

By: Ellis

S.B. No. 457

A BILL TO BE ENTITLED

AN ACT

relating to minimum efficiency standards for certain products;  
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. PRODUCT EFFICIENCY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. DEFINITIONS. In this chapter:

(1) "Residential pool pump" means a product,  
consisting in part of a motor and an impeller and housing, designed  
to circulate and filter residential swimming pool water to maintain  
the water's clarity and sanitation.

(2) "Residential pool pump motor" means a definite  
purpose motor designed for use in a residential pool pump.

(3) "Total horsepower" means the product of a motor's  
service factor and nameplate horsepower.

Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This chapter  
applies to the following types of new products sold, offered for  
sale, or installed in this state:

(1) residential pool pumps;

(2) residential pool pump motors; and

(3) residential pool pump motor controls.

(b) This chapter does not apply to:

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

3           (2) a new product manufactured outside this state and  
4 sold at wholesale inside the state for final retail sale and  
5 installation outside the state; or

6           (3) water pumps that are labeled as not intended for  
7 use as a swimming pool filtration pump and are used in:

8                   (A) a water feature;

9                   (B) a fountain;

10                  (C) a spa jet; or

11                  (D) a process other than filtration.

12           [Sections 392.003-392.050 reserved for expansion]

13                   SUBCHAPTER B. EFFICIENCY STANDARDS

14           Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN  
15 PRODUCTS. (a) Not later than September 1, 2012, the comptroller,  
16 in consultation with the State Energy Conservation Office, by rule  
17 shall establish minimum efficiency standards for each type of new  
18 product described by Section 392.002(a).

19           (b) If a federal law establishes a minimum efficiency  
20 standard for a product covered by this chapter, the standard set  
21 under this chapter is preempted by the federal law unless an  
22 application for waiver under Section 392.102 is granted.

23           Sec. 392.052. NEW OR REVISED EFFICIENCY STANDARDS. (a) The  
24 comptroller by rule may establish a new or revised efficiency  
25 standard for a product described by Section 392.002(a).

26           (b) The comptroller, in consultation with the State Energy  
27 Conservation Office, by rule shall establish a new or revised

1 standard if the comptroller determines that the standard would:

2 (1) serve to promote energy conservation in this  
3 state; and

4 (2) be cost-effective for consumers who purchase and  
5 use a new product to which the standard applies.

6 (c) Notwithstanding Subsections (a) and (b), the  
7 comptroller may not establish a new or revised standard for a  
8 product described by Section 392.002(a) if the standard would  
9 provide for less stringent energy efficiency requirements than a  
10 standard prescribed by Section 392.054 or a rule adopted under  
11 Section 392.051.

12 Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard  
13 established under this subchapter takes effect on the first  
14 anniversary of the date the rule establishing the standard is  
15 adopted.

16 Sec. 392.054. RESIDENTIAL POOL PUMPS, RESIDENTIAL POOL PUMP  
17 MOTORS, AND RESIDENTIAL POOL PUMP MOTOR CONTROLS. (a) A  
18 residential pool pump motor may not be a split-phase or capacitor  
19 start-induction run type motor, except that the following are not  
20 prohibited by this subsection:

21 (1) a two-speed motor with a low-speed section that is  
22 a capacitor start-induction run type; and

23 (2) a 48-frame motor designed for use with  
24 above-ground pools.

25 (b) A residential pool pump motor with a total horsepower  
26 capacity of one or more must:

27 (1) have the capability of operating at two or more

1 speeds with a low speed having a rotation rate that is not more than  
2 one-half of the motor's maximum rotation rate; and

3 (2) be operated with a pool pump motor control with the  
4 capability to operate the pump at two or more speeds.

5 (c) A pool pump motor control that is sold for use with a  
6 residential pool pump motor capable of operating at two or more  
7 speeds must have the capability of operating the pool pump at two or  
8 more speeds. The control's default circulation speed setting may  
9 not exceed one-half of the motor's maximum rotation rate. Any  
10 high-speed override capability must be for a temporary period not  
11 to exceed one 24-hour cycle without resetting to the default  
12 setting.

13 [Sections 392.055-392.100 reserved for expansion]

14 SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY

15 STANDARDS

16 Sec. 392.101. PRODUCT COMPLIANCE. (a) A new product  
17 described by Section 392.002(a) may not be sold or offered for sale  
18 in this state unless the efficiency of the new product meets or  
19 exceeds the applicable efficiency standards prescribed by this  
20 chapter or a rule adopted under this chapter.

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

27 Sec. 392.102. APPLICATION FOR WAIVER. For purposes of this

1 chapter, the comptroller may apply for a waiver of federal  
2 preemption in accordance with federal procedures under 42 U.S.C.  
3 Section 6297(d) to authorize a state efficiency standard for a  
4 product regulated by the federal government.

