

BILL ANALYSIS

Senate Research Center

S.B. 12
By: Averitt
Natural Resources
2/27/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Dallas-Fort Worth and Houston-Galveston-Brazoria areas of the State of Texas do not currently meet air quality standards for ozone, and the largest contributor to the formation of ozone in these two regions are mobile resources, such as personal automobiles and diesel engines found in construction equipment. Because federal law precludes state regulation of emissions from these sources, the State of Texas has developed the Texas Emissions Reduction Program (TERP) and the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), aimed at reducing these emissions. TERP is primarily designed to affect diesel engines, while LIRAP is intended to lessen emissions from personal automobiles. Currently, Texas does not meet federal air quality standards effective in 2010.

As proposed, S.B. 12 increases the scope of both the TERP and the LIRAP programs to reduce emissions from mobile sources, increases the funding gap for grants under TERP, increases the number of individuals eligible for grants under LIRAP, and increases the amount of the grant for purchase of a new vehicle. S.B. 12 seeks to reduce statewide emissions from electrical generation units by providing for the updating of building energy codes, adopting appliance standards, and provide efficiency standards for school districts, institutions of higher education, state agencies, and governmental entities in counties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1.02 (Section 382.209, Health and Safety Code), SECTION 1.04 (Section 382.213, Health and Safety Code) SECTION 1.08, SECTION 1.10, and SECTION 2.01 (Section 386.001, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3.03 (Section 392.051, 392.052, 392.151, 392.152, 392.153, and 392.159), Health and Safety Code), of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 1.03 (Section 382.210, Health and Safety code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Amends Section 382.003, Health and Safety Code, by adding Subdivisions (7-a), (9-a), (9-b), (10-a), and (10-b), to define "hybrid motor vehicle," "motor vehicle," "new motor vehicle," "qualifying new motor vehicle," and "retail sale."

SECTION 1.02. Amends Section 382.209, Health and Safety Code, by amending Subsections (b), (e), and (g), and adding Subsections (i) and (j), as follows:

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality (TCEQ) as the successor agency to TNRCC.]

(b) Provides that not more than 10 percent of the money provided to a local low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program (program) under this section may be used for the administration of the program, including program costs. Makes a nonsubstantive change.

(e) Provides that a vehicle is ineligible to participate in the program unless the replacement vehicle is a qualifying new motor vehicle, if the vehicle is to be retired under this subsection and Section 382.213 (Disposition of a Retired Vehicle), Health and Safety Code. Makes conforming changes.

(g) Deletes existing text authorizing the participating counties to agree to contract with any appropriate entity, including the regional metropolitan planning organization or council of governments, to implement a program under Section 382.217 (Use of Unexpended Vehicle Repair Assistance, Retrofit, and Retirement Money).

(i) Authorizes TCEQ by rule to provide monetary or other compensatory assistance under the program, if funds are available, for the replacement of a vehicle if the vehicle is gasoline-powered and is at least 10 years old, the vehicle owner meets applicable financial eligibility criteria, the vehicle meets the requirements provided by Subsections (e)(1) and (e)(2), and the vehicle has passed a Department of Public Safety motor vehicle safety inspection or safety and emissions inspection within 15 months before the application is submitted, notwithstanding the vehicle replacement requirements provided by Subsection (d)(2).

(j) Authorizes TCEQ to provide monetary or other compensatory assistance under the program for a replacement vehicle or replacement assistance for a vehicle with a model year earlier than 1996 that passes the required United States Environmental Protection Agency Start-Up Acceleration Simulation Mode Standards emissions test but that would have failed the United States Environmental Protection Agency Start-Up Acceleration Simulation Mode Standards emissions test or some other criterion determined by TCEQ, provided that a replacement vehicle under this subsection is required to be a qualifying new motor vehicle.

SECTION 1.03. Amends Section 382.210, Health and Safety Code, as follows:

Sec. 382.210. New heading: IMPLEMENTATION GUIDELINES AND REQUIREMENTS. (a) Requires TCEQ, by rule, to adopt guidelines to assist a participating county in implementing a program authorized under Section 382.209, and requires that the guidelines recommend a minimum and maximum amount toward purchase price of a replacement vehicle qualified for the accelerated retirement program, with the maximum amount not to exceed \$2,500 or, if the replacement vehicle is a hybrid motor vehicle, \$3,500. Requires the guidelines to recommend criteria for determining eligibility taking into account the vehicle owner's income not in excess of 300 percent of the federal poverty level.

