

1-1 By: Ritter, Creighton (Senate Sponsor - Hinojosa) H.B. No. 2667
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 1, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 12, 2009, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 12, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to performance standards for plumbing fixtures sold in
1-9 this state.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 372.001, Health and Safety Code, is
1-12 amended to read as follows:

1-13 Sec. 372.001. DEFINITIONS. In this chapter:

1-14 (1) "Commercial prerinse spray valve" means a handheld
1-15 device that is designed and marketed for use with commercial
1-16 dishwashing and ware washing equipment and that is used to spray
1-17 water on dishes, flatware, and other food service items to remove
1-18 food residue before the items are cleaned in a dishwasher or ware
1-19 washer or by hand.

1-20 (2) "Commission" means the Texas [Natural Resource
1-21 Conservation] Commission on Environmental Quality.

1-22 (3) ~~[(2)]~~ "Executive director" means the executive
1-23 director of the commission.

1-24 (4) ~~[(3)]~~ "Plumbing fixture" means a device that
1-25 receives water, waste, or both and discharges the water, waste, or
1-26 both into a drainage system. The term includes a kitchen sink,
1-27 utility sink, lavatory, bidet, bathtub, shower [a sink faucet,
1-28 lavatory faucet, faucet aerator, shower head], urinal, toilet,
1-29 [flush valve toilet,] or drinking water fountain.

1-30 (5) "Plumbing fixture fitting" means a device that
1-31 controls and directs the flow of water. The term includes a sink
1-32 faucet, lavatory faucet, shower head, or bath filler.

1-33 (6) "Pressurized flushing device" means a device that
1-34 contains a valve that:

1-35 (A) is attached to a pressurized water supply
1-36 pipe that is of sufficient size to deliver water at the necessary
1-37 rate of flow to ensure flushing when the valve is open; and

1-38 (B) opens on actuation to allow water to flow
1-39 into the fixture at a rate and in a quantity necessary for the
1-40 proper operation of the fixture and gradually closes to avoid water
1-41 hammer.

1-42 (7) ~~[(4)]~~ "Toilet" means a [toilet or] water closet
1-43 [except a wall-mounted toilet that employs a flushometer or flush
1-44 valve].

1-45 (8) "Water closet" means a plumbing fixture that has a
1-46 water-containing receptor that receives liquid and solid body waste
1-47 and, on actuation, conveys the waste through an exposed integral
1-48 trap seal into a drainage system.

1-49 ~~[(5)]~~ "Commercial prerinse spray valve" means a
1-50 handheld device that is designed and marketed for use with
1-51 commercial dishwashing and ware washing equipment and that is used
1-52 to spray water on dishes, flatware, and other food service items to
1-53 remove food residue before the items are cleaned in a dishwasher or
1-54 ware washer or by hand.]

1-55 SECTION 2. Section 372.002, Health and Safety Code, is
1-56 amended by amending Subsections (b), (c), and (f) and adding
1-57 Subsections (g) and (h) to read as follows:

1-58 (b) The water saving performance standards for a plumbing
1-59 fixture are ~~[those established by the American National Standards~~
1-60 ~~Institute or]~~ the following standards~~[, whichever are more~~
1-61 ~~restrictive]:~~

1-62 (1) for a sink or lavatory faucet or a faucet aerator,
1-63 maximum flow may not exceed 2.2 gallons of water per minute at a
1-64 pressure of 60 pounds per square inch ~~[when tested according to~~