5 [Sections 392.103-392.150 reserved for expansion]

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

7 Sec. 392.151. PRODUCT TESTING. (a) The manufacturer of a  
8 new product subject to an efficiency standard prescribed by or  
9 adopted under this chapter shall test samples of the product in  
10 accordance with the test methods or procedures adopted under this  
11 chapter.

12 (b) The comptroller, in consultation with the State Energy  
13 Conservation Office, by rule shall adopt test methods or procedures  
14 for determining a product's energy efficiency. The comptroller  
15 shall adopt test methods or procedures approved by the United  
16 States Department of Energy or, in the absence of those test methods  
17 or procedures, other appropriate nationally recognized test  
18 methods or procedures.

19 (c) The comptroller may adopt an updated test method or  
20 procedure when a new version of a test method or procedure becomes  
21 available.

22 Sec. 392.152. PRODUCT CERTIFICATION. (a) The manufacturer  
23 of a new product subject to an efficiency standard prescribed by or  
24 adopted under this chapter shall certify to the comptroller that  
25 the product is in compliance with that standard according to test  
26 results.

27 (b) The comptroller shall adopt rules governing the

1 certification of products under this section and shall coordinate  
2 certification by this state with the certification programs of  
3 other states and federal agencies with similar standards.

4 Sec. 392.153. PRODUCT LABELING. (a) The manufacturer of a  
5 new product subject to an efficiency standard prescribed by or  
6 adopted under this chapter shall identify each product offered for  
7 sale or installation in this state as being in compliance with this  
8 chapter by means of a mark, label, or tag on the product and  
9 packaging at the time of sale or installation.

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

17 Sec. 392.154. COMPTROLLER TESTING FOR EFFICIENCY STANDARDS  
18 COMPLIANCE. The comptroller may test products subject to an  
19 efficiency standard prescribed by or adopted under this chapter for  
20 compliance with the applicable efficiency standard. If a product  
21 tested is found not to be in compliance with the standard, the  
22 comptroller shall:

23 (1) impose against the manufacturer of the product an  
24 assessment in an amount sufficient to recover the costs of  
25 purchasing and testing the product; and

26 (2) make information available to the public on any  
27 product found to be not in compliance with the standard.

1       Sec. 392.155. INSPECTIONS. The comptroller may have  
2 periodic inspections conducted of a distributor or retailer of new  
3 products described by Section 392.002(a) subject to an efficiency  
4 standard prescribed by or adopted under this chapter to determine  
5 compliance with this chapter. The inspections must be conducted at  
6 reasonable and convenient hours. Notice must be given before an  
7 inspection may be conducted.

8       Sec. 392.156. COMPLAINTS. The comptroller shall  
9 investigate a complaint received concerning a violation of this  
10 chapter and shall report the results of the investigation to the  
11 attorney general.

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

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

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

19       (c) Each violation constitutes a separate violation, and  
20 each day that a violation continues constitutes a separate  
21 violation.

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

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

27       SECTION 2. Section 389.002, Health and Safety Code, is

1 amended to read as follows:

2           Sec. 389.002. USE OF CERTAIN INFORMATION FOR FEDERAL  
3 RECOGNITION OF EMISSIONS REDUCTIONS. (a) The commission, using  
4 information derived from the reports to the commission under  
5 Sections 386.205, 388.003(e), and 388.006, shall take all  
6 appropriate and necessary actions so that emissions reductions  
7 achieved by means of activities under Chapters 386 and 388 are  
8 credited by the United States Environmental Protection Agency to  
9 the appropriate emissions reduction objectives in the state  
10 implementation plan.

11           (b) The commission shall work with the Energy Systems  
12 Laboratory at the Texas Engineering Experiment Station of The Texas  
13 A&M University System to ensure that the emissions reductions  
14 achieved by an efficiency standard established under Chapter 392  
15 are credited by the United States Environmental Protection Agency  
16 to the appropriate emissions reduction objectives in the state  
17 implementation plan.

18           SECTION 3. (a) An efficiency standard prescribed by a rule  
19 adopted under Subchapter B, Chapter 392, Health and Safety Code, as  
20 added by this Act, applies only to the sale or offer for sale of a  
21 new product to which that chapter applies that occurs on or after  
22 January 1, 2013.

23           (b) Notwithstanding Subsection (a) of this section, a new  
24 residential pool pump, residential pool pump motor, or residential  
25 pool pump motor control that does not meet an efficiency standard  
26 prescribed by Section 392.054, Health and Safety Code, as added by  
27 this Act, may be sold in this state through December 31, 2013.



1 SECTION 4. This Act takes effect September 1, 2011.