

By: Rose

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. The comptroller may
20 require a person to pay a fee not to exceed \$25 a year for use of the
21 logo designed under Section 490C.053(1).

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

25 Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) The
26 comptroller may sell or contract for the sale of items, including
27 clothing, posters, and banners, to promote Texas manufactured

1 products.

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

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

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

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

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

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

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

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

24 SUBCHAPTER C. ENFORCEMENT

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

27 (1) uses, reproduces, or distributes the logo designed

1 by the comptroller under Section 490C.053 without the consent of
2 the comptroller; or

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

5 Sec. 490C.102. FORFEITURE OF RIGHT TO USE LOGO. A person
6 who violates this chapter may not use the logo of the Genuine Texas
7 program.

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

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

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

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

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

23 (2) the history of previous violations;

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

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

26 and

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

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

12 (b) At the request of the comptroller, the attorney general
13 or the county attorney or district attorney of the county in which
14 the violation is alleged to have occurred shall file suit to collect
15 the civil penalty.

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

19 Sec. 490C.108. INJUNCTIVE RELIEF. (a) At the request of
20 the comptroller, the attorney general or the county or district
21 attorney of the county in which the alleged violation is threatened
22 to occur or is occurring shall file suit for the appropriate
23 injunctive relief to prevent or abate a violation of this chapter.

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

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