

By: Averitt

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to programs for the enhancement of air quality, including energy efficiency initiatives; providing penalties.

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

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-a), (9-a), (9-b), (10-a), and (10-b) to read as follows:

(7-a) "Hybrid motor vehicle" means a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.

(9-a) "Motor vehicle" means a fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway.

(9-b) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale regardless of the mileage of the vehicle.

(10-a) "Qualifying new motor vehicle" means a new motor vehicle that:

(A) has a model year no earlier than the calendar year immediately preceding the current calendar year; and

(B) meets the requirements of Section 382.201(b).

1 (10-b) "Retail sale" means any sale of a motor vehicle
2 other than a sale in which the purchaser acquires a vehicle for
3 resale.

4 SECTION 1.02. Section 382.209, Health and Safety Code, is
5 amended by amending Subsections (b), (e), and (g) and adding
6 Subsections (i) and (j) to read as follows:

7 (b) The commission shall provide funding for local
8 low-income vehicle repair assistance, retrofit, and accelerated
9 vehicle retirement programs with available funds collected under
10 Section 382.202, 382.302, or other designated and available funds.
11 The programs shall be administered in accordance with Chapter 783,
12 Government Code. Program [~~Programmatic~~] costs may include call
13 center management, application oversight, invoice analysis,
14 education, outreach, and advertising. Not more than 10 percent of
15 the money provided to a local low-income vehicle repair assistance,
16 retrofit, and accelerated vehicle retirement program under this
17 section may be used for the administration of the programs,
18 including program costs.

19 (e) A vehicle is not eligible to participate in a low-income
20 vehicle repair assistance, retrofit, and accelerated vehicle
21 retirement program established under this section unless:

22 (1) the vehicle is capable of being operated;

23 (2) the registration of the vehicle:

24 (A) is current; and

25 (B) reflects that the vehicle has been registered
26 in the county implementing the program for the 12 months preceding
27 the application for participation in the program;

1 (3) the commissioners court of the county
2 administering the program determines that the vehicle meets the
3 eligibility criteria adopted by the commission, the Texas
4 Department of Transportation, and the Public Safety Commission;
5 ~~[and]~~

6 (4) if the vehicle is to be repaired, the repair is
7 done by a repair facility recognized by the Department of Public
8 Safety, which may be an independent or private entity licensed by
9 the state; and

10 (5) if the vehicle is to be retired under this
11 subsection and Section 382.213, the replacement vehicle is a
12 qualifying new motor vehicle.

13 (g) A participating county may contract with any
14 appropriate entity, including the regional council of governments
15 or the metropolitan planning organization in the appropriate
16 region, or with another county for services necessary to implement
17 the participating county's low-income vehicle repair assistance,
18 retrofit, and accelerated vehicle retirement program. The
19 participating counties in a nonattainment region or counties
20 participating in an early action compact under Subchapter H may
21 agree to have the money collected in any one county be used in any
22 other participating county in the same region. ~~[The participating~~
23 ~~counties may also agree to contract with any appropriate entity,~~
24 ~~including the regional metropolitan planning organization or~~
25 ~~council of governments, to implement a program under Section~~
26 ~~382.217.]~~

27 (i) Notwithstanding the vehicle replacement requirements

1 provided by Subsection (d)(2), the commission by rule may provide
2 monetary or other compensatory assistance under the low-income
3 vehicle repair assistance, retrofit, and accelerated vehicle
4 retirement program, subject to the availability of funds, for the
5 replacement of a vehicle that meets the following criteria:

6 (1) the vehicle is gasoline-powered and is at least 10
7 years old;

8 (2) the vehicle owner meets applicable financial
9 eligibility criteria;

10 (3) the vehicle meets the requirements provided by
11 Subsections (e)(1) and (e)(2); and

12 (4) the vehicle has passed a Department of Public
13 Safety motor vehicle safety inspection or safety and emissions
14 inspection within the 15-month period before the application is
15 submitted.

16 (j) The commission may provide monetary or other
17 compensatory assistance under the low-income vehicle repair
18 assistance, retrofit, and accelerated vehicle retirement program
19 for a replacement vehicle or replacement assistance for a pre-1996
20 model year vehicle that passes the required United States
21 Environmental Protection Agency Start-Up Acceleration Simulation
22 Mode Standards emissions test but that would have failed the United
23 States Environmental Protection Agency Final Acceleration
24 Simulation Mode Standards emissions test or some other criterion
25 determined by the commission; provided, however, that a replacement
26 vehicle under this subsection must be a qualifying new motor
27 vehicle.

