

By: Rose, Keffer, Deshotel, McCall, Gonzales,
et al.

H.B. No. 3446

Substitute the following for H.B. No. 3446:

By: Morrison

C.S.H.B. No. 3446

A BILL TO BE ENTITLED

AN ACT

relating to the promotion by the comptroller 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 comptroller 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.

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

SUBCHAPTER B. POWERS AND DUTIES OF COMPTROLLER

Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. The comptroller may establish and administer a program in accordance with this chapter to develop and expand markets for Texas manufactured products.

Sec. 490C.052. RULEMAKING AUTHORITY. The comptroller may

1 adopt rules and establish procedures to administer this chapter.

2 Sec. 490C.053. DUTIES OF COMPTROLLER. If the comptroller
3 establishes a Genuine Texas program under this chapter, the
4 comptroller shall:

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

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

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

14 (4) contract with media representatives to disperse
15 promotional materials; and

16 (5) receive gifts, donations, or grants from any
17 source and establish internal reporting requirements for use of
18 available money.

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

23 Sec. 490C.055. PROMOTIONAL EVENTS. The comptroller may use
24 available money to purchase food and beverages for a promotional
25 event.

26 Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) The
27 comptroller may sell or contract for the sale of items, including

1 clothing, posters, and banners, to promote Texas manufactured
2 products.

3 (b) The comptroller may use the comptroller's Internet
4 website to advertise and sell the items described by Subsection
5 (a).

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

10 (b) A member of the advisory board serves at the pleasure of
11 the comptroller.

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

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

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

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

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

25 SUBCHAPTER C. ENFORCEMENT

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

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

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

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

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

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

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

22 Sec. 490C.105. CALCULATING AMOUNT OF ADMINISTRATIVE OR
23 CIVIL PENALTY. (a) Each day that a violation continues may be
24 considered a separate violation for purposes of an administrative
25 or civil penalty under this subchapter.

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

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

3 (2) the history of previous violations;

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

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

6 and

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

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

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

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

26 Sec. 490C.108. INJUNCTIVE RELIEF. (a) At the request of
27 the comptroller, the attorney general or the county or district

1 attorney of the county in which the alleged violation is threatened
2 to occur or is occurring may file suit for the appropriate
3 injunctive relief to prevent or abate a violation of this chapter.

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

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