

**House Bill 3446**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 office 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.

(3) "Office" means the governor's office of economic development.

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

SUBCHAPTER B. POWERS AND DUTIES OF OFFICE

Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. The office 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 office may adopt rules and establish procedures to administer this chapter.

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

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- (1) design and administer the use of a logo for Texas manufactured products and adopt manufactured product quality standards and other criteria for evaluating applications to use the logo;
  - (2) develop procedures for acceptance and administration of money received to administer the program;
  - (3) develop a general promotional campaign for Texas manufactured products and advertising campaigns for specific Texas manufactured products;
  - (4) contract with media representatives to disperse promotional materials;
  - (5) receive gifts, donations, or grants from any source and establish internal reporting requirements for use of available money; and
  - (6) cooperate with the Department of Agriculture to minimize duplication of programs.
- Sec. 490C.054. FEE FOR USE OF LOGO. To cover the costs of administering the Genuine Texas program, the office may require a person to pay a fee not to exceed \$100 a year for use of the logo designed under Section 490C.053(1).
- Sec. 490C.055. PROMOTIONAL EVENTS. The office may use available money to purchase food and beverages for a promotional event.
- Sec. 490C.056. SALE OF PROMOTIONAL ITEMS.
- (a) The office may sell or contract for the sale of items, including clothing, posters, and banners, to promote Texas manufactured products.
  - (b) The office may use the office's Internet website to

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- (1) design and administer the use of a logo for Texas manufactured products and adopt manufactured product quality standards and other criteria for evaluating applications to use the logo;
  - (2) develop procedures for acceptance and administration of money received to administer the program;
  - (3) develop a general promotional campaign for Texas manufactured products and advertising campaigns for specific Texas manufactured products;
  - (4) contract with media representatives to disperse promotional materials;
  - (5) receive gifts, donations, or grants from any source and establish internal reporting requirements for use of available money; and
  - (6) enter into a memorandum of understanding with the Department of Agriculture to minimize duplication of programs.
- Sec. 490C.054. FEE FOR USE OF LOGO. To cover the costs of administering the Genuine Texas program, the office may require a person to pay a fee not to exceed \$100 a year for use of the logo designed under Section 490C.053(1).
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advertise and sell the items described by Subsection (a).  
Sec. 490C.057. ADVISORY BOARD. (a) If the office  
establishes a Genuine Texas program as authorized by  
this chapter, the office shall appoint an advisory board to  
assist in the implementation of the program.

(b) A member of the advisory board serves at the  
pleasure of the office.

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

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

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

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

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

SUBCHAPTER C. ENFORCEMENT

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

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

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

Sec. 490C.102. SUSPENSION OR FORFEITURE OF  
RIGHT TO USE LOGO. (a) The office may

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(b) The office may use the office's Internet website to  
advertise and sell the items described by Subsection (a).  
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Sec. 490C.102. SUSPENSION OR FORFEITURE OF

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temporarily suspend or permanently forfeit the right of a person who violates this chapter to use the logo of the Genuine Texas program.

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

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

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

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

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

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts by the person to correct the violation; and
- (5) any other matter that justice may require.

Sec. 490C.106. ENFORCEMENT OF

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RIGHT TO USE LOGO. (a) The office may temporarily suspend or permanently forfeit the right of a person who violates this chapter to use the logo of the Genuine Texas program.

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

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ADMINISTRATIVE OR CIVIL PENALTY. (a) The enforcement of an administrative penalty under this section may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the office to contest the affidavit as provided by those rules.

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

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

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

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

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

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Same as House version.

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