By: Anchia H.B. No. 1122

A BILL TO BE ENTITLED

AN ACT

relating to efficiency standards for certain appliances; providing a civil penalty.

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

SECTION 1. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 392 to read as follows:

Chapter 392. APPLIANCE EFFICIENCY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. DEFINITIONS. In this chapter:

(1) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions involving voltage, current, and waveform, for starting and operating the lamp.

(2) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

(3) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance.

(4) "Compact audio product," also known as a mini, mid, micro, or shelf audio system, means an integrated audio system encased in a single housing that includes an amplifier and radio tuner with attached or separable speakers that can reproduce audio

from magnetic tape, compact disc, DVD, or flash memory.

(5) "Digital versatile disc" or "DVD" means a laser-encoded plastic medium capable of storing a large amount of digital audio, video, or computer data.

(6) "DVD player" means a digital versatile disc player that:

(A) is a commercially available electronic product encased in a single housing that includes an integral power supply; and

(B) is designed to decode digitized video signals on a DVD.

(7) "DVD recorder" means a digital versatile disc recorder that:

(A) is a commercially available electronic product encased in a single housing that includes an integral power supply; and

(B) is designed for the production or recording of digitized video signals on a DVD.

(8) "Energy Star Program" means the United States Environmental Protection Agency's Energy Star Program.

(9) "High-intensity discharge lamp" means a lamp in which:

(A) light is produced by the passage of an electric current through a vapor or gas;

(B) the light-producing arc is stabilized by bulb wall temperature; and

(C) the arc tube has a bulb wall loading of

greater than three watts per square centimeter.

(10) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation.

(11) "Metal halide lamp fixture" means a fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(12) "Portable electric spa" means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.

(13) "Residential pool pump" means a pump used to circulate and filter residential swimming pool water to maintain the water's clarity and sanitation.

(14) "Single-voltage external AC to DC power supply" means a device that:

(A) is designed to convert line voltage alternating current input into lower voltage direct current output;

(B) is able to convert to only one direct current output voltage at a time;

(C) is intended to be used with a separate end-use product that constitutes the primary power load;

(D) is contained in a physical enclosure separate from the end-use product;

(E) is designed to be connected to the end-use product by a removable or hard-wired electrical connection, cable, cord, or other wiring;

(F) has a nameplate output power less than or

equal to 250 watts;

(G) does not have a fixed or removable battery or battery pack that physically attaches directly to the power supply converter unit; and

(H) does not have:

(i) a battery chemistry or type selector switch and indicator light; or

(ii) a battery chemistry or type selector switch and a state of charge meter.

(15) "State-regulated incandescent reflector lamp" means a lamp that:

(A) is not colored or designed for rough or vibration service applications;

(B) has an inner reflective coating on the outer bulb to direct the light;

(C) has a standard E26 (Edison 26 millimeter) medium screw base;

(D) has a rated voltage or voltage range at least partially within the range of 115 to 130 volts; and

(E) is one of the following types:

(i) a blown parabolic aluminized reflector (BPAR) lamp, bulged reflector (BR) lamp, elliptical reflector (ER) lamp, or a lamp with a similar bulb shape with a diameter equal to or greater than 2.25 inches; or

(ii) a reflector (R) lamp, a parabolic aluminized reflector (PAR) lamp, or a lamp with a similar bulb shape with a diameter of 2.25 to 2.75 inches.

(16) "Walk-in freezer" means a refrigerated space a person can walk into that:

(A) has a total frozen storage area of less than 3,000 square feet;

(B) operates at a temperature at or below 32 degrees Fahrenheit; and

(C) is connected to a self-contained or remote condensing unit.

(17) "Walk-in refrigerator" means a refrigerated space a person can walk into that:

(A) has a total chilled storage area of less than 3,000 square feet;

(B) operates at a chilled temperature above 32 degrees Fahrenheit; and

(C) is connected to a self-contained or remote condensing unit.