1 SECTION 1.03. Section 382.210, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

4 (a) The commission by rule shall adopt guidelines to assist a
5 participating county in implementing a low-income vehicle repair
6 assistance, retrofit, and accelerated vehicle retirement program
7 authorized under Section 382.209. The guidelines at a minimum
8 shall recommend:

9 (1) a minimum and maximum amount for repair
10 assistance;

11 (2) a minimum and maximum amount toward the purchase
12 price of a replacement vehicle qualified for the accelerated
13 retirement program, with the maximum amount not to exceed \$2,500
14 or, if the replacement vehicle is a hybrid motor vehicle, \$3,500;

15 (3) criteria for determining eligibility, taking into
16 account:

17 (A) the vehicle owner's income, which may not
18 exceed 300 percent of the federal poverty level;

19 (B) the fair market value of the vehicle; and

20 (C) any other relevant considerations;

21 (4) safeguards for preventing fraud in the repair,
22 purchase, or sale of a vehicle in the program; and

23 (5) procedures for determining the degree and amount
24 of repair assistance a vehicle is allowed, based on:

25 (A) the amount of money the vehicle owner has
26 spent on repairs;

27 (B) the vehicle owner's income; and

1 (C) any other relevant factors.

2 (b) A replacement vehicle described by Subsection (a)(2)
3 must:

4 (1) except as provided by Subsection (c), be a vehicle
5 in a class or category of vehicles that has been certified to meet
6 federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R.
7 Section 86.1811-04, as published in the February 10, 2000, Federal
8 Register;

9 (2) have a gross vehicle weight rating of less than
10 10,000 pounds; and

11 (3) be a vehicle the total cost of which does not
12 exceed \$25,000.

13 (c) The commission may adopt any revisions made by the
14 federal government to the emissions standards described by
15 Subsection (b)(1).

16 (d) A participating county shall provide an electronic
17 means for distributing vehicle repair or replacement funds once all
18 program criteria have been met with regard to the repair or
19 replacement.

20 SECTION 1.04. Section 382.213, Health and Safety Code, is
21 amended by amending Subsection (a) and adding Subsections (d)
22 through (h) to read as follows:

23 (a) Except as provided by Subsection (c) and Subdivision (5)
24 of this subsection, a vehicle retired under an accelerated vehicle
25 retirement program authorized by Section 382.209 may not be resold
26 or reused in its entirety in this or another state. The automobile
27 dealer who takes possession of the vehicle must submit to the

1 program administrator proof, in a manner adopted by the commission,
2 that the vehicle has been retired. The vehicle must be:

3 (1) destroyed;

4 (2) recycled;

5 (3) dismantled and its parts sold as used parts or used
6 in the program;

7 (4) placed in a storage facility of a program
8 established under Section 382.209 and subsequently destroyed,
9 recycled, or dismantled and its parts sold or used in the program;

10 or

11 (5) repaired, brought into compliance, and used as a
12 replacement vehicle under Section 382.209(d)(2).

13 (d) Notwithstanding Subsection (a)(3), the dismantler of a
14 vehicle shall scrap the emissions control equipment and engine.
15 The dismantler shall certify that the equipment and engine have
16 been scrapped and not resold into the marketplace. A person who
17 causes, suffers, allows, or permits a violation of this subsection
18 or of a rule adopted under this section is subject to a civil
19 penalty under Subchapter D, Chapter 7, Water Code, for each
20 violation. For purposes of this subsection, a separate violation
21 occurs with each fraudulent certification or prohibited resale.

22 (e) Notwithstanding Subsection (d), vehicle parts not
23 related to emissions control equipment or the engine may be resold
24 in any state.

25 (f) Any dismantling of vehicles or salvaging of steel under
26 this section must be performed at a facility located in this state.

27 (g) In dismantling a vehicle under this section, the

1 dismantler shall remove any mercury switches in accordance with
2 state and federal law.

3 (h) For purposes of this section, the commission shall adopt
4 rules defining "emissions control equipment" and "engine."

5 SECTION 1.05. Subchapter G, Chapter 382, Health and Safety
6 Code, is amended by adding Sections 382.219, 382.220, and 382.221
7 to read as follows:

8 Sec. 382.219. PARTICIPATING AUTOMOBILE DEALERSHIPS.

9 (a) A participating automobile dealer must accept the amount
10 described by Section 382.210(2) solely as a replacement incentive
11 under the program established by Section 382.209 and may not offset
12 that amount against any other rebate being offered by the dealer.
13 The amount may be used as a down payment toward the purchase of a
14 replacement vehicle.

15 (b) For purposes of this section, a participating
16 automobile dealer must be a dealer located in the state.