(b) Requires that a replacement vehicle described by Subsection (a)(2), except as provided by Subsection (c), be in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R. Section 86.1811-04, as published in the February 10, 2000, Federal Register, have a gross vehicle weight rating of less than 10,000 pounds, and be a vehicle the total cost of which does not exceed \$25,000.

(c) Authorizes TCEQ to adopt any revisions made by the federal government to emissions standards described by Subsection (b)(1).

(d) Requires a participating county to provide an electronic means for distributing vehicle repair or replacement funds once all program criteria with regard to the repair or replacement have been met.

SECTION 1.04. Amends Section 382.213, Health and Safety Code, by amending Subsection (a) and adding Subsections (d) through (h), as follows:

(a) Requires an automobile dealer who takes possession of a vehicle retired under an accelerated retirement program to submit proof that the vehicle has been retired, in a manner adopted by TCEQ, to the program administrator.

(d) Requires the dismantler of a vehicle to scrap the emissions control equipment and engine, notwithstanding Subsection(a)(3). Requires the dismantler to certify that the equipment and engine have been scrapped and not resold into the marketplace. Provides that a person who causes, suffers, allows, or permits a violation of this subsection or of a rule adopted under this section is subject to a civil penalty for each violation under Subchapter D, Chapter 7, Water Code. Provides that for purposes of this subsection, a separate violation occurs with each fraudulent certification or prohibited resale.

(e) Authorizes vehicle parts unrelated to emissions control equipment or the engine to be resold in any state, notwithstanding Subsection (d).

(f) Requires any dismantling of vehicles or salvaging of steel under this section to be performed at a facility located in the State of Texas.

(g) Requires the dismantler to remove any mercury switches in accordance with state and federal law in dismantling a vehicle under this section.

(h) Requires TCEQ to adopt rules defining "emissions control equipment" and "engine" for the purposes of this section.

SECTION 1.05. Amends Subchapter G, Chapter 382, Health and Safety Code, by adding Sections 382.219, 382.220, and 382.221, as follows:

Sec. 382.219. PARTICIPATING AUTOMOBILE DEALERSHIPS. (a) Requires a participating automobile dealer to accept the amount described by Section 382.210(2) exclusively as a replacement incentive under the program established by Section 382.209 and prohibits the offsetting of that amount against any other rebate being offered by the dealer. Authorizes the amount to be used as a down payment toward the purchase of a replacement vehicle.

(b) Requires a participating automobile dealer to be a dealer located in the State of Texas, for the purposes of this section.

[Bill as drafted does not contain Sections 382.220 and 382.221.]

SECTION 1.06. Amends Section 7.102, Water Code, as follows:

Sec. 7.102. MAXIMUM PENALTY. Requires that a person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to Subchapter G, Chapter 382, Health and Safety Code, be assessed for each violation a civil penalty not less than \$50 not greater than \$5,000 for each day of each violation as considered proper by the court or jury.

SECTION 1.07. Repealer: Section 382.0622(e) (Regarding Deposit of Certain Clean Air Account Fees), Sections 382.202(q) and (r) (Regarding Appropriation of Certain Fees Deposited to a Subaccount of the Clean Air Account), and Section 382.217(Use of Unexpended Vehicle Repair Assistance, Retrofit, and Retirement Money), Health and Safety Code.

SECTION 1.08. Requires TCEQ to review its current cut-point levels for nitrogen oxide emissions and determine whether a lower cut-point standard best serves the interest of the public health and welfare. Requires the determination to be made by rule no later than January 1, 2008. Requires TCEQ to make the program available to owners of vehicles that did not meet the prior and more stringent standard, if TCEQ adopts a lower cutpoint standard.

SECTION 1.09. (a) Requires TCEQ to seek to work in partnership with automobile manufacturers and dealers in the state to increase public awareness of and participation in the program.

(b) Requires funding for the partnership described by Subsection (a) of this section to be used only for the purpose of publicizing the program.

SECTION 1.10. (a) Requires TCEQ to seek to work in partnership with the steel industry and automobile dismantlers to ensure that vehicles being replaced are scrapped and that proof of scrapping is provided to TCEQ.