~~testing procedures adopted by the commission];~~
 2-2 (2) for a shower head, maximum flow may not exceed 2.5
 2-3 ~~[2.75]~~ gallons of water per minute at a constant pressure over 80
 2-4 pounds per square inch ~~[when tested according to testing procedures~~
 2-5 ~~adopted by the commission];~~
 2-6 (3) for a urinal and the associated flush valve, if
 2-7 any, sold, offered for sale, or distributed in this state before
 2-8 January 1, 2014:
 2-9 (A) maximum flow may not exceed an average of one
 2-10 gallon of water per flush ~~[flushing when tested according to the~~
 2-11 ~~hydraulic performance requirements adopted by the commission]; and~~
 2-12 (B) the urinal and the associated flush valve, if
 2-13 any, must meet the performance, testing, and labeling requirements
 2-14 prescribed by American Society of Mechanical Engineers Standard
 2-15 A112.19.2-2008 and Canadian Standards Association Standard
 2-16 B45.1-2008 "Vitreous China Plumbing Fixtures and Hydraulic
 2-17 Requirements for Water Closets and Urinals";
 2-18 (4) except as provided by Subsection (g), for a urinal
 2-19 and the associated flush valve, if any, sold, offered for sale, or
 2-20 distributed in this state on or after January 1, 2014:
 2-21 (A) maximum flow may not exceed an average of 0.5
 2-22 gallons of water per flush; and
 2-23 (B) the urinal and the associated flush valve, if
 2-24 any, must meet the performance, testing, and labeling requirements
 2-25 prescribed by the following standards, as applicable:
 2-26 (i) American Society of Mechanical
 2-27 Engineers Standard A112.19.2-2008 and Canadian Standards
 2-28 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures
 2-29 and Hydraulic Requirements for Water Closets and Urinals"; or
 2-30 (ii) American Society of Mechanical
 2-31 Engineers Standard A112.19.19-2006 "Vitreous China Nonwater
 2-32 Urinals";
 2-33 (5) ~~(4)~~ for a toilet sold, offered for sale, or
 2-34 distributed in this state before January 1, 2014:
 2-35 (A) ~~(7)~~ maximum flow may not exceed an average of
 2-36 1.6 gallons of water per flush ~~[flushing when tested according to~~
 2-37 ~~the hydraulic performance requirements adopted by the commission];~~
 2-38 and
 2-39 (B) the toilet must meet the performance,
 2-40 testing, and labeling requirements prescribed by the following
 2-41 standards, as applicable:
 2-42 (i) American Society of Mechanical
 2-43 Engineers Standard A112.19.2-2008 and Canadian Standards
 2-44 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures
 2-45 and Hydraulic Requirements for Water Closets and Urinals"; and
 2-46 (ii) American Society of Mechanical
 2-47 Engineers Standard A112.19.14-2006 "Six-Liter Water Closets
 2-48 Equipped With a Dual Flushing Device";
 2-49 (6) except as provided by Subsection (h), for a toilet
 2-50 sold, offered for sale, or distributed in this state on or after
 2-51 January 1, 2014:
 2-52 (A) the toilet must be a dual flush water closet
 2-53 that meets the following standards:
 2-54 (i) the average flush volume of two reduced
 2-55 flushes and one full flush may not exceed 1.28 gallons; and
 2-56 (ii) the toilet must meet the performance,
 2-57 testing, and labeling requirements prescribed by the following
 2-58 standards, as applicable:
 2-59 (a) American Society of Mechanical
 2-60 Engineers Standard A112.19.2-2008 and Canadian Standards
 2-61 Association Standard B45.1-2008 "Vitreous China Plumbing Fixtures
 2-62 and Hydraulic Requirements for Water Closets and Urinals"; and
 2-63 (b) American Society of Mechanical
 2-64 Engineers Standard A112.19.14-2006 "Six-Liter Water Closets
 2-65 Equipped With a Dual Flushing Device"; or
 2-66 (B) the toilet must be a single flush water
 2-67 closet that meets the following standards:
 2-68 (i) the average flush volume may not exceed
 2-69 1.28 gallons; and

3-1 (ii) the toilet must meet the performance,
 3-2 testing, and labeling requirements prescribed by American Society
 3-3 of Mechanical Engineers Standard A112.19.2-2008 and Canadian
 3-4 Standards Association Standard B45.1-2008 "Vitreous China Plumbing
 3-5 Fixtures and Hydraulic Requirements for Water Closets and Urinals";
 3-6 ~~[(5) for a wall-mounted toilet that employs a~~
 3-7 ~~flushometer or flush valve, maximum flow may not exceed an average~~
 3-8 ~~of two gallons of water per flushing or the flow rate established by~~
 3-9 ~~the American National Standards Institute for ultra-low flush~~
 3-10 ~~toilets, whichever is lower,] and~~

3-11 (7) ~~[(6)]~~ a drinking water fountain must be
 3-12 self-closing.