17 SECTION 1.06. Section 7.102, Water Code, is amended to read
18 as follows:

19 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
20 allows, or permits a violation of a statute, rule, order, or permit
21 relating to Chapter 37 of this code, Chapter 366, 371, or 372,
22 Health and Safety Code, Subchapter G, Chapter 382, Health and
23 Safety Code, or Chapter 1903, Occupations Code, shall be assessed
24 for each violation a civil penalty not less than \$50 nor greater
25 than \$5,000 for each day of each violation as the court or jury
26 considers proper. A person who causes, suffers, allows, or permits
27 a violation of a statute, rule, order, or permit relating to any

1 other matter within the commission's jurisdiction to enforce, other
2 than violations of Chapter 11, 12, 13, 16, or 36 of this code, or
3 Chapter 341, Health and Safety Code, shall be assessed for each
4 violation a civil penalty not less than \$50 nor greater than \$25,000
5 for each day of each violation as the court or jury considers
6 proper. Each day of a continuing violation is a separate violation.

7 SECTION 1.07. The following provisions of the Health and
8 Safety Code are repealed:

9 (1) Subsection (e), Section 382.0622;

10 (2) Subsections (q) and (r), Section 382.202; and

11 (3) Section 382.217.

12 SECTION 1.08. The Texas Commission on Environmental Quality
13 shall review its current cutpoint levels for nitrogen oxide
14 emissions and determine whether a lower cutpoint standard would
15 best serve the interest of the public health and welfare. The
16 determination shall be made by rule not later than January 1, 2008.
17 If the commission adopts a lower cutpoint standard, the commission
18 shall make the low-income vehicle repair assistance, retrofit, and
19 accelerated vehicle retirement program under Section 382.209,
20 Health and Safety Code, as amended by this article, available to
21 owners of vehicles that did not meet the prior, more stringent
22 standard.

23 SECTION 1.09. (a) The Texas Commission on Environmental
24 Quality shall seek to work in partnership with automobile
25 manufacturers and dealers in the state to increase public awareness
26 of and participation in the low-income vehicle repair assistance,
27 retrofit, and accelerated vehicle retirement program under Section

1 382.209, Health and Safety Code, as amended by this article.

2 (b) Funding for the partnership described by Subsection (a)
3 of this section shall be used exclusively for the purpose of
4 publicizing the program.

5 SECTION 1.10. (a) The Texas Commission on Environmental
6 Quality shall seek to work in partnership with the steel industry
7 and automobile dismantlers to ensure that vehicles being replaced
8 are scrapped and that proof of scrapping is provided to the
9 commission.

10 (b) Not later than January 1, 2008, the Texas Commission on
11 Environmental Quality shall adopt procedures for certifying that
12 emissions control equipment and vehicle engines have been scrapped
13 and not resold into the marketplace and shall by rule define
14 "emissions control equipment" and "engine," as required by Section
15 382.213, Health and Safety Code, as amended by this article.

16 ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

17 SECTION 2.01. Subdivision (2), Section 386.001, Health and
18 Safety Code, is amended to read as follows:

19 (2) "Affected county" includes:

- 20 (A) Bastrop County;
- 21 (B) Bexar County;
- 22 (C) Caldwell County;
- 23 (D) Comal County;
- 24 (E) Ellis County;
- 25 (F) Gregg County;
- 26 (G) Guadalupe County;
- 27 (H) Harrison County;

- 1 (I) Hays County;
- 2 (J) Henderson County;
- 3 (K) Hood County;
- 4 (L) Hunt County;
- 5 (M) Johnson County;
- 6 (N) Kaufman County;
- 7 (O) Nueces County;
- 8 (P) Parker County;
- 9 (Q) Rockwall County;
- 10 (R) Rusk County;
- 11 (S) San Patricio County;
- 12 (T) Smith County;
- 13 (U) Travis County;
- 14 (V) Upshur County;
- 15 (W) Victoria County;
- 16 (X) Williamson County;
- 17 (Y) Wilson County; ~~and~~
- 18 (Z) any other county designated as an affected
- 19 county by commission rule because of deteriorating air quality; and
- 20 (AA) any other county in Texas designated as an
- 21 affected county by commission rule because the county contains all
- 22 or a portion of a major highway transportation corridor.

23 SECTION 2.02. Section 386.002, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 386.002. EXPIRATION. This chapter expires August 31,
26 2013 ~~[2010]~~.

27 SECTION 2.03. Subchapter B, Chapter 386, Health and Safety

1 Code, is amended by adding Section 386.0511 to read as follows:

2 Sec. 386.0511. USE OF FUNDING FOR LOCAL INITIATIVE
3 PROJECTS. (a) Money that is made available to affected or
4 participating counties under Section 382.202(g) may be
5 appropriated only for programs administered in accordance with
6 Chapter 783, Government Code, to improve air quality.

