

By: Anchia

H.B. No. 2210

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

(2) "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.

(3) "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 from magnetic tape, compact disc, DVD, or flash memory.

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

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

3                   (A) is a commercially available electronic  
4 product encased in a single housing that includes an integral power  
5 supply; and

6                   (B) is designed to decode digitized video signals  
7 on a DVD.

8           (6) "DVD recorder" means a digital versatile disc  
9 recorder that:

10                   (A) is a commercially available electronic  
11 product encased in a single housing that includes an integral power  
12 supply; and

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

15           (7) "Energy Star Program" means the United States  
16 Environmental Protection Agency's Energy Star Program.

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

20           (9) "Residential pool pump" means a pump used to  
21 circulate and filter residential swimming pool water to maintain  
22 the water's clarity and sanitation.

23           (10) "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 chapter  
27 applies to the following new products sold, offered for sale, or

1 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) portable electric spas;

7 (6) residential pool pumps; and

8 (7) any other products that are designated by the

9 comptroller in accordance with Section 392.102.

10 (b) This chapter does not apply to:

11 (1) a new product manufactured in this state and sold  
12 outside the state;

13 (2) a new product manufactured outside this state and  
14 sold at wholesale inside the state for final retail sale and  
15 installation outside the state;

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

18 (4) a product designed expressly for installation and  
19 use in a recreational vehicle;

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

22 (6) a compact audio product that:

23 (A) can be independently powered by internal  
24 batteries;

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

26 (C) can provide a video output signal; or

27 (7) a DVD recorder that has an electronic programming

1 guide function that provides an interactive, onscreen menu of  
2 television listings and downloads program information from the  
3 vertical blanking interval of a regular television signal.

4 [Sections 392.003-392.050 reserved for expansion]

5 SUBCHAPTER B. EFFICIENCY STANDARDS

6 Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN  
7 APPLIANCES. (a) Not later than September 1, 2010, the comptroller,  
8 in consultation with the state energy conservation office, shall  
9 adopt rules establishing minimum efficiency standards for each type  
10 of new product described by Section 392.002(a).

11 (b) If the federal law establishes an Energy Star Program  
12 efficiency standard for an appliance covered by this chapter, the  
13 standard set under this chapter is preempted by the federal law  
14 unless an application for waiver under Section 392.102 is granted.

15 Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a)  
16 The comptroller may adopt rules to establish increased efficiency  
17 standards for a product listed in Section 392.002(a) or to  
18 establish standards for a product not listed in that subsection.

19 (b) In considering new or increased standards, the  
20 comptroller, in consultation with the state energy conservation  
21 office, shall prescribe new or increased efficiency standards if  
22 the comptroller determines that the standards would:

23 (1) serve to promote energy conservation in this  
24 state; and

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

27 Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard

1 established under this subchapter takes effect on the first  
2 anniversary of the date the rule establishing the standard is  
3 adopted.

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

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

18 (b) Interior volume must be measured in accordance with the  
19 method shown in the "Energy Star Program Requirements for  
20 Commercial Hot Food Holding Cabinets" as in effect on August 15,  
21 2003.

22 Sec. 392.056. COMPACT AUDIO PRODUCTS. A compact audio  
23 product may not use more than two watts in standby-passive mode for  
24 a product without a permanently illuminated clock display and four  
25 watts in standby-passive mode for a product with a permanently  
26 illuminated clock display, as measured in accordance with  
27 International Electrotechnical Commission (IEC) test method

1 62087:2002-2003(E), "Methods of measurement for the power  
2 consumption of audio, video, and related equipment."

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

9 Sec. 392.058. PORTABLE ELECTRIC SPAS. A portable electric  
10 spa may not have a standby power greater than  $5(V^{2/3})$  watts where V  
11 equals the total volume in gallons. Standby power must be measured  
12 in accordance with the test method for portable electric spas  
13 contained in Section 1604, Title 20, California Code of  
14 Regulations, as of December 2006.

15 Sec. 392.059. RESIDENTIAL POOL PUMP MOTORS. (a) A  
16 residential pool pump motor manufactured on or after January 1,  
17 2006, may not be a split-phase or capacitor start-induction run  
18 type motor.

19 (b) A residential pool pump motor with a capacity of one  
20 horsepower or more:

21 (1) that is manufactured on or after January 1, 2008,  
22 must have the capability of operating at more than one speed with a  
23 low speed having a rotation rate that is not more than one-half of  
24 the motor's maximum rotation rate; and

25 (2) that is manufactured after January 1, 2010, and  
26 installed in an existing residential pool pump as a replacement  
27 motor, must have the capabilities described by Subdivision (1).

1       (c) A pool pump motor control that is manufactured on or  
2 after January 1, 2008, and that is sold for use with a pool pump  
3 capable of operating at more than one speed must have the capability  
4 of operating the pool pump at more than one speed. The pump's  
5 default circulation speed must be the lowest speed, and the pump's  
6 high speed override capability must be governed by a control device  
7 that allows the higher circulation speed to operate only for a  
8 temporary period not to exceed one 24-hour cycle before resetting  
9 to the default speed.