3-13 (c) The commission shall make and maintain a current list of
 3-14 plumbing fixtures that are certified to the commission by the
 3-15 manufacturer ~~[or importer]~~ to meet the water saving performance
 3-16 standards established by Subsection (b). To have a plumbing
 3-17 fixture included on the list, a manufacturer ~~[or importer]~~ must
 3-18 supply to the commission, in the form prescribed by the commission:

3-19 (1) ~~[,]~~ the identification and the performance
 3-20 specifications of the plumbing fixture; and

3-21 (2) certified test results from a laboratory
 3-22 accredited by the American National Standards Institute verifying
 3-23 that the plumbing fixture meets the water saving performance
 3-24 standards established by Subsection (b). ~~[The commission may test~~
 3-25 ~~a listed fixture to determine the accuracy of the manufacturer's or~~
 3-26 ~~importer's certification and shall remove from the list a fixture~~
 3-27 ~~the commission finds to be inaccurately certified.]~~

3-28 (f) This section does not apply to:

3-29 (1) a plumbing fixture that has been ordered by or is
 3-30 in the inventory of a building contractor or a wholesaler or
 3-31 retailer of plumbing fixtures on January 1, 1992;

3-32 (2) a fixture, such as a safety shower or aspirator
 3-33 faucet, that, because of the fixture's specialized function, cannot
 3-34 meet the standards provided by this section;

3-35 (3) a fixture originally installed before January 1,
 3-36 1992, that is removed and reinstalled in the same building on or
 3-37 after that date; ~~[or]~~

3-38 (4) a fixture imported only for use at the importer's
 3-39 domicile;

3-40 (5) a nonwater-supplied urinal; or

3-41 (6) a plumbing fixture that has been certified by the
 3-42 United States Environmental Protection Agency under the WaterSense
 3-43 Program.

3-44 (g) The water saving performance standards for a urinal and
 3-45 the associated flush valve, if any, sold, offered for sale, or
 3-46 distributed in this state on or after January 1, 2014, are the
 3-47 standards prescribed by Subsection (b)(3) if the urinal was
 3-48 designed for heavy-duty commercial applications.

3-49 (h) The water saving performance standards for a toilet
 3-50 sold, offered for sale, or distributed in this state on or after
 3-51 January 1, 2014, are the standards prescribed by Subsection (b)(5)
 3-52 if the toilet is a water closet that has a design not typically
 3-53 found in a residential application or that is designed for a
 3-54 specialized application, including a water closet that:

3-55 (1) is mounted on the wall and discharges to the
 3-56 drainage system through the floor;

3-57 (2) is located in a correctional facility, as defined
 3-58 by Section 1.07, Penal Code;

3-59 (3) is used in a bariatric application;

3-60 (4) is used by children at a day-care facility; or

3-61 (5) consists of a non-tank type commercial bowl
 3-62 connected to the plumbing system through a pressurized flushing
 3-63 device.

3-64 SECTION 3. Chapter 372, Health and Safety Code, is amended
 3-65 by adding Sections 372.0025, 372.0045, and 372.006 to read as
 3-66 follows:

3-67 Sec. 372.0025. EXCEPTION: ACTION BY MUNICIPALITY OR COUNTY.

3-68 The governing body of a municipality or county by ordinance or order
 3-69 may allow the sale in the municipality or county of a urinal or

4-1 toilet that does not comply with Section 372.002(b)(4) or (6),
 4-2 respectively, if the governing body finds that to flush a public
 4-3 sewer system located in the municipality or county in a manner
 4-4 consistent with public health, a greater quantity of water is
 4-5 required because of the configuration of the drainage systems of
 4-6 buildings located in the municipality or county or the public sewer
 4-7 system.

4-8 Sec. 372.0045. PHASE-IN OF WATER SAVING PERFORMANCE
 4-9 STANDARDS. (a) Notwithstanding Sections 372.002(b)(3) and (5), at
 4-10 least the following percentage of the models of urinals and of the
 4-11 models of toilets offered for sale by a manufacturer in this state
 4-12 must meet the requirements of Sections 372.002(b)(4) and (6),
 4-13 respectively:

4-14 (1) 50 percent of the models of urinals and of the
 4-15 models of toilets offered for sale on January 1, 2010;

4-16 (2) 67 percent of the models of urinals and of the
 4-17 models of toilets offered for sale on January 1, 2011;

4-18 (3) 75 percent of the models of urinals and of the
 4-19 models of toilets offered for sale on January 1, 2012; and

4-20 (4) 85 percent of the models of urinals and of the
 4-21 models of toilets offered for sale on January 1, 2013.

4-22 (b) Not later than January 31 of each year, a manufacturer
 4-23 that offers urinals or toilets for sale in this state shall notify
 4-24 the commission in writing of the percentage of the models of urinals
 4-25 and of the models of toilets offered for sale by the manufacturer in
 4-26 this state that meet the requirements of Sections 372.002(b)(4) and
 4-27 (6), respectively.

4-28 (c) This section expires September 1, 2013.