7 (b) A program under this section must be implemented in
8 consultation with the commission and may include a program to:

9 (1) expand and enhance the AirCheck Texas Repair and
10 Replacement Assistance Program;

11 (2) develop and implement programs or systems that
12 remotely determine vehicle emissions and notify the vehicle's
13 operator;

14 (3) develop and implement projects to implement the
15 commission's smoking vehicle program;

16 (4) develop and implement projects for coordinating
17 with local law enforcement officials to reduce the use of
18 counterfeit state inspection stickers by providing local law
19 enforcement officials with funds to identify vehicles with
20 counterfeit state inspection stickers and to carry out appropriate
21 actions;

22 (5) develop and implement programs to enhance
23 transportation system improvements; or

24 (6) develop and implement new air control strategies
25 designed to assist local areas in complying with state and federal
26 air quality rules and regulations.

27 (c) Money that is made available for the implementation of a

1 program under Subsection (b) may not be expended for call center
2 management, application oversight, invoice analysis, education,
3 outreach, or advertising purposes.

4 (d) Fees collected under Section 386.251 may be used, in an
5 amount not to exceed \$5 million per fiscal year, for projects
6 described by Subsection (b). The fees shall be made available only
7 to counties participating in the low-income vehicle repair
8 assistance, retrofit, and accelerated vehicle retirement programs
9 created under Section 382.209 and only on a matching basis, whereby
10 the commission provides money to a county in the same amount that
11 the county dedicates to a project authorized by Subsection (b).

12 SECTION 2.04. Subsection (d), Section 386.053, Health and
13 Safety Code, is amended to read as follows:

14 (d) The commission may propose revisions to the guidelines
15 and criteria adopted under this section as necessary to improve the
16 ability of the plan to achieve its goals. Revisions may include,
17 among other changes, adding additional pollutants, adding
18 stationary engines or engines used in stationary applications,
19 adding vehicles and equipment that use fuels other than diesel, or
20 adjusting eligible program categories, as appropriate, to ensure
21 that incentives established under this chapter achieve the maximum
22 possible emissions reductions. The commission shall make a
23 proposed revision available to the public before the 30th [~~45th~~]
24 day preceding the date of final adoption of the revision and shall
25 hold at least one public meeting to consider public comments on the
26 proposed revision before final adoption.

27 SECTION 2.05. Subsection (a), Section 386.106, Health and

1 Safety Code, is amended to read as follows:

2 (a) Except as provided by Section 386.107 and except for
3 infrastructure projects and infrastructure purchases that are part
4 of a broader retrofit, repower, replacement, or add-on equipment
5 project, the commission may not award a grant for a proposed project
6 the cost-effectiveness of which, calculated in accordance with
7 Section 386.105 and criteria developed under that section, exceeds
8 \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions reduced
9 in the nonattainment area or affected county for which the project
10 is proposed. This subsection does not restrict commission
11 authority under other law to require emissions reductions with a
12 cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

13 SECTION 2.06. Section 386.109, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The
16 commission may consider for funding under Section 386.108:

17 (1) the purchase and installation at a site of
18 equipment that is designed primarily to dispense qualifying fuel,
19 other than standard gasoline or diesel, or the purchase of on-site
20 mobile fueling equipment;

21 (2) infrastructure projects, including auxiliary
22 power units, designed to dispense electricity to motor vehicles and
23 on-road and non-road diesels; and

24 (3) a project that involves a technology that allows a
25 vehicle to replace with electric power, while the vehicle is
26 parked, the power normally supplied by the vehicle's internal
27 combustion engine.

1 (b) The commission may provide funding to other state
2 agencies to implement projects under Subsection (a)(3), including
3 funding for the purchase and installation of idle reduction
4 technologies and facilities at rest areas and other public
5 facilities on major highway transportation routes located in areas
6 eligible for funding. Funding under this subsection may include
7 reasonable operational costs determined by the commission to be
8 needed for the initial start-up and proper operation of the idle
9 reduction technologies. The state agency owning or operating the
10 idle reduction facility constructed with funds provided under this
11 subsection may, but is not required to, charge reasonable fees for
12 the provision of idle reduction services provided that those fees
13 are used to directly offset the cost of providing the services.

14 SECTION 2.07. Subsection (b), Section 386.251, Health and
15 Safety Code, is amended to read as follows:

16 (b) The fund is administered by the commission
17 ~~[comptroller]~~ for the benefit of the plan established under this
18 chapter. The fund is exempt from the application of Section
19 403.095, Government Code. Interest earned on the fund shall be
20 credited to the fund.

21 SECTION 2.08. Section 387.003, Health and Safety Code, is
22 amended by adding Subsections (c) through (f) to read as follows:

23 (c) The commission shall provide oversight as appropriate
24 for grants provided to the nonprofit organization under this
25 program.

26 (d) The nonprofit organization shall submit to the
27 commission for approval a budget for the disposition of funds

1 granted under this program.