(18) "Water dispenser" means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This chapter applies to the following new products sold, offered for sale, or installed in this state:

(1) bottle-type water dispensers;

(2) commercial hot food holding cabinets;

(3) compact audio products;

(4) DVD players and recorders;

(5) metal halide lamp fixtures;

(6) portable electric spas;

(7) residential pool pumps;

(8) single-voltage external AC to DC power supplies;

(9) state-regulated incandescent reflector lamps;

(10) walk-in refrigerators and freezers; and

(11) any other products that are designated by the comptroller in accordance with Section 392.102.

(b) This chapter does not apply to:

(1) a new product manufactured in this state and sold outside the state;

(2) a new product manufactured outside this state and sold at wholesale inside the state for final retail sale and installation outside the state;

(3) a product installed in a mobile manufactured home at the time of the home's construction;

(4) a product designed expressly for installation and use in a recreational vehicle;

(5) a commercial heated glass merchandizing cabinet, drawer warmer, or cook-and-hold appliance for hot food;

(6) a compact audio product that:

(A) can be independently powered by internal batteries;

(B) has a powered external satellite antenna; or

(C) can provide a video output signal;

(7) a DVD recorder that has an electronic programming guide function that provides an interactive, onscreen menu of television listings and downloads program information from the

vertical blanking interval of a regular television signal;

(8) a refrigerated warehouse;

(9) a chilled-space product designed and marketed exclusively for medical, scientific, or research purposes;

(10) a single-voltage external AC to DC power supply that requires United States Food and Drug Administration listing and approval as a medical device; or

(11) an incandescent reflector lamp that is rated at:

(A) 50 watts or less with a diameter of 30/8 or 40/8 inches and is one of the following types: BR30, ER30, BR40, and ER40;

(B) 65 watts with a diameter of 30/8 or 40/8 inches and is one of the following types: BR30, BR40, and ER40; or

(C) 45 watts or less with a diameter of 20/8 inches (R20 lamps).

[Sections 392.003-392.050 reserved for expansion]

SUBCHAPTER B. EFFICIENCY STANDARDS

Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES. Not later than September 1, 2008, the comptroller, in consultation with the state energy conservation office, shall adopt rules establishing minimum efficiency standards for each type of new product described by Section 392.002(a).

Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a) The comptroller may 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) In considering new or increased standards, the

comptroller, in consultation with the state energy conservation office, shall prescribe new or increased efficiency standards if the comptroller determines that the standards would:

(1) serve to promote energy conservation in this state; and

(2) be cost-effective for consumers who purchase and use the new product.

Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard established under this subchapter takes effect on the first anniversary of the date the rule establishing the standard is adopted.

Sec. 392.054. BOTTLE-TYPE WATER DISPENSERS. A bottle-type water dispenser designed for dispensing both hot and cold water may not have standby energy consumption greater than 1.2 kilowatt-hours per day, as measured in accordance with the test criteria contained in version 1 of the "Energy Star Program Requirements for Bottled Water Coolers," except that Section D, "Timer Usage," of those test criteria may not be used to test units with an integral, automatic timer.

Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) A commercial hot food holding cabinet must have a maximum idle energy rate of not greater than 40 watts per cubic foot of interior volume, as determined by the "idle energy rate-dry test" in ASTM F2140-01, "Standard Test Method for Performance of Hot Food Holding Cabinets," copyright 2007 ASTM International.

(b) Interior volume must be measured in accordance with the method shown in the "Energy Star Program Requirements for

Commercial Hot Food Holding Cabinets" as in effect on August 15, 2003.

Sec. 392.056. COMPACT AUDIO PRODUCTS. A compact audio product may not use 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 in accordance with International Electrotechnical Commission (IEC) test method 62087:2002-2003(E), "Methods of measurement for the power consumption of audio, video, and related equipment."

Sec. 392.057. DVD PLAYERS OR RECORDERS. A DVD player or recorder may not use more than three watts in standby-passive mode, as measured in accordance with International Electrotechnical Commission (IEC) test method 62087:2002-2003(E), "Methods of measurement for the power consumption of audio, video, and related equipment."