10       [Sections 392.060-392.100 reserved for expansion]

11       SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY

12                       STANDARDS

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

18       (b) On or after the first anniversary of the date the sale or  
19 offering for sale of a new product becomes subject to an efficiency  
20 standard adopted under this chapter, that product may not be  
21 installed for compensation in this state unless the efficiency of  
22 the product meets or exceeds the applicable efficiency standards  
23 prescribed by the rules adopted under Subchapter B.

24       Sec. 392.102. APPLICATION FOR WAIVER. For purposes of this  
25 chapter, the comptroller may apply for a waiver of federal  
26 preemption in accordance with federal procedures under 42 U.S.C.  
27 Section 6297(d) to authorize state efficiency standards for a

1 product regulated by the federal government.

2 [Sections 392.103-392.150 reserved for expansion]

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

4 Sec. 392.151. PRODUCT TESTING. (a) The manufacturer of a  
5 new product subject to an efficiency standard adopted under this  
6 chapter shall test samples of the product in accordance with the  
7 test procedures adopted under this chapter.

8 (b) The comptroller, in consultation with the State Energy  
9 Conservation Office, by rule shall adopt test procedures for  
10 determining a product's energy efficiency if Subchapter B does not  
11 provide for the procedures. The comptroller shall adopt test  
12 methods approved by the United States Department of Energy or, in  
13 the absence of those test methods, other appropriate nationally  
14 recognized test methods.

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

17 Sec. 392.152. PRODUCT CERTIFICATION. (a) The manufacturer  
18 of a new product subject to an efficiency standard adopted under  
19 this chapter shall certify to the comptroller that the product is in  
20 compliance with that standard according to test results.

21 (b) The comptroller shall adopt rules governing the  
22 certification of products under this section and shall coordinate  
23 certification by this state with the certification programs of  
24 other states and federal agencies with similar standards.

25 Sec. 392.153. PRODUCT LABELING. (a) The manufacturer of a  
26 new product subject to an efficiency standard adopted under this  
27 chapter shall identify each product offered for sale or



1 installation in this state as being in compliance with this chapter  
2 by means of a mark, label, or tag on the product and packaging at the  
3 time of sale or installation.

4 (b) The comptroller shall adopt rules governing the  
5 identification of products and packaging under this section. The  
6 rules must to the greatest practical extent be coordinated with the  
7 labeling programs of other states and federal agencies with  
8 equivalent efficiency standards. The comptroller shall allow the  
9 use of existing marks, labels, or tags that connote compliance with  
10 the efficiency requirements of this chapter.

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

16 (1) impose against the manufacturer of the product an  
17 assessment in an amount sufficient to recover the costs of  
18 purchasing and testing the product; and

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

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

1       Sec. 392.156. COMPLAINTS. The comptroller shall  
2 investigate a complaint received concerning a violation of this  
3 chapter and shall report the results of the investigation to the  
4 attorney general.

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

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

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

12       (c) Each violation constitutes a separate violation, and  
13 each day that a violation continues constitutes a separate  
14 violation.

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

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

20       SECTION 2. Section 389.002, Health and Safety Code, is  
21 amended to read as follows:

22       Sec. 389.002. USE OF CERTAIN INFORMATION FOR FEDERAL  
23 RECOGNITION OF EMISSIONS REDUCTIONS. (a) The commission, using  
24 information derived from the reports to the commission under  
25 Sections 386.205, 388.003(e), and 388.006, shall take all  
26 appropriate and necessary actions so that emissions reductions  
27 achieved by means of activities under Chapters 386 and 388 are

1 credited by the United States Environmental Protection Agency to  
2 the appropriate emissions reduction objectives in the state  
3 implementation plan.

4 (b) The commission shall work with the Energy Systems  
5 Laboratory at the Texas Engineering Experiment Station of The Texas  
6 A&M University System to ensure that the emissions reductions  
7 achieved by the efficiency standards established under Chapter 392  
8 are credited by the United State Environmental Protection Agency to  
9 the appropriate emissions reduction objectives in the state  
10 implementation plan.

11 SECTION 3. (a) The efficiency standards prescribed by  
12 rules adopted under Subchapter B, Chapter 392, Health and Safety  
13 Code, as added by this Act, apply only to the sale or offer of sale  
14 of a new product to which that chapter applies that occurs on or  
15 after January 1, 2011.

16 (b) Notwithstanding Subsection (a) of this section, a new  
17 residential pool pump that does not meet the efficiency standards  
18 contained in Section 392.059, Health and Safety Code, as added by  
19 this Act, may be sold in this state through December 31, 2011.

20 SECTION 4. This Act takes effect September 1, 2009.