2 (e) The commission shall limit the use of grants for
3 administrative costs incurred by the nonprofit organization to an
4 amount not to exceed 10 percent of funding provided to the nonprofit
5 organization under this program.

6 (f) The nonprofit organization that receives grants from
7 the commission under this program is subject to Chapters 551 and
8 552, Government Code.

9 SECTION 2.09. Section 387.005, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants
12 awarded under this chapter shall be directed toward a balanced mix
13 of:

14 (1) retrofit and add-on technologies and other
15 advanced technologies that [~~to~~] reduce emissions from the existing
16 stock of engines and vehicles targeted by the Texas emissions
17 reduction plan; and

18 (2) advanced technologies for new engines and vehicles
19 that produce very-low or zero emissions of oxides of nitrogen,
20 including stationary and mobile fuel cells[~~+~~

21 [~~(3) studies to improve air quality assessment and~~
22 ~~modeling, and~~

23 [~~(4) advanced technologies that reduce emissions from~~
24 ~~other significant sources]~~.

25 (b) The commission shall identify and evaluate and may
26 consider making grants for technology projects that would allow
27 qualifying fuels to be produced from energy resources in this

1 state. In considering projects under this subsection, the
2 commission shall give preference to projects involving otherwise
3 unusable energy resources in this state and producing qualifying
4 fuels at prices lower than otherwise available and low enough to
5 make the projects to be funded under the program economically
6 attractive to local businesses in the area for which the project is
7 proposed.

8 (c) In soliciting proposals under Section 387.004 and
9 determining how to allocate grant money available for projects
10 under this chapter, the commission shall give special consideration
11 to advanced technologies and retrofit or add-on projects that
12 provide multiple benefits by reducing emissions of particulates and
13 other air pollutants.

14 (d) A project that involves publicly or privately owned
15 vehicles or vessels is eligible for funding under this chapter if
16 the project meets all applicable criteria.

17 ~~(e) [Studies authorized under Subsection (a)(3) shall be~~
18 ~~consistent with air quality research priorities identified by the~~
19 ~~commission and conducted in an independent and objective manner.~~

20 ~~[(f)]~~ If a commissioner is an employee or owner of an entity
21 that applies for a grant under this chapter, the commissioner,
22 before a vote on the grant, shall disclose the fact of the
23 commissioner's employment or ownership. The disclosure must be
24 entered into the minutes of the meeting. The commissioner may not
25 vote on or otherwise participate in the awarding of the grant. If
26 the commissioner does not comply with this subsection, the entity
27 is not eligible for the grant.

1 SECTION 2.10. Subsection (d), Section 151.0515, Tax Code,
2 is amended to read as follows:

3 (d) This section expires August 31, 2013 [~~September 30,~~
4 ~~2010~~].

5 SECTION 2.11. Subsection (c), Section 152.0215, Tax Code,
6 is amended to read as follows:

7 (c) This section expires August 31, 2013 [~~September 30,~~
8 ~~2010~~].

9 SECTION 2.12. Subsections (a), (b), and (b-1), Section
10 501.138, Transportation Code, are amended to read as follows:

11 (a) An applicant for a certificate of title, other than the
12 state or a political subdivision of the state, must pay the county
13 assessor-collector a fee of:

14 (1) \$33 if the applicant's residence is a county
15 located within a nonattainment area as defined under Section 107(d)
16 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
17 or is an affected county, as defined by Section 386.001, Health and
18 Safety Code; or

19 (2) \$28 if the applicant's residence is any other
20 county[~~, or~~

21 [~~(3) on or after September 1, 2010, \$28 regardless of~~
22 ~~the county in which the applicant resides~~].

23 (b) The county assessor-collector shall send:

24 (1) \$5 of the fee to the county treasurer for deposit
25 in the officers' salary fund;

26 (2) \$8 of the fee to the department:

27 (A) together with the application within the time

1 prescribed by Section 501.023; or

2 (B) if the fee is deposited in an
3 interest-bearing account or certificate in the county depository or
4 invested in an investment authorized by Subchapter A, Chapter 2256,
5 Government Code, not later than the 35th day after the date on which
6 the fee is received; and

7 (3) the following amount to the comptroller at the
8 time and in the manner prescribed by the comptroller:

9 (A) \$20 of the fee if the applicant's residence
10 is a county located within a nonattainment area as defined under
11 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
12 7407), as amended, or is an affected county, as defined by Section
13 386.001, Health and Safety Code; or

14 (B) \$15 of the fee if the applicant's residence
15 is any other county[~~, or~~

16 [~~(C) on or after September 1, 2010, \$15~~
17 ~~regardless of the county in which the applicant resides].~~

18 (b-1) Fees collected under Subsection (b) to be sent to the
19 comptroller shall be deposited as follows:

20 (1) before September 1, 2008, to the credit of the
21 Texas emissions reduction plan fund; [~~and~~

22 (2) on or after September 1, 2008, and before
23 September 1, 2010, to the credit of the Texas Mobility Fund, except
24 that \$5 of each fee imposed under Subsection (a)(1) and deposited on
25 or after September 1, 2008, and before September 1, 2010, shall be
26 deposited to the credit of the Texas emissions reduction plan fund;
27 and

1 (3) on or after September 1, 2010, to the credit of the
2 Texas emissions reduction plan fund.