4-29 Sec. 372.006. NONWATER-SUPPLIED URINAL PERFORMANCE
 4-30 STANDARDS. (a) A person may not sell, offer for sale, or distribute
 4-31 in this state a nonwater-supplied urinal for use in this state
 4-32 unless the nonwater-supplied urinal:

4-33 (1) meets the performance, testing, and labeling
 4-34 requirements prescribed by the following standards, as applicable:

4-35 (A) American Society of Mechanical Engineers
 4-36 Standard A112.19.19-2006 "Vitreous China Nonwater Urinals"; or

4-37 (B) International Association of Plumbing and
 4-38 Mechanical Officials Standard ANSI Z124.9-2004 "Plastic Urinal
 4-39 Fixtures";

4-40 (2) provides a trap seal that complies with the
 4-41 building code of the local government in which the urinal is
 4-42 installed; and

4-43 (3) permits the uninhibited flow of waste through the
 4-44 urinal to the sanitary drainage system.

4-45 (b) The manufacturer or importer must submit to the
 4-46 commission certified test results from a laboratory accredited by
 4-47 the American National Standards Institute verifying that the
 4-48 nonwater-supplied urinal conforms to the requirements described by
 4-49 Subsection (a)(1).

4-50 (c) A person who installs a nonwater-supplied urinal shall
 4-51 install water distribution and fixture supply piping sized to
 4-52 accommodate a water-supplied urinal to an in-wall point immediately
 4-53 adjacent to the nonwater-supplied urinal location so that the
 4-54 nonwater-supplied urinal can be replaced with a water-supplied
 4-55 urinal if desired by the owner or required by a code enforcement
 4-56 officer.

4-57 (d) A person who owns a nonwater-supplied urinal shall clean
 4-58 and maintain the nonwater-supplied urinal in accordance with the
 4-59 manufacturer's instructions.

4-60 SECTION 4. Section 5.701(q), Water Code, is amended to read
 4-61 as follows:

4-62 (q) Notwithstanding any other law, fees collected for
 4-63 deposit to the water resource management account under the
 4-64 following statutes may be appropriated and used to protect water
 4-65 resources in this state, including assessment of water quality,
 4-66 reasonably related to the activities of any of the persons required
 4-67 to pay a fee under:

4-68 (1) Subsections (b) and (c), to the extent those fees
 4-69 are collected in connection with water use or water quality

5-1 permits;

5-2 (2) Subsections (h)-(l);

5-3 (3) Section 11.138(g);

5-4 (4) Section 11.145;

5-5 (5) Section 26.0135(h);

5-6 (6) Sections 26.0291, 26.044, and 26.0461; or

5-7 (7) Sections 341.041, 366.058, and 366.059, Health and

5-8 Safety Code [~~or~~

5-9 [~~(8) Section 372.002(d), Health and Safety Code~~].

5-10 SECTION 5. Section 13.506(b), Water Code, is amended to

5-11 read as follows:

5-12 (b) Not later than the first anniversary of the date an

5-13 owner of an apartment house, manufactured home rental community, or

5-14 multiple use facility or a manager of a condominium begins to bill

5-15 for submetered or allocated water service under Subsection (a), the

5-16 owner or manager shall:

5-17 (1) remove any toilets that exceed a maximum flow of

5-18 3.5 gallons of water per flushing; and

5-19 (2) install [~~1.6-gallon~~] toilets that meet the

5-20 standards prescribed by Section 372.002, Health and Safety Code.

5-21 SECTION 6. Sections 372.002(d) and (e) and 372.003(a) and

5-22 (b), Health and Safety Code, are repealed.

5-23 SECTION 7. The change in law made by Section 372.002, Health

5-24 and Safety Code, as amended by this Act, applies only to a plumbing

5-25 fixture sold, offered for sale, or distributed in this state on or

5-26 after September 1, 2009. A plumbing fixture sold, offered for sale,

5-27 or distributed in this state before that date is governed by the law

5-28 in effect on the date the sale, offer, or distribution occurred, and

5-29 that law is continued in effect for that purpose.

5-30 SECTION 8. The change in law made by Section 372.006, Health

5-31 and Safety Code, as added by this Act, applies only to a

5-32 nonwater-supplied urinal sold, offered for sale, distributed, or

5-33 installed in this state on or after September 1, 2009. A

5-34 nonwater-supplied urinal sold, offered for sale, distributed, or

5-35 installed in this state before that date is governed by the law in

5-36 effect on the date the sale, offer, distribution, or installation

5-37 occurred, and that law is continued in effect for that purpose.

5-38 SECTION 9. This Act takes effect September 1, 2009.

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