

BILL ANALYSIS

C.S.H.B. 2210
By: Anchia
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Meeting growing energy demand is an important issue facing the State of Texas and building new power generation facilities is not the only way to solve the problem. Energy efficiency can dramatically and immediately reduce energy demand at much lower costs than building new infrastructure. Many states have recognized these benefits and implemented energy efficiency standards on certain appliances sold or installed in such states.

C.S.H.B. 2210 promotes energy efficiency by creating energy efficiency standards on specific appliances sold or installed in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2210 amends the Health and Safety Code to enact provisions governing appliance efficiency standards for bottle-type water dispensers, commercial hot food holding cabinets, portable electric spas, and residential pool pumps that are new products sold, offered for sale, or installed in Texas. The bill also enumerates the types of products exempt from its provisions.

C.S.H.B. 2210 requires the comptroller of public accounts, in consultation with the State Energy Conservation Office and not later than September 1, 2010, to adopt rules establishing minimum efficiency standards for each type of new product subject to the bill's provisions. The bill provides for a federal Energy Star Program efficiency standard for an appliance covered by the bill's provisions to preempt a standard set under these provisions unless an application for waiver is granted.

C.S.H.B. 2210 authorizes the comptroller to adopt rules to establish increased efficiency standards for a product subject to the bill's provisions. The bill requires the comptroller, in considering increased standards and in consultation with the State Energy Conservation Office, to prescribe new or increased efficiency standards if the comptroller determines that the standards would serve to promote energy conservation in Texas and be cost-effective for consumers who purchase and use the new product.

C.S.H.B. 2210 provides that a standard established under the bill's provisions takes effect on the first anniversary of the date the rule establishing the standard is adopted.

C.S.H.B. 2210 sets forth energy efficiency standards for bottle-type water dispensers designed for dispensing both hot and cold water, commercial hot food holding cabinets, portable electric spas, and residential pool pump motors. The bill prohibits a new product subject to the bill's provisions from being sold or offered for sale in Texas unless the efficiency of the new product meets or exceeds the applicable efficiency standards prescribed by the rules adopted by the

comptroller. The bill prohibits a product from being installed for compensation in Texas on or after the first anniversary of the date the sale or offering for sale of a new product becomes subject to an efficiency standard unless the efficiency of the product meets or exceeds the applicable efficiency standards prescribed by the rules adopted by the comptroller.

C.S.H.B. 2210 authorizes the comptroller, for purposes of these provisions, to apply for a waiver of federal preemption in accordance with federal procedures to authorize state efficiency standards for a product regulated by the federal government.

C.S.H.B. 2210 requires the manufacturer of a new product subject to an efficiency standard under the bill's provisions to test samples of the product in accordance with prescribed test procedures and requires the comptroller, in consultation with the office, by rule to adopt test procedures for determining a product's energy efficiency if procedures are not provided for in the bill. The bill requires the comptroller to adopt test methods approved by the U.S. Department of Energy or, in the absence of those test methods, other appropriate nationally recognized test methods and authorizes the comptroller to adopt revised test procedures when new versions of test procedures become available.

C.S.H.B. 2210 requires the manufacturer of a new product subject to an efficiency standard to certify to the comptroller that the product is in compliance with such a standard according to test results. The bill requires the comptroller to adopt rules governing the certification of such products and to coordinate certification by Texas with the certification programs of other states and federal agencies with similar standards.

C.S.H.B. 2210 requires the manufacturer of a new product subject to an efficiency standard under the bill's provisions to identify each product offered for sale or installation in Texas as being in compliance with such provisions by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The bill requires the comptroller to adopt rules governing identification of such products and packaging and requires such rules, to the greatest practical extent, to be coordinated with the labeling programs of other states and federal agencies with equivalent efficiency standards. The bill requires the comptroller to allow the use of existing marks, labels, or tags that connote compliance with the applicable efficiency requirements.