(b) Requires TCEQ to adopt procedures for certifying that emissions control equipment and vehicle engines have been scrapped and not resold into the marketplace, and by rule to define "emissions control equipment" and "engine," as required by Section 382.213, Health and Safety Code, as amended by this article, not later than January 1, 2008.

ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

SECTION 2.01. Amends Section 386.001(2), Health and Safety Code, to redefine "affected county" to include any other county in Texas designated as an affected county by TCEQ rule because the county contains all or a portion of a major highway transportation corridor.

SECTION 2.02. Amends Section 386.002, Health and Safety Code, as follows:

Sec. 386.002. EXPIRATION. Extends the expiration of this chapter (Expiration) from August 31, 2010, to August 31, 2013.

SECTION 2.03. Amends Subchapter B, Chapter 386, Health and Safety Code, by adding Section 386.0511, as follows:

Sec. 386.0511. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS.
(a) Authorizes money made available to affected or participating counties under Section 382.202(g) (TCEQ Funding) to be appropriated for only programs administered in accordance with Chapter 783 (Uniform Grant and Contract Management), Government Code, to improve air quality.

(b) Requires a program under this section to be implemented in consultation with TCEQ and authorizes it to include a program to expand and enhance the AirCheck Texas Repair and Replacement Assistance Program, develop and implement programs or systems that determine vehicle emissions and notify the operator of the vehicle, develop and implement TCEQ's smoking vehicle program, coordinate with local law enforcement officials to reduce the use of counterfeit state inspection stickers by providing local law enforcement officials with funds to identify vehicles with counterfeit state inspection stickers, enhance transportation system improvements, or implement new air control strategies designed to assist local areas in complying with state and federal air quality rules and regulations.

(c) Prohibits money made available for the implementation of a program under Subsection (b) from being expended for call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

(d) Authorizes fees collected under Section 386.251 to be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). Requires the fees to be made available only to counties participating in the program and only on a matching basis, whereby TCEQ provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b).

SECTION 2.04. Amends Section 386.053(d), Health and Safety Code, as follows:

(d) Requires TCEQ to make a proposed revision available to the public before the 30th day, rather than the 45th day, preceding the date of final adoption of the revision to the guidelines and criteria adopted under this section (Guidelines and Criteria).

SECTION 2.05. Amends Section 386.106(a), Health and Safety Code, as follows:

(a) Prohibits TCEQ from awarding a grant for a proposed project that exceeds \$15,000, rather than \$13,000, per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed, except as provided by Section 386.107 and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project. Makes a conforming change.

SECTION 2.06. Amends Section 386.109, Health and Safety Code, as follows:

(a) Creates this Subsection from existing text.

(b) Authorizes TCEQ to provide funding to other state agencies to implement projects that involve a technology that allows a vehicle to replace with electric power while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine, including funding for the purchase and installation of idle reduction technologies and facilities at public facilities on major highway transportation routes located in areas eligible for funding. Authorizes funding under this subsection to include reasonable operational costs determined by TCEQ to be needed for the initial start-up and proper operation of idle reduction technologies. Authorizes the state agency owning or operating the idle reduction facility constructed with funds provided under this subsection to charge fees for the provision services only if those fees are used to offset the cost of providing the services.

SECTION 2.07. Amends Section 386.251(b), Health and Safety Code, to provide that the Texas emissions plan fund is administered by TCEQ, rather than the comptroller of public accounts (comptroller), for the benefit of the plan established under this chapter.

SECTION 2.08. Amends Section 387.003, Health and Safety Code, by adding Subsections (c) through (f), as follows:

(c) Requires TCEQ to provide oversight for grants provided to the nonprofit organization under the new technology research and development program (technology program).

(d) Requires the nonprofit organization to submit to TCEQ a budget for the disposition of funds granted under the technology program for approval.

(e) Requires TCEQ to limit the use of grants for administrative costs sustained by the nonprofit organization to an amount not in excess of 10 percent of funding provided to the nonprofit organization under the technology program.

(f) Provides that the nonprofit organization that receives grants from TCEQ under the technology program is subject to Chapter 551 (Open Meetings) and Chapter 552 (Public Information), Government Code.