Sec. 392.058. METAL HALIDE LAMP FIXTURES. A metal halide lamp fixture designed to be operated with a lamp that has a wattage rating of 150 to 500 watts may not contain a ballast to operate the lamp known as a "probe-start metal halide ballast" that:

(1) does not contain an igniter; and

(2) starts the lamp by using a third starting electrode probe in the arc tube.

Sec. 392.059. PORTABLE ELECTRIC SPAS. A portable electric spa may not have a standby power greater than $5(V^{2/3})$ watts where V equals the total volume in gallons. Standby power must be measured in accordance with the test method for portable electric spas

contained in Section 1604, Title 20, California Code of Regulations, as of December 2006.

Sec. 392.060. RESIDENTIAL POOL PUMP MOTORS. (a) A residential pool pump motor may not be a split-phase or capacitor start-induction run type motor.

(b) A residential pool pump motor with a capacity of one horsepower or more must 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) Pool pump motor controls must have the capability of operating the pool pump at more than one speed. The pump's default circulation speed must be the lowest speed, and the pump's high speed override capability must be governed by a control device that allows the higher circulation speed to operate only for a temporary period not to exceed one normal cycle.

Sec. 392.061. SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES. (a) A single-voltage external AC to DC power supply must meet the minimum energy efficiency and maximum energy consumption requirements provided by the following table:

Nameplate Output Power	Minimum Energy Efficiency in Active Mode
0 to < 1 watt	0.49 * Nameplate Output
⩾1 watt and ⩽49 watts	0.09*Ln(Nameplate Output Power) + 0.49
> 49 watts	0.84

	Maximum Energy Consumption in No-Load Mode
0 to < 10 watts	0.5 watts
⩾ 10 watts and ⩽250 watts	0.75 watts

Where Ln (Nameplate Output) = Natural Logarithm of the nameplate output expressed in watts

(b) These standards apply to single-voltage external AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(c) For purposes of this section, the efficiency of a single-voltage external AC to DC power supply must be measured in accordance with the test methodology specified by the Energy Star Program "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)," except that tests shall be conducted at 115 volts only.

Sec. 392.062. STATE-REGULATED INCANDESCENT REFLECTOR LAMPS. A state-regulated incandescent reflector lamp must meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps contained in 42 U.S.C. Section 6295(i)(1)(A), as in effect on January 1, 2007.

Sec. 392.063. WALK-IN REFRIGERATORS AND FREEZERS. (a) A walk-in refrigerator or freezer must have:

(1) automatic door closers that firmly close all reach-in doors and that firmly close walk-in doors not wider than 3 feet 9 inches and not higher than 6 feet 11 inches that have been closed to within one inch of full closure;

(2) wall, ceiling, and door insulation resistance values of at least R-28 for refrigerators and R-32 for freezers, except for glazed portions of doors and structural members;

(3) a floor insulation resistance value of at least R-28 for freezers;

(4) for a single-phase evaporator fan motor rated at less than one horsepower and at less than 460 volts, an electronically commutated motor;

(5) for a condenser fan motor rated at less than one horsepower:

(A) an electronically commutated motor;

(B) a permanent split capacitor-type motor; or

(C) a polyphase motor of one-half horsepower or more; and

(6) except as provided by Subsection (d), for all interior lights, light sources with an efficacy of 40 lumens per watt or more, including ballast losses.

