

By: Farrar

H.B. No. 4087

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an ultrasound machine registry;
providing a civil penalty.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is
amended by adding Chapter 325 to read as follows:

CHAPTER 325. ULTRASOUND MACHINES

Sec. 325.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health
Services.

(2) "Executive commissioner" means the executive
commissioner of the Health and Human Services Commission.

(3) "Health care facility" means a facility authorized
under the laws of this state to provide health care to patients.

(4) "Licensed practitioner" means a physician
licensed in this state to practice medicine or a nurse or advance
nurse practitioner licensed in this state to practice nursing.

(5) "Ultrasound machine" means a medical imaging
device that uses high frequency sound waves and their echoes to
provide treatment and testing of patients.

Sec. 325.002. RESTRICTED POSSESSION AND USE OF ULTRASOUND
MACHINE. (a) A person may not purchase or possess an ultrasound
machine for use in the provision of medical, nursing, or health care
in this state unless the person is a licensed practitioner or is a

1 health care facility that employs or has on staff at least one
2 licensed practitioner.

3 (b) A person may not operate an ultrasound machine unless
4 the person operates the machine under the supervision of a licensed
5 practitioner or other properly trained health care professional who
6 is able to perform and interpret the ultrasound.

7 Sec. 325.003. NOTIFICATION OF POSSESSION OF ULTRASOUND
8 MACHINE. (a) A licensed practitioner or health care facility that
9 purchases or takes possession of an ultrasound machine shall notify
10 the department not later than the seventh day after the date the
11 practitioner or facility takes possession of the machine.

12 (b) The notification required under Subsection (a) must be
13 on the form prescribed by the department and must include:

14 (1) the name, address, and telephone number of the
15 licensed practitioner or health care facility that took possession
16 of the machine and the date the practitioner or facility took
17 possession of the machine;

18 (2) the type of machine;

19 (3) the address of the premises where the machine is
20 used; and

21 (4) the name of each licensed practitioner who uses
22 the machine.

23 (c) A licensed practitioner or health care facility that has
24 possession of an ultrasound machine shall notify the department of
25 any change in the information provided to the department under
26 Subsection (b) not later than the seventh day after the date of the
27 change.

1 Sec. 325.004. ESTABLISHMENT OF REGISTRY. The department
2 shall establish a central registry of ultrasound machines and
3 include in the registry the information submitted to the department
4 under Section 325.003.

5 Sec. 325.005. INSPECTION; RECORDS. (a) The department or
6 the department's representative may enter public or private
7 property at reasonable times to determine whether, in a matter
8 under the department's jurisdiction, a person is complying with
9 this chapter and department rules.

10 (b) A licensed practitioner or health care facility
11 required to submit notification under Section 325.003 shall retain
12 a copy of all maintenance records and records relating to the use,
13 receipt, storage, transfer, or disposal of an ultrasound machine as
14 provided by department rules.

15 Sec. 325.006. RULES. The executive commissioner shall
16 adopt rules necessary to implement this chapter, including rules on
17 inspections and on maintenance of records.

18 Sec. 325.007. CIVIL PENALTY. (a) A person who violates
19 this chapter or any rule adopted under this chapter is liable to
20 this state for a civil penalty of \$1,000 for each violation. Each
21 day a violation continues constitutes a separate violation.

22 (b) The amount of the penalty shall be based on:

23 (1) the seriousness of the violation;

24 (2) the history of previous violations;

25 (3) the amount necessary to deter a future violation;

26 and

27 (4) any other matter that justice may require.

1 (c) The department or the attorney general may sue to
2 collect a civil penalty under this section. In the suit the state
3 may recover the reasonable expenses incurred in obtaining the
4 penalty, including investigation and court costs, reasonable
5 attorney's fees, witness fees, and other expenses.

6 SECTION 2. (a) Not later than November 1, 2009, the
7 executive commissioner of the Health and Human Services Commission
8 shall adopt the rules required by Chapter 325, Health and Safety
9 Code, as added by this Act.

10 (b) Not later than December 31, 2009, the Department of
11 State Health Services shall prescribe the form required under
12 Section 325.003, Health and Safety Code, as added by this Act, and
13 establish the registry required by Section 325.004, Health and
14 Safety Code, as added by this Act.

15 SECTION 3. Notwithstanding Chapter 325, Health and Safety
16 Code, as added by this Act, a licensed practitioner or health care
17 facility is not required to submit the notification required by
18 Section 325.003, Health and Safety Code, as added by this Act,
19 before January 1, 2010.

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