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H.B. No. 2667

A BILL TO BE ENTITLED

AN ACT

relating to performance standards for plumbing fixtures sold in this state.

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

SECTION 1. Section 372.001, Health and Safety Code, is amended to read as follows:

Sec. 372.001. DEFINITIONS. In this chapter:

(1) "Commercial prerinse spray valve" means a handheld device that is designed and marketed for use with commercial dishwashing and ware washing equipment and that is used to spray water on dishes, flatware, and other food service items to remove food residue before the items are cleaned in a dishwasher or ware washer or by hand.

(2) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(3) ~~[(2)]~~ "Executive director" means the executive director of the commission.

(4) ~~[(3)]~~ "Plumbing fixture" means a device that receives water, waste, or both and discharges the water, waste, or both into a drainage system. The term includes a kitchen sink, utility sink, lavatory, bidet, bathtub, shower ~~[a sink faucet, lavatory faucet, faucet aerator, shower head]~~, urinal, toilet, ~~[flush valve toilet]~~, or drinking water fountain.

(5) "Plumbing fixture fitting" means a device that

1 controls and directs the flow of water. The term includes a sink  
2 faucet, lavatory faucet, shower head, or bath filler.

3 (6) "Pressurized flushing device" means a device that  
4 contains a valve that:

5 (A) is attached to a pressurized water supply  
6 pipe that is of sufficient size to deliver water at the necessary  
7 rate of flow to ensure flushing when the valve is open; and

8 (B) opens on actuation to allow water to flow  
9 into the fixture at a rate and in a quantity necessary for the  
10 proper operation of the fixture and gradually closes to avoid water  
11 hammer.

12 (7) [~~(4)~~] "Toilet" means a [~~toilet or~~] water closet  
13 [~~except a wall-mounted toilet that employs a flushometer or flush~~  
14 ~~valve].~~

15 (8) "Water closet" means a plumbing fixture that has a  
16 water-containing receptor that receives liquid and solid body waste  
17 and, on actuation, conveys the waste through an exposed integral  
18 trap seal into a drainage system.

19 [~~(5) "Commercial prerinse spray valve" means a~~  
20 ~~handheld device that is designed and marketed for use with~~  
21 ~~commercial dishwashing and ware washing equipment and that is used~~  
22 ~~to spray water on dishes, flatware, and other food service items to~~  
23 ~~remove food residue before the items are cleaned in a dishwasher or~~  
24 ~~ware washer or by hand.]~~

25 SECTION 2. Section 372.002, Health and Safety Code, is  
26 amended by amending Subsections (b), (c), and (f) and adding  
27 Subsections (g) and (h) to read as follows:

1 (b) The water saving performance standards for a plumbing  
2 fixture are [~~those established by the American National Standards~~  
3 ~~Institute or~~] the following standards [~~, whichever are more~~  
4 ~~restrictive~~]:

5 (1) for a sink or lavatory faucet or a faucet aerator,  
6 maximum flow may not exceed 2.2 gallons of water per minute at a  
7 pressure of 60 pounds per square inch [~~when tested according to~~  
8 ~~testing procedures adopted by the commission~~];

9 (2) for a shower head, maximum flow may not exceed 2.5  
10 [~~2.75~~] gallons of water per minute at a constant pressure over 80  
11 pounds per square inch [~~when tested according to testing procedures~~  
12 ~~adopted by the commission~~];

13 (3) for a urinal and the associated flush valve, if  
14 any, sold, offered for sale, or distributed in this state before  
15 January 1, 2014:

16 (A) maximum flow may not exceed an average of one  
17 gallon of water per flush [~~flushing when tested according to the~~  
18 ~~hydraulic performance requirements adopted by the commission~~]; and

19 (B) the urinal and the associated flush valve, if  
20 any, must meet the performance, testing, and labeling requirements  
21 prescribed by American Society of Mechanical Engineers Standard  
22 A112.19.2-2008 and Canadian Standards Association Standard  
23 B45.1-2008 "Vitreous China Plumbing Fixtures and Hydraulic  
24 Requirements for Water Closets and Urinals";

