

BILL ANALYSIS

Senate Research Center
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S.B. 489
By: Ellis
Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas currently does not maintain laws specific to the minimum efficiency standards for certain types of residential and commercial appliances. Such minimum standards are considered to potentially impact the production of air pollution, the amount of energy consumed by Texans, and the reliability of the electricity supply.

As proposed, S.B. 489 establishes minimum efficiency standards for those certain residential and commercial appliances and requires the comptroller of public accounts to adopt rules regarding the implementation of these standards by businesses producing the affected appliances by September 1, 2008.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Sections 392.051, 392.052, 392.151, 392.152, 392.153 and 392.159, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 392, as follows:

CHAPTER 392. APPLIANCE EFFICIENCY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. DEFINITIONS. Defines "ballast," "bottle-type water dispenser," "commercial hot food holding cabinet," "compact audio product," "digital versatile disc" or "DVD," "DVD player," "DVD recorder," "Energy Star Program," "high-intensity discharge lamp," "metal halide lamp," "metal halide lamp fixture," "portable electric spa," "residential pool pump," "single-voltage external AC to DC power supply," "state-regulated incandescent reflector lamp," "walk-in freezer," "walk-in refrigerator," and "water dispenser."

Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) Sets forth certain products sold, offered for sale, or installed in the state to which this chapter applies.

(b) Sets forth certain products to which this chapter does not apply.

[Reserves Sections 392.003-392.050 for expansion.]

SUBCHAPTER B. EFFICIENCY STANDARDS

Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES. Requires the comptroller of public accounts (comptroller) to adopt rules establishing minimum efficiency standards for each type of new product described by Section 392.002(a), no later than September 1, 2008.

Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a) Authorizes the comptroller to adopt rules to establish increased efficiency standards for a product

listed in Section 392.002(a), or to establish standards for a product not listed in that subsection.

(b) Requires the comptroller to prescribe new or increased efficiency standards, in consultation with the state energy conservation office, if the comptroller determines that such standards would serve to promote energy conservation in the state and would be cost-effective for consumers who purchase and use the new product.

Sec. 392.053. EFFECTIVE DATE OF STANDARDS. Provides that the effective date of a standard established under this subchapter is the first anniversary of the date the rule establishing the standard is adopted.

Sec. 392.054. BOTTLE-TYPE WATER DISPENSERS. Prohibits a bottle-type water dispenser designed for dispensing both hot and cold water from having a standby energy consumption greater than 1.2 kilowatt-hours (kWh) per day, as measured in accordance with certain test data established by the Energy Star Program.

Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. Requires a commercial hot food holding cabinet to have a maximum idle energy rate no greater than 40 watts per cubic foot of interior volume, as determined by a specific method. Requires interior volume to be measured in accordance with the Energy Star Program Requirements for Commercial Hot Food Holding Cabinets.

Sec. 392.056. COMPACT AUDIO PRODUCTS. Prohibits a compact audio product from using more than two watts in standby-passive mode for a product without a permanently illuminated clock display, and four watts in standby-passive mode for a product with a permanently illuminated clock display, as measured by a specific method.

Sec. 392.057. DVD PLAYERS OR RECORDERS. Prohibits a DVD player or recorder from using more than three watts in standby-passive mode, as measured by a specific method.

Sec. 392.058. METAL HALIDE LAMP FIXTURES. Prohibits a metal halide lamp fixture designed to be operated with a lamp rated for 150 to 500 watts from containing a ballast to operated the lamp known as a "probe-start metal halide ballast" that does not contain an igniter and starts the lamp by using a third starting electrode probe in the arc tube.

Sec. 392.059. PORTABLE ELECTRIC SPAS. Prohibits portable electric spas from having a standby power greater than $5(V^{2/3})$, where V equals the total volume of the spa in gallons. Requires standby power to be measured in accordance with the test method for portable electric spas specified in the California Code of Regulations as of December 2006.

Sec. 392.060. RESIDENTIAL POOL PUMP MOTORS. (a) Prohibits a residential pool pump motor (pump motor) from being a split-phase or capacitor start-induction run type motor.

(b) Requires pump motors with a capacity of one horsepower or more to have the capability of operating at more than one speed with a low speed having a rotation rate that is not more than one-half of the motor's maximum rotation rate.

(c) Requires pump motor controls to have the capability to operate the pump motor at more than one speed. Requires the pump's default circulation speed to be the lowest speed, and for the pump's high speed override capability to be governed by a control device that allows the higher circulation speed to operate for a temporary period not to exceed one normal cycle.

Sec. 392.061. SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES. (a) Requires a single-voltage external AC to DC power supply (power supply) to meet the

minimum energy efficiency and maximum energy consumption requirements provided within a certain table.

(b) Provides that the standards in this section apply to power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(c) Requires the efficiency of a power supply to be measured with certain test methodology specified by the Energy Star Program.

Sec. 392.062. STATE-REGULATED INCANDESCENT REFLECTOR LAMPS. Requires a state-regulated incandescent reflector lamp to meet certain federally established minimum average lamp efficacy requirements.

Sec. 392.063. WALK-IN REFRIGERATORS AND FREEZERS. Sets forth certain requirements of walk-in refrigerators and freezers pertaining to increased energy efficiency.

(b) Sets forth additional standards for walk-in refrigerators or freezers with transparent reach-in doors.