(b) In addition to the requirements under Subsection (a), a walk-in refrigerator or freezer with transparent reach-in doors must have the following:

(1) transparent reach-in doors or windows in walk-in

doors for a walk-in freezer of triple-pane glass with heat-reflective treated glass or gas fill;

(2) transparent reach-in doors or windows in walk-in doors for a walk-in refrigerator of double-pane or triple-pane glass with heat-reflective treated glass and gas fill;

(3) for an appliance that has an anti-sweat heater without anti-sweat heat controls, a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot of door opening for a freezer and 3.0 watts per square foot of door opening for a refrigerator; and

(4) for an appliance that has an anti-sweat heater with anti-sweat heat controls and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening for a freezer or 3.0 watts per square foot of door opening for a refrigerator, anti-sweat heat controls that reduce the energy use of the anti-sweat heater in an amount corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

(c) The comptroller may delay implementation of Subsection (a)(4) on a determination that the specified motors are available only from one manufacturer or in quantities insufficient to serve the needs of the walk-in industry for evaporator-fan applications.

(d) A walk-in refrigerator or freezer may 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.

[Sections 392.064-392.100 reserved for expansion]

SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY STANDARDS

Sec. 392.101. PRODUCT COMPLIANCE. (a) A new product described by Section 392.002(a) may not be sold or offered for sale in this state unless the efficiency of the new product meets or exceeds the applicable efficiency standards prescribed by the rules adopted under Subchapter B.

(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, that product may not be installed for compensation in this state unless the efficiency of the product meets or exceeds the applicable efficiency standards prescribed by the rules adopted under Subchapter B.

Sec. 392.102. APPLICATION FOR WAIVER. For purposes of this chapter, the comptroller may 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.

[Sections 392.103-392.150 reserved for expansion]

SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

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

(b) The comptroller, in consultation with the State Energy

Conservation Office, by rule shall adopt test procedures for determining a product's energy efficiency if Subchapter B does not provide for the procedures. The comptroller shall 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) The comptroller may adopt revised test procedures when new versions of test procedures become available.

Sec. 392.152. PRODUCT CERTIFICATION. (a) Except as provided by Subsection (c), the manufacturer of a new product subject to an efficiency standard adopted under this chapter shall certify to the comptroller that the product is in compliance with that standard according to test results.

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

(c) Subsection (a) does not apply to a manufacturer of single-voltage external AC to DC power supplies, walk-in refrigerators, or walk-in freezers.

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

(b) The comptroller shall adopt rules governing the

identification of products and packaging under this section. The rules must to the greatest practical extent be coordinated with the labeling programs of other states and federal agencies with equivalent efficiency standards. The comptroller shall 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. (a) The comptroller may test products subject to an efficiency standard adopted under this chapter for compliance with the applicable efficiency standards. If a product tested is found not to be in compliance with the standards, the comptroller shall:

(1) impose against the manufacturer of the product an assessment in an amount sufficient to recover the costs of purchasing and testing the product; and

(2) make information available to the public on any product found to be not in compliance with the standards.

Sec. 392.155. INSPECTIONS. The comptroller may have periodic inspections conducted of a distributor or retailer of new products covered by Section 392.002 subject to an efficiency standard adopted under this chapter to determine compliance with this chapter. The inspections must be conducted at reasonable and convenient hours. Notice must be given before an inspection may be conducted.

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

Sec. 392.157. ATTORNEY GENERAL ENFORCEMENT. The attorney general may institute proceedings to enforce this chapter.

Sec. 392.158. VIOLATIONS AND PENALTIES. (a) The comptroller shall issue a warning to a person for the person's first violation of this chapter.

(b) A person's second and subsequent violations are subject to a civil penalty of not more than $250.

(c) Each violation constitutes a separate violation, and each day that a violation continues constitutes a separate violation.

(d) A penalty assessed under this section is in addition to costs assessed under Section 392.154.

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

SECTION 2. (a) The efficiency standards prescribed by rules adopted under Subchapter B, Chapter 392, Health and Safety Code, as added by this Act, apply only to the sale or offer of sale of a new product to which that chapter applies that occurs on or after January 1, 2009.

(b) Notwithstanding Subsection (a) of this section:

(1) a new residential pool pump that does not meet the 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; and

(2) a new single-voltage external AC to DC 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, Health and Safety Code, as added by this Act, until January 1, 2013.

SECTION 3. This Act takes effect September 1, 2007.