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H.B. No. 3446

A BILL TO BE ENTITLED

AN ACT

relating to the promotion by the governor's office of economic development of Texas manufactured products; providing civil and administrative penalties.

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

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490C to read as follows:

CHAPTER 490C. PROMOTION OF TEXAS MANUFACTURED PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490C.001. DEFINITIONS. In this chapter:

(1) "Genuine Texas program" means the program established by the office under this chapter to develop and expand markets for Texas manufactured products.

(2) "Texas manufactured product" means a product that is manufactured in this state or otherwise has value added to the product in this state. The term does not include a Texas agricultural product, as defined by Section 46.002, Agriculture Code.

(3) "Office" means the governor's office of economic development.

[Sections 490C.002-490C.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF OFFICE

Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. The office may establish and administer a program in accordance with

1 this chapter to develop and expand markets for Texas manufactured
2 products.

3 Sec. 490C.052. RULEMAKING AUTHORITY. The office may adopt
4 rules and establish procedures to administer this chapter.

5 Sec. 490C.053. DUTIES OF OFFICE. If the office establishes
6 a Genuine Texas program under this chapter, the office shall:

7 (1) design and administer the use of a logo for Texas
8 manufactured products and adopt manufactured product quality
9 standards and other criteria for evaluating applications to use the
10 logo;

11 (2) develop procedures for acceptance and
12 administration of money received to administer the program;

13 (3) develop a general promotional campaign for Texas
14 manufactured products and advertising campaigns for specific Texas
15 manufactured products;

16 (4) contract with media representatives to disperse
17 promotional materials;

18 (5) receive gifts, donations, or grants from any
19 source and establish internal reporting requirements for use of
20 available money; and

21 (6) cooperate with the Department of Agriculture to
22 minimize duplication of programs.

23 Sec. 490C.054. FEE FOR USE OF LOGO. To cover the costs of
24 administering the Genuine Texas program, the office may require a
25 person to pay a fee not to exceed \$100 a year for use of the logo
26 designed under Section 490C.053(1).

27 Sec. 490C.055. PROMOTIONAL EVENTS. The office may use

1 available money to purchase food and beverages for a promotional
2 event.

3 Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) The office
4 may sell or contract for the sale of items, including clothing,
5 posters, and banners, to promote Texas manufactured products.

6 (b) The office may use the office's Internet website to
7 advertise and sell the items described by Subsection (a).

8 Sec. 490C.057. ADVISORY BOARD. (a) If the office
9 establishes a Genuine Texas program as authorized by this chapter,
10 the office shall appoint an advisory board to assist in the
11 implementation of the program.

12 (b) A member of the advisory board serves at the pleasure of
13 the office.

14 (c) A member of the advisory board serves without
15 compensation but is entitled to reimbursement for actual expenses
16 incurred in the performance of official board duties, subject to
17 approval of the office.

18 (d) Chapter 2110 does not apply to the advisory board.

19 (e) At the request of the office, the advisory board shall
20 advise the office on the adoption of rules and the establishment of
21 procedures relating to the administration of the Genuine Texas
22 program.

23 (f) The office shall provide the advisory board with the
24 staff necessary to assist the board in carrying out the board's
25 duties under this section.

26 [Sections 490C.058-490C.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

Sec. 490C.101. VIOLATION. A person violates this chapter if the person:

(1) uses, reproduces, or distributes the logo designed by the office under Section 490C.053 without the consent of the office; or

(2) violates a rule adopted or a procedure established by the office under this chapter.

Sec. 490C.102. SUSPENSION OR FORFEITURE OF RIGHT TO USE LOGO. (a) The office may temporarily suspend or permanently forfeit the right of a person who violates this chapter to use the logo of the Genuine Texas program.

(b) Before suspending or forfeiting a person's right to use the logo, the office may consider the circumstances and seriousness of the violation, any efforts by the person to correct the violation, and whether the person previously has violated this chapter.

Sec. 490C.103. ADMINISTRATIVE PENALTY. The office may impose an administrative penalty not to exceed \$500 against a person who violates this chapter. A proceeding to impose the administrative penalty is a contested case under Chapter 2001.

Sec. 490C.104. CIVIL PENALTY. A person who violates this chapter is subject to a civil penalty not to exceed \$500 for each violation.

Sec. 490C.105. CALCULATING AMOUNT OF ADMINISTRATIVE OR CIVIL PENALTY. (a) Each day that a violation continues may be considered a separate violation for purposes of an administrative

1 or civil penalty under this subchapter.

2 (b) The amount of an administrative or civil penalty must be
3 based on:

4 (1) the seriousness of the violation, including the
5 nature, circumstances, extent, and gravity of the violation;

6 (2) the history of previous violations;

7 (3) the amount necessary to deter a future violation;

8 (4) efforts by the person to correct the violation;

9 and

10 (5) any other matter that justice may require.

11 Sec. 490C.106. ENFORCEMENT OF ADMINISTRATIVE OR CIVIL
12 PENALTY. (a) The enforcement of an administrative penalty under
13 this section may be stayed during the time the order is under
14 judicial review if the person pays the penalty to the clerk of the
15 court or files a supersedeas bond with the court in the amount of
16 the penalty. A person who cannot afford to pay the penalty or file
17 the bond may stay the enforcement by filing an affidavit in the
18 manner required by the Texas Rules of Civil Procedure for a party
19 who cannot afford to file security for costs, subject to the right
20 of the office to contest the affidavit as provided by those rules.

21 (b) At the request of the office, the attorney general or
22 the county attorney or district attorney of the county in which the
23 violation is alleged to have occurred may file suit to collect the
24 civil penalty.

25 Sec. 490C.107. DEPOSIT OF MONEY. An administrative or
26 civil penalty collected under this subchapter shall be deposited to
27 the credit of the general revenue fund.

1 Sec. 490C.108. INJUNCTIVE RELIEF. (a) At the request of
2 the office, the attorney general or the county or district attorney
3 of the county in which the alleged violation is threatened to occur
4 or is occurring may file suit for the appropriate injunctive relief
5 to prevent or abate a violation of this chapter.

6 (b) Venue for an action brought under this section is in
7 Travis County.

8 SECTION 2. This Act takes effect September 1, 2007.