25 (4) except as provided by Subsection (g), for a urinal  
26 and the associated flush valve, if any, sold, offered for sale, or  
27 distributed in this state on or after January 1, 2014:

1           (A) maximum flow may not exceed an average of 0.5  
2 gallons of water per flush; and

3           (B) the urinal and the associated flush valve, if  
4 any, must meet the performance, testing, and labeling requirements  
5 prescribed by the following standards, as applicable:

6                   (i) American Society of Mechanical  
7 Engineers Standard A112.19.2-2008 and Canadian Standards  
8 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures  
9 and Hydraulic Requirements for Water Closets and Urinals"; or

10                   (ii) American Society of Mechanical  
11 Engineers Standard A112.19.19-2006 "Vitreous China Nonwater  
12 Urinals";

13           (5) [~~4~~] for a toilet sold, offered for sale, or  
14 distributed in this state before January 1, 2014:

15           (A) [~~7~~] maximum flow may not exceed an average of  
16 1.6 gallons of water per flush [~~flushing when tested according to~~  
17 ~~the hydraulic performance requirements adopted by the commission];~~  
18 and

19           (B) the toilet must meet the performance,  
20 testing, and labeling requirements prescribed by the following  
21 standards, as applicable:

22                   (i) American Society of Mechanical  
23 Engineers Standard A112.19.2-2008 and Canadian Standards  
24 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures  
25 and Hydraulic Requirements for Water Closets and Urinals"; and

26                   (ii) American Society of Mechanical  
27 Engineers Standard A112.19.14-2006 "Six-Liter Water Closets

1 Equipped With a Dual Flushing Device";

2 (6) except as provided by Subsection (h), for a toilet  
3 sold, offered for sale, or distributed in this state on or after  
4 January 1, 2014:

5 (A) the toilet must be a dual flush water closet  
6 that meets the following standards:

7 (i) the average flush volume of two reduced  
8 flushes and one full flush may not exceed 1.28 gallons; and

9 (ii) the toilet must meet the performance,  
10 testing, and labeling requirements prescribed by the following  
11 standards, as applicable:

12 (a) American Society of Mechanical  
13 Engineers Standard A112.19.2-2008 and Canadian Standards  
14 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures  
15 and Hydraulic Requirements for Water Closets and Urinals"; and

16 (b) American Society of Mechanical  
17 Engineers Standard A112.19.14-2006 "Six-Liter Water Closets  
18 Equipped With a Dual Flushing Device"; or

19 (B) the toilet must be a single flush water  
20 closet that meets the following standards:

21 (i) the average flush volume may not exceed  
22 1.28 gallons; and

23 (ii) the toilet must meet the performance,  
24 testing, and labeling requirements prescribed by American Society  
25 of Mechanical Engineers Standard A112.19.2-2008 and Canadian  
26 Standards Association Standard B45.1-2008 "Vitreous China Plumbing  
27 Fixtures and Hydraulic Requirements for Water Closets and Urinals";

1           ~~[(5) for a wall-mounted toilet that employs a~~  
2 ~~flushometer or flush valve, maximum flow may not exceed an average~~  
3 ~~of two gallons of water per flushing or the flow rate established by~~  
4 ~~the American National Standards Institute for ultra-low flush~~  
5 ~~toilets, whichever is lower,]~~ and

6           (7) ~~[(6)]~~ a drinking water fountain must be  
7 self-closing.