C.S.H.B. 2210 authorizes the comptroller to test products subject to an efficiency standard adopted under the bill's provisions for compliance with the applicable efficiency standards. The bill requires the comptroller, if a product tested is found not to be in compliance with such standards, to impose against the product's manufacturer an assessment in an amount sufficient to recover the costs of purchasing and testing the product and to make information available to the public on any product found to be not in compliance with the standards.

C.S.H.B. 2210 authorizes the comptroller to have periodic inspections conducted of a distributor or retailer of new products subject to an efficiency standard to determine compliance. The bill requires the inspections to be conducted at reasonable and convenient hours and requires notice to be given before an inspection may be conducted.

C.S.H.B. 2210 requires the comptroller to investigate a complaint received concerning a violation of the bill's provisions and to report the results of the investigation to the attorney general and authorizes the attorney general to institute proceedings to enforce such provisions. The bill requires the comptroller to issue a warning to a person for the person's first violation of the energy efficiency standards. The bill establishes that a person's second and subsequent violations are subject to a civil penalty of not more than \$250, that each violation constitutes a separate violation, and that each day that a violation continues constitutes a separate violation. The bill provides for a penalty to be assessed in addition to costs assessed against a manufacturer to recover the costs of purchasing and testing a product.

C.S.H.B. 2210 authorizes the comptroller to adopt additional rules necessary to ensure the proper implementation and enforcement of the bill's provisions.

C.S.H.B. 2210 requires the Texas Commission on Environmental Quality to work with the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System to ensure that the emissions reductions achieved by the efficiency standards are credited by the U.S. Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan.

C.S.H.B. 2210 provides that the efficiency standards apply only to the sale or offer of sale of a new product that occurs on or after January 1, 2011, except that a new residential pool pump that does not meet such efficiency standards may be sold in Texas through December 31, 2011. The bill defines "bottle-type water dispenser," "commercial hot food holding cabinet," "Energy Star Program," "portable electric spa," "residential pool pump," "total horsepower," and "water dispenser."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2210 differs from the original by removing compact audio products, DVD players, and DVD recorders from the bill's provisions, and making conforming changes.

C.S.H.B. 2210 differs from the original by removing from the applicability of appliance efficiency standards any other products that are designated by the comptroller of public accounts under a federal waiver and making conforming changes. The substitute adds a provision not in the original that adds water pumps that are labeled as not intended for use as a swimming pool filtration system and are used in a water feature, a fountain, a spa jet, or a process other than filtration to the exemption from the bill's provisions.

C.S.H.B. 2210 differs from the original by prohibiting a portable electric spa from having a standby power greater than $5(V^{2/3})$ watts where V equals the fill, rather than total, volume in gallons. The substitute differs from the original by requiring standby power to be measured in accordance with the test method for portable electric spas contained under the California Code of Regulations as of December 2008, rather than December 2006. The substitute removes language in the original referencing dates on or after which a residential pool pump motor is manufactured to make efficiency standards applicable.

C.S.H.B. 2210 differs from the original by exempting a two-speed motor with a low-speed section that is a capacitor start-induction run type and a 48-frame motor designed for use with above-ground pools, portable spas, or whirlpool bathtubs from a residential pool pump motor that is prohibited from being a split-phase or capacitor start-induction run type motor. The substitute differs from the original by specifying that a residential pool pump motor with a total horsepower capacity of one or more is required to be operated with a pump control with the capability to operate the pump at two or more speeds, in addition to another criterion. The substitute differs from the original by prohibiting the pump's default circulation speed from exceeding one-half of the motor's maximum rotation rate, rather than requiring that the pump's default circulation speed be the lowest speed, and the pump's high speed override capability be governed by a control device that allows the higher circulation speed to operate only for a temporary period not to exceed one 24-hour cycle before resetting to the default speed as in the original.

C.S.H.B. 2210 adds a provision not in the original that defines "total horsepower."