

1-1 By: Rose, et al. (Senate Sponsor - Eltife) H.B. No. 3446
1-2 (In the Senate - Received from the House April 27, 2007;
1-3 May 1, 2007, read first time and referred to Committee on Business
1-4 and Commerce; May 10, 2007, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; May 10, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the promotion by the governor's office of economic
1-9 development of Texas manufactured products; providing civil and
1-10 administrative penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle F, Title 4, Government Code, is amended
1-13 by adding Chapter 490C to read as follows:

1-14 CHAPTER 490C. PROMOTION OF TEXAS MANUFACTURED PRODUCTS

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 490C.001. DEFINITIONS. In this chapter:

1-17 (1) "Genuine Texas program" means the program
1-18 established by the office under this chapter to develop and expand
1-19 markets for Texas manufactured products.

1-20 (2) "Texas manufactured product" means a product that
1-21 is manufactured in this state or otherwise has value added to the
1-22 product in this state. The term does not include a Texas
1-23 agricultural product, as defined by Section 46.002, Agriculture
1-24 Code.

1-25 (3) "Office" means the governor's office of economic
1-26 development.

1-27 [Sections 490C.002-490C.050 reserved for expansion]

1-28 SUBCHAPTER B. POWERS AND DUTIES OF OFFICE

1-29 Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. The
1-30 office may establish and administer a program in accordance with
1-31 this chapter to develop and expand markets for Texas manufactured
1-32 products.

1-33 Sec. 490C.052. RULEMAKING AUTHORITY. The office may adopt
1-34 rules and establish procedures to administer this chapter.

1-35 Sec. 490C.053. DUTIES OF OFFICE. If the office establishes
1-36 a Genuine Texas program under this chapter, the office shall:

1-37 (1) design and administer the use of a logo for Texas
1-38 manufactured products and adopt manufactured product quality
1-39 standards and other criteria for evaluating applications to use the
1-40 logo;

1-41 (2) develop procedures for acceptance and
1-42 administration of money received to administer the program;

1-43 (3) develop a general promotional campaign for Texas
1-44 manufactured products and advertising campaigns for specific Texas
1-45 manufactured products;

1-46 (4) contract with media representatives to disperse
1-47 promotional materials;

1-48 (5) receive gifts, donations, or grants from any
1-49 source and establish internal reporting requirements for use of
1-50 available money; and

1-51 (6) cooperate with the Department of Agriculture to
1-52 minimize duplication of programs.

1-53 Sec. 490C.054. FEE FOR USE OF LOGO. To cover the costs of
1-54 administering the Genuine Texas program, the office may require a
1-55 person to pay a fee not to exceed \$100 a year for use of the logo
1-56 designed under Section 490C.053(1).

1-57 Sec. 490C.055. PROMOTIONAL EVENTS. The office may use
1-58 available money to purchase food and beverages for a promotional
1-59 event.

1-60 Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) The office
1-61 may sell or contract for the sale of items, including clothing,
1-62 posters, and banners, to promote Texas manufactured products.

1-63 (b) The office may use the office's Internet website to
1-64 advertise and sell the items described by Subsection (a).

2-1 Sec. 490C.057. ADVISORY BOARD. (a) If the office
 2-2 establishes a Genuine Texas program as authorized by this chapter,
 2-3 the office shall appoint an advisory board to assist in the
 2-4 implementation of the program.

2-5 (b) A member of the advisory board serves at the pleasure of
 2-6 the office.

2-7 (c) A member of the advisory board serves without
 2-8 compensation but is entitled to reimbursement for actual expenses
 2-9 incurred in the performance of official board duties, subject to
 2-10 approval of the office.

2-11 (d) Chapter 2110 does not apply to the advisory board.

2-12 (e) At the request of the office, the advisory board shall
 2-13 advise the office on the adoption of rules and the establishment of
 2-14 procedures relating to the administration of the Genuine Texas
 2-15 program.