3 SECTION 2.13. Subsection (c), Section 502.1675,
4 Transportation Code, is amended to read as follows:

5 (c) This section expires August 31, 2013 [~~2010~~].

6 SECTION 2.14. Subsection (c), Section 548.5055,
7 Transportation Code, is amended to read as follows:

8 (c) This section expires August 31, 2013 [~~2010~~].

9 SECTION 2.15. Section 12, Chapter 1125, Acts of the 79th
10 Legislature, Regular Session, 2005, amending Subsection (a),
11 Section 386.252, Health and Safety Code, is repealed.

12 ARTICLE 3. ENERGY EFFICIENCY

13 SECTION 3.01. Section 388.003, Health and Safety Code, is
14 amended by adding Subsection (b-1) to read as follows:

15 (b-1) If the State Energy Conservation Office determines,
16 based on a recommendation from the laboratory, that other, more
17 stringent energy efficiency standards of the International
18 Residential Code or the International Energy Conservation Code
19 exist than the ones adopted under Subsection (a) or (b), the office
20 shall adopt the more stringent standards and substitute them for
21 the standards described by Subsection (a) or (b).

22 SECTION 3.02. Section 388.005, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
25 POLITICAL SUBDIVISIONS. (a) In this section:

26 (1) "Institution of higher education" includes an
27 institution of higher education defined by Section 61.003,

1 Education Code, and a private institution of higher education that
2 receives funding from the state.

3 (2) "Political~~[, "political]~~ subdivision" means:

4 (A) ~~[(1)]~~ an affected county; ~~[or]~~

5 (B) a school district; or

6 (C) ~~[(2)]~~ any political subdivision in a
7 nonattainment area or in an affected county other than~~[+~~

8 ~~[(A) a school district; or~~

9 ~~[(B)]~~ a district as defined by Section 36.001 or
10 49.001, Water Code, that had a total annual electricity expense of
11 less than \$200,000 in the previous fiscal year of the district.

12 (3) "State agency" means a department, commission,
13 board, office, council, or other agency in the executive branch of
14 government that is created by the constitution or a statute of this
15 state and has authority not limited to a geographical portion of the
16 state.

17 (b) Each political subdivision, institution of higher
18 education, or state agency shall implement all energy efficiency
19 measures that meet the standards established for a contract for
20 energy conservation measures under Section 302.004(b), Local
21 Government Code, in order to reduce electricity consumption by the
22 existing facilities of the entity ~~[the political subdivision]~~.

23 (c) Each political subdivision, institution of higher
24 education, or state agency shall establish a goal to reduce the
25 electric consumption by the entity ~~[political subdivision]~~ by five
26 percent each year for six ~~[five]~~ years, beginning September 1, 2007
27 ~~[January 1, 2002]~~.

1 (d) A political subdivision, institution of higher
2 education, or state agency that does not attain the goals under
3 Subsection (c) must include in the report required by Subsection
4 (e) justification that the entity [~~political subdivision~~] has
5 already implemented all available measures.

6 (e) A political subdivision, institution of higher
7 education, or state agency annually shall report to the State
8 Energy Conservation Office, on forms provided by that office,
9 regarding the entity's [~~political subdivision's~~] efforts and
10 progress under this section. The State Energy Conservation Office
11 shall provide assistance and information to the entity [~~political~~
12 ~~subdivisions~~] to help it [~~the political subdivisions~~] meet the
13 goals set under this section.

14 SECTION 3.03. Subtitle C, Title 5, Health and Safety Code,
15 is amended by adding Chapter 392 to read as follows:

16 CHAPTER 392. APPLIANCE EFFICIENCY STANDARDS

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 392.001. DEFINITIONS. In this chapter:

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

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

26 (3) "Commercial hot food holding cabinet" means a
27 heated, fully enclosed compartment with one or more solid or glass

1 doors that is designed to maintain the temperature of hot food that
2 has been cooked in a separate appliance.

3 (4) "Compact audio product," also known as a mini,
4 mid, micro, or shelf audio system, means an integrated audio system
5 encased in a single housing that includes an amplifier and radio
6 tuner with attached or separable speakers that can reproduce audio
7 from magnetic tape, compact disc, DVD, or flash memory.