8           (c) The commission shall make and maintain a current list of  
9 plumbing fixtures that are certified to the commission by the  
10 manufacturer ~~[or importer]~~ to meet the water saving performance  
11 standards established by Subsection (b). To have a plumbing  
12 fixture included on the list, a manufacturer ~~[or importer]~~ must  
13 supply to the commission, in the form prescribed by the commission:

14           (1) [✓] the identification and the performance  
15 specifications of the plumbing fixture; and

16           (2) certified test results from a laboratory  
17 accredited by the American National Standards Institute verifying  
18 that the plumbing fixture meets the water saving performance  
19 standards established by Subsection (b). ~~[The commission may test~~  
20 ~~a listed fixture to determine the accuracy of the manufacturer's or~~  
21 ~~importer's certification and shall remove from the list a fixture~~  
22 ~~the commission finds to be inaccurately certified.]~~

23           (f) This section does not apply to:

24           (1) a plumbing fixture that has been ordered by or is  
25 in the inventory of a building contractor or a wholesaler or  
26 retailer of plumbing fixtures on January 1, 1992;

27           (2) a fixture, such as a safety shower or aspirator

1 faucet, that, because of the fixture's specialized function, cannot  
2 meet the standards provided by this section;

3 (3) a fixture originally installed before January 1,  
4 1992, that is removed and reinstalled in the same building on or  
5 after that date; [~~or~~]

6 (4) a fixture imported only for use at the importer's  
7 domicile;

8 (5) a nonwater-supplied urinal; or

9 (6) a plumbing fixture that has been certified by the  
10 United States Environmental Protection Agency under the WaterSense  
11 Program.

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

17 (h) The water saving performance standards for a toilet  
18 sold, offered for sale, or distributed in this state on or after  
19 January 1, 2014, are the standards prescribed by Subsection (b)(5)  
20 if the toilet is a water closet that has a design not typically  
21 found in a residential application or that is designed for a  
22 specialized application, including a water closet that:

23 (1) is mounted on the wall and discharges to the  
24 drainage system through the floor;

25 (2) is located in a correctional facility, as defined  
26 by Section 1.07, Penal Code;

27 (3) is used in a bariatric application;

1           (4) is used by children at a day-care facility; or

2           (5) consists of a non-tank type commercial bowl  
3 connected to the plumbing system through a pressurized flushing  
4 device.

5           SECTION 3. Chapter 372, Health and Safety Code, is amended  
6 by adding Sections 372.0025, 372.0045, and 372.006 to read as  
7 follows:

8           Sec. 372.0025. EXCEPTION: ACTION BY MUNICIPALITY OR COUNTY.

9 The governing body of a municipality or county by ordinance or order  
10 may allow the sale in the municipality or county of a urinal or  
11 toilet that does not comply with Section 372.002(b)(4) or (6),  
12 respectively, if the governing body finds that to flush a public  
13 sewer system located in the municipality or county in a manner  
14 consistent with public health, a greater quantity of water is  
15 required because of the configuration of the drainage systems of  
16 buildings located in the municipality or county or the public sewer  
17 system.

18           Sec. 372.0045. PHASE-IN OF WATER SAVING PERFORMANCE  
19 STANDARDS. (a) Notwithstanding Sections 372.002(b)(3) and (5), at  
20 least the following percentage of the models of urinals and of the  
21 models of toilets offered for sale by a manufacturer in this state  
22 must meet the requirements of Sections 372.002(b)(4) and (6),  
23 respectively:

24           (1) 50 percent of the models of urinals and of the  
25 models of toilets offered for sale on January 1, 2010;

26           (2) 67 percent of the models of urinals and of the  
27 models of toilets offered for sale on January 1, 2011;



1           (3) 75 percent of the models of urinals and of the  
2 models of toilets offered for sale on January 1, 2012; and

3           (4) 85 percent of the models of urinals and of the  
4 models of toilets offered for sale on January 1, 2013.

5           (b) Not later than January 31 of each year, a manufacturer  
6 that offers urinals or toilets for sale in this state shall notify  
7 the commission in writing of the percentage of the models of urinals  
8 and of the models of toilets offered for sale by the manufacturer in  
9 this state that meet the requirements of Sections 372.002(b)(4) and  
10 (6), respectively.

11           (c) This section expires September 1, 2013.