SECTION 2.09. Amends Section 387.005, Health and Safety Code, as follows:

Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Requires grants awarded under this chapter to be directed toward a balanced mix of retrofit, add-on technologies, and other advanced technologies that reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan. Deletes existing text requiring grants to be directed toward studies to improve air quality assessment and modeling, and toward advanced technologies that reduce emissions from other significant sources.

(b)-(d) Makes no changes.

(e) Deletes existing Subsection (e) requiring studies authorized under Subsection (a)(3) to be consistent with air quality research priorities identified by TCEQ and conducted in an independent and objective manner. Redesignates existing Subsection (f) as Subsection (e).

SECTION 2.10. Amends Section 151.0515(d), Tax Code, to extend the expiration of this section to August 31, 2013, from September 30, 2010.

SECTION 2.11. Amends Section 152.0215(c), Tax Code, to extend the expiration date of this section to August 31, 2013 from September 30, 2010.

SECTION 2.12. Amends Sections 501.138(a), (b), and (b-1), Transportation Code, as follows:

(a) Deletes existing text requiring an applicant for a certificate of title, other than the state or a political subdivision of the state, to pay the county assessor-collector on or after September 1, 2010, a \$28 fee regardless of the county in which the applicant resides.

(b) Deletes existing text requiring the county assessor-collector to send an amount of \$15 to the comptroller of public accounts (comptroller) at the time and in the manner prescribed by the comptroller on or after September 1, 2010, regardless of the county in which the applicant resides.

(b-1) Requires fees collected under Subsection (b) to be sent to the comptroller to be deposited on or after September 1, 2008, and before September 1, 2010, to the credit of the Texas Mobility Fund, with the exception that \$5 of each fee imposed under Subsection (a)(1) be deposited between September 1, 2008, and September 1, 2010, to the credit of the Texas emissions reduction plan fund, and on or after September 1, 2010, the fees be deposited to the credit of the Texas emissions reduction plan fund.

SECTION 2.13. Amends Section 502.1675(c), Transportation Code, to extend the expiration of this section to August 31, 2013, from August 31, 2010.

SECTION 2.14. Amends Section 548.5055(c), Transportation Code, to extend the expiration of this section to August 31, 2013, from August 31, 2010.

SECTION 2.15. Repealer: Section 12, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, amending Section 386.252(a) (Allocation of Money in the Fund), Health and Safety Code.

ARTICLE 3. ENERGY EFFICIENCY

SECTION 3.01. Amends Section 388.003, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Requires the State Energy Conservation Office (office) to adopt more stringent standards and substitute them for the standards described by Subsection (a) or (b) if the office determines, based on a recommendation from the Energy Systems Laboratory, that more stringent energy efficiency standards of the International Residential Code or the International Energy Conservation Code exist than the ones adopted under Subsection (a) or (b).

SECTION 3.02. Amends Section 388.005, Health and Safety Code, as follows:

Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN POLITICAL SUBDIVISIONS. (a) Defines "institution of higher education" and "state agency." Redefines "political subdivision."

(b) Requires each institution of higher education or state agency, in addition to each political subdivision, to implement energy efficiency measures that meet the standards established for a contract for energy conservation measures under

Section 302.004(b), Local Government Code, to reduce electricity consumption by the existing facilities of the entity.

(c) Requires each institution of higher education or state agency, in addition to each political subdivision, to establish a goal to reduce the electric consumption by the entity by five percent each year for six years beginning September 1, 2007, rather than for five years, beginning January 1, 2002.

(d) and (e) Make conforming changes.

SECTION 3.03. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 392, as follows:

CHAPTER 392. APPLIANCE EFFICIENCY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 392.001. DEFINITIONS. Defines "ballast," "bottle-type water dispenser," "commercial hot food holding cabinet," "compact audio product," "digital versatile disc (DVD)," "DVD player," "DVD recorder," "Energy Star Program," "high-intensity discharge lamp," "metal halide lamp," "metal halide lamp fixture," "portable electric spa," "residential pool pump," "single-voltage external AC to DC power supply," "state-regulated incandescent reflector lamp," "walk-in freezer," "walk-in refrigerator," and "water dispenser."

Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) Provides that this chapter applies to certain new products sold, offered for sale, or installed in the State of Texas.

(b) Sets forth specific products to which this chapter does not apply.

[Reserves Sections 392.003-392.050 for expansion.]

SUBCHAPTER B. EFFICIENCY STANDARDS

Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES. Requires the comptroller, in consultation with the office, to adopt rules establishing minimum efficiency standards for each type of new product described by Section 392.002(a) no later than September 1, 2008.

Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS. (a) Authorizes the comptroller to adopt rules to establish increased efficiency standards for a product listed in Section 392.002(a) or to establish standards for a product not listed.

(b) Requires the comptroller, in consultation with the office, to prescribe new or increased efficiency standards in considering new or increased standards if the comptroller determines that the standards would serve to promote energy conservation in this state and be cost-effective for consumers who purchase and use the new product.

Sec. 392.053. EFFECTIVE DATE OF STANDARDS. Provides that a standard established under this subchapter takes effect on the first anniversary of the date the rule establishing the standard is adopted.

Sec. 392.054. BOTTLE-TYPE WATER DISPENSERS. Sets forth certain energy consumption prohibitions regarding a bottle-type water dispenser.

Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) Requires a commercial hot food holding cabinet to have a maximum idle energy rate of not greater than 40 watts per cubic foot of interior volume as determined by certain methods.

(b) Requires interior volume to be measured in accordance with the method shown in the "Energy Star Program Requirements for Commercial Hot Food Holding Cabinets" as in effect on August 15, 2003.

Sec. 392.056. COMPACT AUDIO PRODUCTS. Prohibits a compact audio product from using more than two watts in standby-passive mode for a product without a permanently illuminated clock display and four watts in standby-passive mode for a product with a permanently illuminated clock display, as measured by a specific method.

Sec. 392.057. DVD PLAYERS OR RECORDERS. Prohibits a DVD player or recorder from using more than three watts in standby-passive mode, as measured by a specific method.

Sec. 392.058. METAL HALIDE LAMP FIXTURES. Prohibits a metal halide lamp fixture designed to be operated with a lamp that has a wattage rating of 150 to 500 watts from containing a ballast to operate the lamp known as a "probe-start metal halide ballast" that does not contain an igniter, and starts the lamp by using a third starting electrode probe in the arc tube.

Sec. 392.059. PORTABLE ELECTRIC SPAS. Prohibits a portable electric spa from having a standby power greater than $5(V^{2/3})$ watts where V equals the total volume in gallons as measured by a specific manner.

Sec. 392.060. RESIDENTIAL POOL PUMP MOTORS. (a) Prohibits a residential pool pump motor from being a split-phase or capacitor start-induction run type motor.

(b) Requires a residential pool pump motor with a capacity of one horsepower or more to have the capability of operating at more than one speed with a low speed having a certain rotation rate.

(c) Sets forth certain requirements regarding pool pump motor speed and circulation speed.

Sec. 392.061. SINGLE-VOLTAGE EXTERNAL AC TO DC POWER SUPPLIES. (a) Requires a single-voltage external AC to DC power supply to meet the minimum energy efficiency and maximum energy consumption requirements provided by a certain table.

(b) Provides that these standards apply to single-voltage external AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(c) Requires the efficiency of a single-voltage external AC to DC power supply to be measured in accordance with certain test methodology, for purposes of this section.

Sec. 392.062. STATE-REGULATED INCANDESCENT REFLECTOR LAMPS. Requires a state-regulated incandescent reflector lamp to meet the minimum average lamp efficacy requirements for certain federally regulated incandescent reflector lamps.

Sec. 392.063. WALK-IN REFRIGERATORS AND FREEZERS. (a) Requires a walk-in refrigerator or freezer to have specific features.

(b) Requires a walk-in refrigerator or freezer with transparent reach-in-doors to meet certain requirements, in addition to the requirements in subsection (a).

(c) Authorizes the comptroller to delay implementation of certain provisions regarding walk-in refrigerator and freezer evaporator-fans upon the determination that the walk-in industry cannot sufficiently meet the demands of said provision.

(d) Provides an exemption to the requirement regarding the efficacy of light sources for walk-in refrigerators and freezers, if the lights are used in conjunction with certain timers or devices.

[Reserves Sections 392.064-392.100 for expansion.]

SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY STANDARDS

Sec. 392.101. **PRODUCT COMPLIANCE.** (a) Prohibits a new product described by Section 392.002(a) from being sold or offered for sale in Texas unless the efficiency of the new product meets or exceeds the efficiency standards described by the rules adopted under Subchapter B.