2-16 (f) The office shall provide the advisory board with the
 2-17 staff necessary to assist the board in carrying out the board's
 2-18 duties under this section.

2-19 [Sections 490C.058-490C.100 reserved for expansion]

2-20 SUBCHAPTER C. ENFORCEMENT

2-21 Sec. 490C.101. VIOLATION. A person violates this chapter
 2-22 if the person:

2-23 (1) uses, reproduces, or distributes the logo designed
 2-24 by the office under Section 490C.053 without the consent of the
 2-25 office; or

2-26 (2) violates a rule adopted or a procedure established
 2-27 by the office under this chapter.

2-28 Sec. 490C.102. SUSPENSION OR FORFEITURE OF RIGHT TO USE
 2-29 LOGO. (a) The office may temporarily suspend or permanently
 2-30 forfeit the right of a person who violates this chapter to use the
 2-31 logo of the Genuine Texas program.

2-32 (b) Before suspending or forfeiting a person's right to use
 2-33 the logo, the office may consider the circumstances and seriousness
 2-34 of the violation, any efforts by the person to correct the
 2-35 violation, and whether the person previously has violated this
 2-36 chapter.

2-37 Sec. 490C.103. ADMINISTRATIVE PENALTY. The office may
 2-38 impose an administrative penalty not to exceed \$500 against a
 2-39 person who violates this chapter. A proceeding to impose the
 2-40 administrative penalty is a contested case under Chapter 2001.

2-41 Sec. 490C.104. CIVIL PENALTY. A person who violates this
 2-42 chapter is subject to a civil penalty not to exceed \$500 for each
 2-43 violation.

2-44 Sec. 490C.105. CALCULATING AMOUNT OF ADMINISTRATIVE OR
 2-45 CIVIL PENALTY. (a) Each day that a violation continues may be
 2-46 considered a separate violation for purposes of an administrative
 2-47 or civil penalty under this subchapter.

2-48 (b) The amount of an administrative or civil penalty must be
 2-49 based on:

2-50 (1) the seriousness of the violation, including the
 2-51 nature, circumstances, extent, and gravity of the violation;

2-52 (2) the history of previous violations;

2-53 (3) the amount necessary to deter a future violation;

2-54 (4) efforts by the person to correct the violation;

2-55 and

2-56 (5) any other matter that justice may require.

2-57 Sec. 490C.106. ENFORCEMENT OF ADMINISTRATIVE OR CIVIL
 2-58 PENALTY. (a) The enforcement of an administrative penalty under
 2-59 this section may be stayed during the time the order is under
 2-60 judicial review if the person pays the penalty to the clerk of the
 2-61 court or files a supersedeas bond with the court in the amount of
 2-62 the penalty. A person who cannot afford to pay the penalty or file
 2-63 the bond may stay the enforcement by filing an affidavit in the
 2-64 manner required by the Texas Rules of Civil Procedure for a party
 2-65 who cannot afford to file security for costs, subject to the right
 2-66 of the office to contest the affidavit as provided by those rules.

2-67 (b) At the request of the office, the attorney general or
 2-68 the county attorney or district attorney of the county in which the
 2-69 violation is alleged to have occurred may file suit to collect the

3-1 civil penalty.

3-2 Sec. 490C.107. DEPOSIT OF MONEY. An administrative or
3-3 civil penalty collected under this subchapter shall be deposited to
3-4 the credit of the general revenue fund.

3-5 Sec. 490C.108. INJUNCTIVE RELIEF. (a) At the request of
3-6 the office, the attorney general or the county or district attorney
3-7 of the county in which the alleged violation is threatened to occur
3-8 or is occurring may file suit for the appropriate injunctive relief
3-9 to prevent or abate a violation of this chapter.

3-10 (b) Venue for an action brought under this section is in
3-11 Travis County.

3-12 SECTION 2. This Act takes effect September 1, 2007.

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