a toilet meets the standards  
5 adopted under Subsection (b-1). To have a plumbing fixture  
6 included on the list, a manufacturer or importer must supply to the  
7 commission, in the form prescribed by the commission, the  
8 identification and the performance specifications of the plumbing  
9 fixture. The commission may test a listed fixture to determine the  
10 accuracy of the manufacturer's or importer's certification and  
11 shall remove from the list a fixture the commission finds to be  
12 inaccurately certified.

13 SECTION 3. (a) The Texas Commission on Environmental  
14 Quality shall adopt rules as required by Section 372.002(b-1),  
15 Health and Safety Code, as added by this Act, not later than January  
16 1, 2006.

17 (b) The change in law made by Section 372.002(b-1), Health  
18 and Safety Code, as added by this Act, applies only to a toilet  
19 sold, offered for sale, distributed, or imported into this state on  
20 or after January 1, 2007. A toilet sold, offered for sale,  
21 distributed, or imported into this state before that date is  
22 governed by the law in effect on the date that sale, offer,  
23 distribution, or importation occurred, and that law is continued in  
24 effect for that purpose.

25 SECTION 4. This Act takes effect September 1, 2005.