(b) Prohibits a product from being installed for compensation in Texas unless the efficiency of the product meets or exceeds the efficiency standards described by the rules adopted under Subchapter B, on or after the first anniversary of a certain date.

Sec. 392.102. **APPLICATION FOR WAIVER.** Authorizes the comptroller to apply for a waiver of federal preemption in accordance with certain federal procedures to authorize state efficiency standards for a product regulated by the federal government.

[Reserves Sections 392.103-392.150 for expansion.]

SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

Sec. 392.151. **PRODUCT TESTING.** (a) Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to test samples of the product according to the test procedures adopted under this chapter.

(b) Requires the comptroller, in consultation with the office, by rule to adopt test procedures for determining a product's energy efficiency if Subchapter B does not provide for the procedures. Requires the comptroller to adopt test methods approved by the United States Department of Energy or, in the absence of those test methods, other nationally recognized test methods.

(c) Authorizes the comptroller to adopt revised test procedures when newer versions of test procedures become available.

Sec. 392.152. **PRODUCT CERTIFICATION.** (a) Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to certify to the comptroller that the product is in compliance with standard according to test results, except as provided by Subsection (c).

(b) Requires the comptroller to adopt rules governing the certification of products under this section and coordinate certification by the State of Texas with the certification programs of other states and federal agencies.

(c) Provides that Subsection (a) does not apply to a manufacturer of single-voltage external AC to DC power supplies, walk-in refrigerators, or walk-in freezers.

Sec. 392.153. **PRODUCT LABELING.** (a) Requires the manufacturer of a new product subject to an efficiency standard adopted under this chapter to identify each product offered for sale or installation as being in compliance at the time of sale or installation with this chapter by means of a mark, label, or tag on the product and packaging.

(b) Requires the comptroller to adopt rules governing the identification of products and packaging under this section. Requires the rules to be coordinated

with the labeling programs of other states and federal agencies with equivalent efficiency standards. Requires the comptroller to allow the use of existing marks, labels, or tags that indicate compliance with the efficiency requirements of this chapter.

Sec. 392.154. **COMPTROLLER TESTING FOR EFFICIENCY STANDARDS COMPLIANCE.** Authorizes the comptroller to test products subject to an efficiency standard adopted under this chapter for compliance with efficiency standards. Requires the comptroller to impose an assessment against the manufacturer of the product an amount adequate to recover the costs of purchasing and testing the product, and to make information available to the public on a product found to be in noncompliance with the standards.

Sec. 392.155. **INSPECTIONS.** Authorizes the comptroller to have periodic inspections conducted of a distributor or retailer of new products subject to an efficiency standard adopted under this chapter to determine compliance. Requires the inspections to be conducted at reasonable and convenient hours. Requires notice to be given before an inspection is conducted.

Sec. 392.156. **COMPLAINTS.** Requires the comptroller to investigate a complaint received concerning a violation of this chapter and report the results of the investigation to the attorney general.

Sec. 392.157. **ATTORNEY GENERAL ENFORCEMENT.** Authorizes the attorney general to institute proceedings to enforce this chapter.

Sec. 392.158. **VIOLATIONS AND PENALTIES.** (a) Requires the comptroller to issue a warning to a person for the person's first violation of this chapter.

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

(c) Provides that each violation constitutes a separate violation, and each day that a violation continues constitutes a separate violation.

(d) Provides that a penalty assessed under this section is in addition to costs assessed under Section 392.154.

Sec. 392.159. **RULES FOR IMPLEMENTATION AND ENFORCEMENT.** Authorizes the comptroller to adopt additional rules necessary to ensure the proper implementation and enforcement of this chapter.

SECTION 3.04. (a) Provides that the efficiency standards prescribed by rules adopted under Subchapter B, Chapter 392, Health and Safety Code, as added by this Act, apply only to the sale or offer of sale of a new product to which that chapter applies that occurs on or after January 1, 2009.

(b) Provides that a new residential pool pump that does not meet the efficiency standards contained in Sections 392.060(b) and (c), Health and Safety Code, as added by this Act, can be sold in this state through December 31, 2009, and a new single-voltage external AC to DC power supply made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of a product requiring the power supply as a service part or spare part is not required to meet the standards of Section 392.061, Health and Safety Code, as added by this Act, until January 1, 2013, notwithstanding Subsection (a) of this section.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date: upon passage or September 1, 2007.