

By: Ellis

S.B. No. 489

A BILL TO BE ENTITLED

AN ACT

relating to efficiency standards for certain appliances; providing a civil penalty.

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

SECTION 1. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 392 to read as follows:

Chapter 392. APPLIANCE EFFICIENCY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. DEFINITIONS. In this chapter:

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

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

(3) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance.

(4) "Compact audio product," also known as a mini, mid, micro, or shelf audio system, means an integrated audio system encased in a single housing that includes an amplifier and radio tuner with attached or separable speakers that can reproduce audio

1 from magnetic tape, compact disc, DVD, or flash memory.

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

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

7 (A) is a commercially available electronic  
8 product encased in a single housing that includes an integral power  
9 supply; and

10 (B) is designed to decode digitized video signals  
11 on a DVD.

12 (7) "DVD recorder" means a digital versatile disc  
13 recorder that:

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

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

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

21 (9) "High-intensity discharge lamp" means a lamp in  
22 which:

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

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

27 (C) the arc tube has a bulb wall loading of

1 greater than three watts per square centimeter.

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

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

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

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

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

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

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

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

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

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

27 (F) has a nameplate output power less than or

1 equal to 250 watts;

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

5 (H) does not have:

6 (i) a battery chemistry or type selector  
7 switch and indicator light; or

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

10 (15) "State-regulated incandescent reflector lamp"  
11 means a lamp that:

12 (A) is not colored or designed for rough or  
13 vibration service applications;

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

16 (C) has a standard E26 (Edison 26 millimeter)  
17 medium screw base;

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

20 (E) is one of the following types:

21 (i) a blown parabolic aluminized reflector  
22 (BPAR) lamp, bulged reflector (BR) lamp, elliptical reflector (ER)  
23 lamp, or a lamp with a similar bulb shape with a diameter equal to or  
24 greater than 2.25 inches; or

25 (ii) a reflector (R) lamp, a parabolic  
26 aluminized reflector (PAR) lamp, or a lamp with a similar bulb shape  
27 with a diameter of 2.25 to 2.75 inches.

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

3           (A) has a total frozen storage area of less than  
4 3,000 square feet;

5           (B) operates at a temperature at or below 32  
6 degrees Fahrenheit; and

7           (C) is connected to a self-contained or remote  
8 condensing unit.

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

11           (A) has a total chilled storage area of less than  
12 3,000 square feet;

13           (B) operates at a chilled temperature above 32  
14 degrees Fahrenheit; and

15           (C) is connected to a self-contained or remote  
16 condensing unit.

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

20           Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This chapter  
21 applies to the following new products sold, offered for sale, or  
22 installed in this state:

23           (1) bottle-type water dispensers;

24           (2) commercial hot food holding cabinets;

25           (3) compact audio products;

26           (4) DVD players and recorders;

27           (5) metal halide lamp fixtures;

- 1           (6) portable electric spas;
- 2           (7) residential pool pumps;
- 3           (8) single-voltage external AC to DC power supplies;
- 4           (9) state-regulated incandescent reflector lamps;
- 5           (10) walk-in refrigerators and freezers; and
- 6           (11) any other products that are designated by the  
7 comptroller in accordance with Section 392.102.

8           (b) This chapter does not apply to:

- 9           (1) a new product manufactured in this state and sold  
10 outside the state;
- 11           (2) a new product manufactured outside this state and  
12 sold at wholesale inside the state for final retail sale and  
13 installation outside the state;
- 14           (3) a product installed in a mobile manufactured home  
15 at the time of the home's construction;
- 16           (4) a product designed expressly for installation and  
17 use in a recreational vehicle;
- 18           (5) a commercial heated glass merchandizing cabinet,  
19 drawer warmer, or cook-and-hold appliance for hot food;
- 20           (6) a compact audio product that:
  - 21           (A) can be independently powered by internal  
22 batteries;
  - 23           (B) has a powered external satellite antenna; or
  - 24           (C) can provide a video output signal;
- 25           (7) a DVD recorder that has an electronic programming  
26 guide function that provides an interactive, onscreen menu of  
27 television listings and downloads program information from the

1 vertical blanking interval of a regular television signal;

2 (8) a refrigerated warehouse;

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

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

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

9 (A) 50 watts or less with a diameter of 30/8 or  
10 40/8 inches and is one of the following types: BR30, ER30, BR40, and  
11 ER40;

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

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

16 [Sections 392.003-392.050 reserved for expansion]

17 SUBCHAPTER B. EFFICIENCY STANDARDS

18 Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN  
19 APPLIANCES. Not later than September 1, 2008, the comptroller, in  
20 consultation with the state energy conservation office, shall adopt  
21 rules establishing minimum efficiency standards for each type of  
22 new product described by Section 392.002(a).

23 Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a)  
24 The comptroller may adopt rules to establish increased efficiency  
25 standards for a product listed in Section 392.002(a) or to  
26 establish standards for a product not listed in that subsection.

27 (b) In considering new or increased standards, the

1 comptroller, in consultation with the state energy conservation  
2 office, shall prescribe new or increased efficiency standards if  
3 the comptroller determines that the standards would:

4 (1) serve to promote energy conservation in this  
5 state; and

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

8 Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard  
9 established under this subchapter takes effect on the first  
10 anniversary of the date the rule establishing the standard is  
11 adopted.

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

20 Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) A  
21 commercial hot food holding cabinet must have a maximum idle energy  
22 rate of not greater than 40 watts per cubic foot of interior volume,  
23 as determined by the "idle energy rate-dry test" in ASTM F2140-01,  
24 "Standard Test Method for Performance of Hot Food Holding  
25 Cabinets," copyright 2007 ASTM International.

26 (b) Interior volume must be measured in accordance with the  
27 method shown in the "Energy Star Program Requirements for



1 Commercial Hot Food Holding Cabinets" as in effect on August 15,  
2 2003.

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

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

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

- 21 (1) does not contain an igniter; and  
22 (2) starts the lamp by using a third starting  
23 electrode probe in the arc tube.

24 Sec. 392.059. PORTABLE ELECTRIC SPAS. A portable electric  
25 spa may not have a standby power greater than  $5(V^{2/3})$  watts where V  
26 equals the total volume in gallons. Standby power must be measured  
27 in accordance with the test method for portable electric spas

1 contained in Section 1604, Title 20, California Code of  
2 Regulations, as of December 2006.

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

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

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

16 Sec. 392.061. SINGLE-VOLTAGE EXTERNAL AC TO DC POWER  
17 SUPPLIES. (a) A single-voltage external AC to DC power supply must  
18 meet the minimum energy efficiency and maximum energy consumption  
19 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 &lt; 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>&gt; 49 watts</u>	<u>0.84</u>

8		<u>Maximum Energy</u>
9		<u>Consumption in No-Load Mode</u>
10	<u>0 to &lt; 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. (a) 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 2. (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 Sections 392.060(b) and (c),  
24 Health and Safety Code, as added by this Act, may be sold in this  
25 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 SECTION 3. This Act takes effect September 1, 2007.