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

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

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

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

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

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

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

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

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

1 which:

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

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

6 (C) the arc tube has a bulb wall loading of
7 greater than three watts per square centimeter.

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

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

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

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

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

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

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

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

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

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

6 (F) has a nameplate output power less than or
7 equal to 250 watts;

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

11 (H) does not have:

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

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

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

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

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

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

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

26 (E) is one of the following types:

27 (i) a blown parabolic aluminized reflector

1 (BPAR) lamp, bulged reflector (BR) lamp, elliptical reflector (ER)
2 lamp, or a lamp with a similar bulb shape with a diameter equal to or
3 greater than 2.25 inches; or

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

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

9 (A) has a total frozen storage area of less than
10 3,000 square feet;

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

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

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

17 (A) has a total chilled storage area of less than
18 3,000 square feet;

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

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

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

26 Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This
27 chapter applies to the following new products sold, offered for

1 sale, or installed in this state:

2 (1) bottle-type water dispensers;

3 (2) commercial hot food holding cabinets;

4 (3) compact audio products;

5 (4) DVD players and recorders;

6 (5) metal halide lamp fixtures;

7 (6) portable electric spas;

8 (7) residential pool pumps;

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

10 (9) state-regulated incandescent reflector lamps;

11 (10) walk-in refrigerators and freezers; and

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

14 (b) This chapter does not apply to:

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

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

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

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

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

26 (6) a compact audio product that:

27 (A) can be independently powered by internal

1 batteries;

2 (B) has a powered external satellite antenna; or

3 (C) can provide a video output signal;

4 (7) a DVD recorder that has an electronic programming
5 guide function that provides an interactive, onscreen menu of
6 television listings and downloads program information from the
7 vertical blanking interval of a regular television signal;

8 (8) a refrigerated warehouse;

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

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

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

15 (A) 50 watts or less with a diameter of 30/8 or
16 40/8 inches and is one of the following types: BR30, ER30, BR40, and
17 ER40;

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

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

22 [Sections 392.003-392.050 reserved for expansion]

23 SUBCHAPTER B. EFFICIENCY STANDARDS

24 Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN
25 APPLIANCES. Not later than September 1, 2008, the comptroller, in
26 consultation with the State Energy Conservation Office, shall adopt
27 rules establishing minimum efficiency standards for each type of

1 new product described by Section 392.002(a).

2 Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS.

3 (a) The comptroller may adopt rules to establish increased
4 efficiency standards for a product listed in Section 392.002(a) or
5 to establish standards for a product not listed in that subsection.

6 (b) In considering new or increased standards, the
7 comptroller, in consultation with the State Energy Conservation
8 Office, shall prescribe new or increased efficiency standards if
9 the comptroller determines that the standards would:

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

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

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

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

26 Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) A
27 commercial hot food holding cabinet must have a maximum idle energy

1 rate of not greater than 40 watts per cubic foot of interior volume,
2 as determined by the "idle energy rate-dry test" in ASTM F2140-01,
3 "Standard Test Method for Performance of Hot Food Holding
4 Cabinets," copyright 2007 ASTM International.

5 (b) Interior volume must be measured in accordance with the
6 method shown in the "Energy Star Program Requirements for
7 Commercial Hot Food Holding Cabinets" as in effect on August 15,
8 2003.

9 Sec. 392.056. COMPACT AUDIO PRODUCTS. A compact audio
10 product may not use more than two watts in standby-passive mode for
11 a product without a permanently illuminated clock display and four
12 watts in standby-passive mode for a product with a permanently
13 illuminated clock display, as measured in accordance with
14 International Electrotechnical Commission (IEC) test method
15 62087:2002-2003(E), "Methods of measurement for the power
16 consumption of audio, video, and related equipment."

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

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

27 (1) does not contain an igniter; and

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

3 Sec. 392.059. PORTABLE ELECTRIC SPAS. A portable electric
4 spa may not have a standby power greater than $5(V^{2/3})$ watts where V
5 equals the total volume in gallons. Standby power must be measured
6 in accordance with the test method for portable electric spas
7 contained in Section 1604, Title 20, California Code of
8 Regulations, as of December 2006.

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

12 (b) A residential pool pump motor with a capacity of one
13 horsepower or more must have the capability of operating at more
14 than one speed with a low speed having a rotation rate that is not
15 more than one-half of the motor's maximum rotation rate.

16 (c) Pool pump motor controls must have the capability of
17 operating the pool pump at more than one speed. The pump's default
18 circulation speed must be the lowest speed, and the pump's high
19 speed override capability must be governed by a control device that
20 allows the higher circulation speed to operate only for a temporary
21 period not to exceed one normal cycle.