12           Sec. 372.006. NONWATER-SUPPLIED URINAL PERFORMANCE  
13 STANDARDS. (a) A person may not sell, offer for sale, or distribute  
14 in this state a nonwater-supplied urinal for use in this state  
15 unless the nonwater-supplied urinal:

16           (1) meets the performance, testing, and labeling  
17 requirements prescribed by the following standards, as applicable:

18                   (A) American Society of Mechanical Engineers  
19 Standard A112.19.19-2006 "Vitreous China Nonwater Urinals"; or

20                   (B) International Association of Plumbing and  
21 Mechanical Officials Standard ANSI Z124.9-2004 "Plastic Urinal  
22 Fixtures";

23           (2) provides a trap seal that complies with the  
24 building code of the local government in which the urinal is  
25 installed; and

26           (3) permits the uninhibited flow of waste through the  
27 urinal to the sanitary drainage system.

1       (b) The manufacturer or importer must submit to the  
2 commission certified test results from a laboratory accredited by  
3 the American National Standards Institute verifying that the  
4 nonwater-supplied urinal conforms to the requirements described by  
5 Subsection (a)(1).

6       (c) A person who installs a nonwater-supplied urinal shall  
7 install water distribution and fixture supply piping sized to  
8 accommodate a water-supplied urinal to an in-wall point immediately  
9 adjacent to the nonwater-supplied urinal location so that the  
10 nonwater-supplied urinal can be replaced with a water-supplied  
11 urinal if desired by the owner or required by a code enforcement  
12 officer.

13       (d) A person who owns a nonwater-supplied urinal shall clean  
14 and maintain the nonwater-supplied urinal in accordance with the  
15 manufacturer's instructions.

16       SECTION 4. Section 5.701(q), Water Code, is amended to read  
17 as follows:

18       (q) Notwithstanding any other law, fees collected for  
19 deposit to the water resource management account under the  
20 following statutes may be appropriated and used to protect water  
21 resources in this state, including assessment of water quality,  
22 reasonably related to the activities of any of the persons required  
23 to pay a fee under:

24           (1) Subsections (b) and (c), to the extent those fees  
25 are collected in connection with water use or water quality  
26 permits;

27           (2) Subsections (h)-(l);

- 1           (3) Section 11.138(g);  
2           (4) Section 11.145;  
3           (5) Section 26.0135(h);  
4           (6) Sections 26.0291, 26.044, and 26.0461; or  
5           (7) Sections 341.041, 366.058, and 366.059, Health and  
6 Safety Code [~~or~~  
7           ~~[(8) Section 372.002(d), Health and Safety Code]~~].

8           SECTION 5. Section 13.506(b), Water Code, is amended to  
9 read as follows:

10           (b) Not later than the first anniversary of the date an  
11 owner of an apartment house, manufactured home rental community, or  
12 multiple use facility or a manager of a condominium begins to bill  
13 for submetered or allocated water service under Subsection (a), the  
14 owner or manager shall:

15           (1) remove any toilets that exceed a maximum flow of  
16 3.5 gallons of water per flushing; and

17           (2) install [~~1.6-gallon~~] toilets that meet the  
18 standards prescribed by Section 372.002, Health and Safety Code.

19           SECTION 6. Sections 372.002(d) and (e) and 372.003(a) and  
20 (b), Health and Safety Code, are repealed.

21           SECTION 7. The change in law made by Section 372.002, Health  
22 and Safety Code, as amended by this Act, applies only to a plumbing  
23 fixture sold, offered for sale, or distributed in this state on or  
24 after September 1, 2009. A plumbing fixture sold, offered for sale,  
25 or distributed in this state before that date is governed by the law  
26 in effect on the date the sale, offer, or distribution occurred, and  
27 that law is continued in effect for that purpose.

1           SECTION 8. The change in law made by Section 372.006, Health  
2 and Safety Code, as added by this Act, applies only to a  
3 nonwater-supplied urinal sold, offered for sale, distributed, or  
4 installed in this state on or after September 1, 2009. A  
5 nonwater-supplied urinal sold, offered for sale, distributed, or  
6 installed in this state before that date is governed by the law in  
7 effect on the date the sale, offer, distribution, or installation  
8 occurred, and that law is continued in effect for that purpose.

9           SECTION 9. This Act takes effect September 1, 2009.