

By: Lavender, Beck, Burkett, et al.

H.B. No. 2510

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exempting the intrastate manufacture of certain
3 incandescent light bulbs from federal regulation.

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

5 SECTION 1. (a) The Tenth Amendment to the United States
6 Constitution guarantees to the states and their people all powers
7 not granted to the federal government elsewhere in the constitution
8 and reserves to the state and people of Texas certain powers as they
9 were understood at the time that Texas was admitted to statehood in
10 1845. The guaranty of those powers is a matter of contract between
11 the state and people of Texas and the United States dating from the
12 time Texas became a state.

13 (b) The Ninth Amendment to the United States Constitution
14 guarantees to the people rights not granted in the constitution and
15 reserves to the people of Texas certain rights as they were
16 understood at the time that Texas became a state. The guaranty of
17 those rights is a matter of contract between the state and people of
18 Texas and the United States dating from the time Texas became a
19 state.

20 (c) In 2007, the United States Congress passed the Energy
21 Independence and Security Act (Pub. L. No. 110-140). Section 321 of
22 that act bans the sale of certain incandescent light bulbs in the
23 United States beginning in 2012.

24 (d) The regulation of intrastate commerce is vested in the

1 states under the Ninth and Tenth Amendments to the United States
2 Constitution if not expressly preempted by federal law. The United
3 States Congress has not expressly preempted state regulation of
4 intrastate commerce relating to the manufacture on an intrastate
5 basis of incandescent light bulbs.

6 (e) The Legislature of the State of Texas declares that an
7 incandescent light bulb manufactured in Texas, as described by
8 Chapter 2004, Business & Commerce Code, as added by this Act, that
9 remains within the borders of Texas:

10 (1) has not traveled in interstate commerce; and

11 (2) is not subject to federal law or federal
12 regulation, under the authority of the United States Congress to
13 regulate interstate commerce.

14 SECTION 2. Title 99, Business & Commerce Code, is amended by
15 adding Chapter 2004 to read as follows:

16 CHAPTER 2004. INTRASTATE MANUFACTURE OF CERTAIN INCANDESCENT LIGHT
17 BULBS

18 Sec. 2004.001. DEFINITIONS. In this chapter:

19 (1) "Generic and insignificant part" means an item
20 that has manufacturing or consumer product applications other than
21 inclusion in an incandescent light bulb.

22 (2) "Incandescent light bulb" means a standard
23 incandescent or halogen light bulb that:

24 (A) is intended for general service
25 applications;

26 (B) has a lumen range of not less than 310 lumens
27 and not more than 2,600 lumens; and

1 (C) is capable of being operated at a voltage
2 range at least partially within 110 and 130 volts.

3 Sec. 2004.002. MEANING OF "MANUFACTURED IN THIS STATE." For
4 the purposes of this chapter, an incandescent light bulb is
5 manufactured in this state if the item is manufactured:

6 (1) in this state from materials located in this
7 state; and

8 (2) without the inclusion of any part imported from
9 another state other than a generic and insignificant part.

10 Sec. 2004.003. NOT SUBJECT TO FEDERAL REGULATION. An
11 incandescent light bulb that is manufactured in this state and
12 remains in this state is not subject to federal law or federal
13 regulation under the authority of the United States Congress to
14 regulate interstate commerce.

15 Sec. 2004.004. MARKETING OF LIGHT BULBS. An incandescent
16 light bulb manufactured and sold in this state must have the words
17 "Made in Texas" clearly stamped on it.

18 Sec. 2004.005. ATTORNEY GENERAL. (a) The attorney general
19 shall defend a citizen of this state whom the federal government
20 attempts to prosecute, claiming the power to regulate interstate
21 commerce, for violation of a federal law concerning the manufacture
22 or sale of an incandescent light bulb manufactured and retained in
23 this state.

24 (b) On written notification to the attorney general by a
25 citizen of the citizen's intent to manufacture an incandescent
26 light bulb to which this chapter applies, the attorney general
27 shall seek a declaratory judgment from a federal district court in

1 this state that this chapter is consistent with the United States
2 Constitution.

3 SECTION 3. This Act applies only to an incandescent light
4 bulb, as that term is defined by Section 2004.001, Business &
5 Commerce Code, as added by this Act, that is manufactured on or
6 after the effective date of this Act.

7 SECTION 4. This Act takes effect January 1, 2012.