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

1	<u>Nameplate Output Power</u>	<u>Minimum Energy</u>
2		<u>Efficiency in Active Mode</u>
3	<u>0 to < 1 watt</u>	<u>0.49 * Nameplate Output</u>
4	<u>≥1 watt and ≤49 watts</u>	<u>0.09*Ln(Nameplate Output</u>
5		<u>Power) + 0.49</u>
6	<u>> 49 watts</u>	<u>0.84</u>

7		<u>Maximum Energy</u>
8		<u>Consumption in No-Load Mode</u>
9		
10	<u>0 to < 10 watts</u>	<u>0.5 watts</u>
11	<u>≥ 10 watts and ≤250 watts</u>	<u>0.75 watts</u>

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

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

17 (c) For purposes of this section, the efficiency of a
 18 single-voltage external AC to DC power supply must be measured in
 19 accordance with the test methodology specified by the Energy Star
 20 Program "Test Method for Calculating the Energy Efficiency of
 21 Single-Voltage External AC-DC and AC-AC Power Supplies (August 11,
 22 2004)," except that tests shall be conducted at 115 volts only.

23 Sec. 392.062. STATE-REGULATED INCANDESCENT REFLECTOR
 24 LAMPS. A state-regulated incandescent reflector lamp must meet the
 25 minimum average lamp efficacy requirements for federally regulated
 26 incandescent reflector lamps contained in 42 U.S.C. Section
 27 6295(i)(1)(A), as in effect on January 1, 2007.

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

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

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

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

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

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

17 (A) an electronically commutated motor;

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

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

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

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

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

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

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

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

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

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

23 (d) A walk-in refrigerator or freezer may have interior
24 light sources with an efficacy of less than 40 lumens per watt,
25 including ballast losses, if the lights are used in conjunction
26 with a timer or device that turns the lights off whenever the
27 refrigerator or freezer is unoccupied for a period not to exceed 15

1 minutes.

2 [Sections 392.064-392.100 reserved for expansion]

3 SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY

4 STANDARDS

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

10 (b) On or after the first anniversary of the date the sale or
11 offering for sale of a new product becomes subject to an efficiency
12 standard adopted under this chapter, that product may not be
13 installed for compensation in this state unless the efficiency of
14 the product meets or exceeds the applicable efficiency standards
15 prescribed by the rules adopted under Subchapter B.

16 Sec. 392.102. APPLICATION FOR WAIVER. For purposes of this
17 chapter, the comptroller may apply for a waiver of federal
18 preemption in accordance with federal procedures under 42 U.S.C.
19 Section 6297(d) to authorize state efficiency standards for a
20 product regulated by the federal government.

21 [Sections 392.103-392.150 reserved for expansion]

22 SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

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

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

1 Conservation Office, by rule shall adopt test procedures for
2 determining a product's energy efficiency if Subchapter B does not
3 provide for the procedures. The comptroller shall adopt test
4 methods approved by the United States Department of Energy or, in
5 the absence of those test methods, other appropriate nationally
6 recognized test methods.

7 (c) The comptroller may adopt revised test procedures when
8 new versions of test procedures become available.

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

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

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

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

27 (b) The comptroller shall adopt rules governing the

1 identification of products and packaging under this section. The
2 rules must to the greatest practical extent be coordinated with the
3 labeling programs of other states and federal agencies with
4 equivalent efficiency standards. The comptroller shall allow the
5 use of existing marks, labels, or tags that connote compliance with
6 the efficiency requirements of this chapter.

7 Sec. 392.154. COMPTROLLER TESTING FOR EFFICIENCY STANDARDS
8 COMPLIANCE. The comptroller may test products subject to an
9 efficiency standard adopted under this chapter for compliance with
10 the applicable efficiency standards. If a product tested is found
11 not to be in compliance with the standards, the comptroller shall:

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

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

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

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

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

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

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

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

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

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

16 SECTION 3.04. (a) The efficiency standards prescribed by
17 rules adopted under Subchapter B, Chapter 392, Health and Safety
18 Code, as added by this Act, apply only to the sale or offer of sale
19 of a new product to which that chapter applies that occurs on or
20 after January 1, 2009.

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

22 (1) a new residential pool pump that does not meet the
23 efficiency standards contained in Subsections (b) and (c), Section
24 392.060, Health and Safety Code, as added by this Act, may be sold
25 in this state through December 31, 2009; and

26 (2) a new single-voltage external AC to DC power
27 supply made available by a manufacturer directly to a consumer or to

1 a service or repair facility after and separate from the original
2 sale of a product requiring the power supply as a service part or
3 spare part is not required to meet the standards of Section 392.061,
4 Health and Safety Code, as added by this Act, until January 1, 2013.

5 ARTICLE 4. EFFECTIVE DATE

6 SECTION 4.01. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2007.