

BILL ANALYSIS

Senate Research Center

H.B. 2667
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Water is a finite resource that requires careful and proactive management. In the State of Texas, this takes on an even greater meaning given recent and anticipated future population growth, particularly in high-density, urban areas and in times of drought. As such, the Plumbing Manufacturers Institute and water conservation groups have committed to proactive water conservation standards and legislation for plumbing fixtures in Texas and other states.

H.B. 2667 clarifies and sets out the national standards of the American Society of Mechanical Engineers and American National Standards Institute by which plumbing fixtures will be produced and tested. This bill establishes a phase-in of high efficiency plumbing fixtures brought into Texas, which will allow manufacturers the time to change their production, at the same time allowing retailers the opportunity to turn over their inventory. H.B. 2667 creates an exemption for those manufacturers that volunteer to register their products with the United States Environmental Protection Agency's WaterSense Program, which should result in additional water savings. This bill repeals the Texas Commission on Environmental Quality certification process for plumbing fixtures since the plumbing fixtures must meet national certification and testing procedures.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is rescinded in SECTION 6 (Sections 372.002 and 372.003, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 372.001, Health and Safety Code, to define "commercial prerinse spray valve," "plumbing fixture fitting," "pressurized flushing device," and "water closet," and to redefine "commission," "executive director," "plumbing fixture," and "toilet." Deletes existing definition of "commercial prerinse spray valve."

SECTION 2. Amends Section 372.002, Health and Safety Code, by amending Subsections (b), (c), and (f) and adding Subsections (g) and (h), as follows:

(b) Sets forth certain water saving performance standards for certain plumbing fixtures. Deletes existing text relating to certain performance standards established by the American National Standards Institute or the Texas Commission on Environmental Quality (TCEQ).

(c) Requires a manufacturer, rather than to a manufacturer or importer, to have a plumbing fixture included on the list, to supply TCEQ, in the form prescribed by TCEQ, the identification and the performance specifications of the plumbing fixture, and certified test results from a laboratory accredited by the American National Standards Institute verifying that the plumbing fixture meets the water saving performance standards established by Subsection (b). Deletes existing text authorizing TCEQ to test a listed fixture to determine the accuracy of the manufacturer's or importer's certification and requiring removal from the list a fixture TCEQ finds to be inaccurately certified. Makes conforming and nonsubstantive changes.

(f) Provides that this section does not apply to certain fixtures, including a nonwater-supplied urinal or a plumbing fixture that has been certified by the United States Environmental Protection Agency under the WaterSense Program.

(g) Provides that the water saving performance standards for a urinal and the associated flush valve, if any, sold, offered for sale, or distributed in this state on or after January 1, 2014, are the standards prescribed by Subsection (b)(3) (relating to water saving performance standards for a certain urinal and the associated flush valve) if the urinal was designed for heavy-duty commercial applications.

(h) Provides that the water saving performance standards for a toilet sold, offered for sale, or distributed in this state on or after January 1, 2014, are the standards prescribed by Subsection (b)(5) (relating to water saving performance standards for a certain toilet) if the toilet is a water closet that has a design not typically found in a residential application or that is designed for a specialized application, including a certain water closet.

SECTION 3. Amends Chapter 372, Health and Safety Code, by adding Section 372.0025, 372.0045, and 372.006, as follows:

Sec. 372.0025. EXCEPTION: ACTION BY MUNICIPALITY OR COUNTY. Authorizes the governing body of a municipality or county by ordinance or order to allow the sale in the municipality or county of a urinal or toilet that does not comply with Section 372.002(b)(4) (relating to water saving performance standards for a certain urinal and the associated flush valve) or (6) (relating to water saving performance standards for a certain toilet), respectively, if the governing body finds that to flush a public sewer system located in the municipality or county in a manner consistent with public health, a greater quantity of water is required because of the configuration of the drainage systems of buildings located in the municipality or county or the public sewer system.

Sec. 372.0045. PHASE-IN OF WATER SAVING PERFORMANCE STANDARDS. (a) Requires that at least a certain percentage by a certain date of the models of urinals and of the models of toilets offered for sale by a manufacturer in this state, notwithstanding Sections 372.002(b)(3) and (5), meet the requirements of Sections 372.002(b)(4) and (6), respectively.

(b) Requires a manufacturer that offers urinals or toilets for sale in this state, not later than January 31 of each year, to notify TCEQ in writing of the percentage of the models of urinals and of the models of toilets offered for sale by the manufacturer in this state that meet the requirements of Sections 372.002(b)(4) and (6), respectively.

(c) Provides that this section expires September 1, 2013.

Sec. 372.006. NONWATER-SUPPLIED URINAL PERFORMANCE STANDARDS. (a) Prohibits a person from selling, offering for sale, or distributing in this state a nonwater-supplied urinal for use in this state unless the nonwater-supplied urinal meets the performance, testing, and labeling requirements prescribed by certain standards, as applicable; provides a trap seal that complies with the building code of the local government in which the urinal is installed; and permits the uninhibited flow of waste through the urinal to the sanitary drainage system.

(b) Requires the manufacturer or importer to submit to TCEQ certified results from a laboratory accredited by the American National Standards Institute verifying that the nonwater-supplied urinal conforms to the requirements described by Subsection (a)(1) (relating to 50 percent of the models of urinals and of toilets offered for sale to meet certain requirements).

(c) Requires a person who installs a nonwater-supplied urinal to install water distribution and fixture supply piping sized to accommodate a water-supplied urinal to an in-wall point immediately adjacent to the nonwater-supplied urinal

location so that the non-water supplied urinal can be replaced with a water-supplied urinal if desired by the owner or required by a code enforcement officer.

(d) Requires a person who owns a nonwater-supplied urinal to clean and maintain the nonwater-supplied urinal in accordance with the manufacturer's instructions.

SECTION 4. Amends Section 5.701(q), Water Code, to delete existing text authorizing fees collected under Section 372.002(d) (relating to requiring TCEQ to assess against a manufacturer or an importer a reasonable fee for a certain inspection), Health and Safety Code, deposit to the water resource management account to be used for certain purpose.

SECTION 5. Amends Section 13.506(b), Water Code, to delete existing text requiring an owner or manager of certain properties to install 1.6-gallon toilets that meet the standards prescribed by Section 372.002 (Water Saving Performance Standards), Health and Safety Code, by a certain date.

SECTION 6. Repealers: Section 372.002(d) and (e) (relating to requiring TCEQ to employ the standards designated American National Standards by the American National Standards Institute), Health and Safety Code.

Repealers: Sections 372.003(a) (relating to prohibiting a person from selling, offering for sale, distributing, or importing into this state a plumbing fixture under certain circumstances) and (b) (relating to requiring TCEQ to adopt rules for the marking or labeling of plumbing fixtures), Health and Safety Code.

SECTION 7. Makes application of Section 372.002, Health and Safety Code, as amended by this Act, prospective to September 1, 2009.

SECTION 8. Makes application of Section 372.006, Health and Safety Code, as amended by this Act, prospective to September 1, 2009.

SECTION 9. Effective date: September 1, 2009.