(c) Authorizes the comptroller to delay implementation of Subsection (a)(4), pertaining to a requirement for a walk-in refrigerator or freezer to have a single-phase evaporator fan motor that operates at less than one horsepower and a electronically commutated motor that operates at less than 460 volts, on a determination that the specified motors are available from one manufacturer or in quantities insufficient to serve the needs of the walk-in industry for evaporator-fan application.

(d) Authorizes a walk-in refrigerator or freezer to have interior light sources with an efficacy of less than 40 lumens per watt, including ballast losses, if the lights are used in conjunction with a timer or device that turns the lights off whenever the refrigerator or freezer is unoccupied for a period not to exceed 15 minutes.

[Reserves Sections 392.064-392.100 for expansion.]

SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY STANDARDS

Sec. 392.101. PRODUCT COMPLIANCE. (a) Prohibits a new product described by Section 392.002(a), to be sold or offered for sale in this state unless the efficiency of those new products meets or exceeds the applicable efficacy standards prescribed under Subchapter B (Efficiency Standards).

(b) Prohibits the product from being installed for compensation in this state unless the efficiency for the product meets or exceeds the applicable efficiency standards prescribed by the rules adopted under Subchapter B on or after the first anniversary of the date the sale or offering for sale of a new product becomes subject to an efficiency standard adopted under this chapter.

Sec. 392.102. APPLICATION FOR WAIVER. Authorizes the comptroller to apply for a waiver of federal preemption in accordance with federal procedures under 42 U.S.C. Section 6297(d), to authorize state efficiency standards for a product regulated by the federal government.

[Reserves Sections 392.103-392.150 for expansion.]

SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

Sec. 392.151. **PRODUCT TESTING.** (a) Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to test samples of the product in accordance with test procedures adopted under this chapter.

(b) Requires the comptroller, by rule, to adopt test procedures in consultation with the State Energy Conservation Office for the determination of a product's energy efficiency if Subchapter B (Efficiency Standards), Chapter 392, Health and Safety Code, does not provide such standards. Requires the comptroller to adopt test methods approved by the United States Department of Energy or, in the absence of those test methods, other appropriate nationally recognized test methods.

(c) Authorizes the comptroller to adopt revised test procedures when new versions of those test procedures become available.

Sec. 392.152. **PRODUCT CERTIFICATION.** Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to certify to the comptroller that the product is in compliance with that standard according to test results.

(b) Requires the comptroller to adopt rules governing the certification of products under this section and to coordinate certification by this state with the certification programs of other states and federal agencies with similar standards.

(c) Specifies that Subsection (a) does not apply to a manufacturer of certain power supplies, walk-in refrigerators, or walk-in freezers.

Sec. 392.153. **PRODUCT LABELING.** (a) Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to identify each product offered for sale or installation in this state as being in compliance with this chapter by means of a certain designation on the product and packaging at the time of sale or installation.

(b) Requires the comptroller to adopt rules governing such identification. Requires those rules to be coordinated with the labeling programs of other states and federal agencies with equivalent efficiency standards to the greatest extent possible. Requires the comptroller to allow the use of existing marks, labels, or tags that connote compliance with the efficiency requirements of this chapter.

Sec. 392.154. **COMPTROLLER TESTING FOR EFFICIENCY STANDARDS COMPLIANCE.** Authorizes the comptroller to test products subject to an efficiency standard adopted under this chapter for compliance with the applicable efficiency standard. Requires the comptroller, upon finding a tested product not to be in compliance with set standards, to impose an assessment against a manufacturer an amount sufficient to recover the costs of purchasing and testing the product, and to make information available to the public on any product's lack of compliance.

Sec. 392.155. **INSPECTIONS.** Authorizes the comptroller to have periodic inspections conducted of a distributor or retailer of new products covered in Section 392.002(a), subject to an efficiency standard to determine compliance under this chapter. Requires the inspections to be conducted at reasonable and convenient hours. Requires notice to be given before an inspection may be conducted.

Sec. 392.156. **COMPLAINTS.** Requires the comptroller to investigate a complaint received concerning a violation of this chapter and to report the results of the investigation to the attorney general.

Sec. 392.157. **ATTORNEY GENERAL ENFORCEMENT.** Authorizes the attorney general to institute proceedings to enforce this chapter.

Sec. 392.158. **VIOLATIONS AND PENALTIES.** Requires the comptroller to issue a warning to a person for the person's first violation of this chapter. Provides that a

person's second and subsequent violations are subject to a civil penalty of no more than \$250. Specifies that each violation, and each day that a violation continues, constitutes a separate violation. Specifies that a penalty assessed under this section is in addition to costs assessed under Section 392.154 (Product Labeling).

Sec. 392.159. RULES FOR IMPLEMENTATION AND ENFORCEMENT. Authorizes the comptroller to adopt additional rules as necessary to ensure the proper implementation and enforcement of this chapter.

SECTION 2. (a) Makes application of this Act relating to the efficiency standards prescribed by rules adopted under Subchapter B (Efficiency Standards) prospective to January 1, 2009.

(b) Provides that residential pool pumps that do not meet efficiency standards contained in Sections 392.060(b) and (c), Health and Safety Code, as added by this Act, may be sold in this state through December 31, 2009. Provides that a power supply made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of a product requiring the power supply as a service part or spare part is not required to meet the standards of Section 392.061 (Single-Voltage External AC to DC Power Supplies), Health and Safety Code, as added by this Act, until January 1, 2013.

SECTION 3. Effective date: September 1, 2007.