

HEALTH AND SAFETY CODE CHAPTER 372. ENVIRONMENTAL PERFORMANCE
STANDARDS FOR PLUMBING FIXTURES

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER

CHAPTER 372. ENVIRONMENTAL PERFORMANCE STANDARDS FOR PLUMBING

FIXTURES

Sec. 372.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Natural Resource Conservation Commission.

(2) "Executive director" means the executive director of the commission.

(3) "Plumbing fixture" means a sink faucet, lavatory faucet, faucet aerator, shower head, urinal, toilet, flush valve toilet, or drinking water fountain.

(4) "Toilet" means a toilet or water closet except a wall-mounted toilet that employs a flushometer or flush valve.

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

Added by Acts 1991, 72nd Leg., ch. 293, Sec. 2, eff. Sept. 1, 1991. Renumbered from Sec. 421.001 by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.047, eff. Aug. 12, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.048, eff. Aug. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.133, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1117, Sec. 1, eff. January 1, 2006.

Sec. 372.002. WATER SAVING PERFORMANCE STANDARDS. (a) A person may not sell, offer for sale, distribute, or import into this state a plumbing fixture for use in this state unless:

(1) the plumbing fixture meets the water saving performance standards provided by Subsection (b); and

(2) the plumbing fixture is listed by the commission under Subsection (c).

(b) The water saving performance standards for a plumbing fixture are those established by the American National Standards Institute or the following standards, whichever are more restrictive:

(1) for a sink or lavatory faucet or a faucet aerator, maximum flow may not exceed 2.2 gallons of water per minute at a pressure of 60 pounds per square inch when tested according to testing procedures adopted by the commission;

(2) for a shower head, maximum flow may not exceed 2.75 gallons of water per minute at a constant pressure over 80 pounds per square inch when tested according to testing procedures adopted by the commission;

(3) for a urinal and the associated flush valve, if any, maximum flow may not exceed an average of one gallon of water per flushing when tested according to the hydraulic performance requirements adopted by the commission;

(4) for a toilet, maximum flow may not exceed an average of 1.6 gallons of water per flushing when tested according to the hydraulic performance requirements adopted by the commission;

(5) for a wall-mounted toilet that employs a flushometer or flush valve, maximum flow may not exceed an average of two gallons of water per flushing or the flow rate established by the American National Standards Institute for ultra-low flush toilets, whichever is lower; and

(6) a drinking water fountain must be self-closing.

(c) The commission shall make and maintain a current list of plumbing fixtures that are certified to the commission by the manufacturer or importer to meet the water saving performance standards established by Subsection (b). To have a plumbing fixture included on the list, a manufacturer or importer must supply to the commission, in the form prescribed by the commission, the identification and the performance specifications of the plumbing fixture. The commission may test a listed fixture to determine the accuracy of the manufacturer's or importer's

certification and shall remove from the list a fixture the commission finds to be inaccurately certified.

(d) The commission may assess against a manufacturer or an importer a reasonable fee for an inspection of a product to determine the accuracy of the manufacturer's or importer's certification in an amount determined by the commission to cover the expenses incurred in the administration of this chapter. A fee received by the commission under this subsection shall be deposited in the state treasury to the credit of the water resource management account and may be used only for the administration of this chapter.

(e) The commission shall, to the extent appropriate and practical, employ the standards designated American National Standards by the American National Standards Institute in determining or evaluating performance standards or testing procedures under this chapter.

(f) This section does not apply to:

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

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

(3) a fixture originally installed before January 1, 1992, that is removed and reinstalled in the same building on or after that date; or

(4) a fixture imported only for use at the importer's domicile.

Added by Acts 1991, 72nd Leg., ch. 293, Sec. 2, eff. Jan. 1, 1992. Renumbered from Sec. 421.002 by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.047, eff. Aug. 12, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.134, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 71, eff. Sept. 1, 1997.

Sec. 372.003. LABELING REQUIREMENTS. (a) A person may not sell, offer for sale, distribute, or import into this state a plumbing fixture unless the plumbing fixture, including each component of a toilet, flush valve toilet, or urinal, and the

associated packaging are marked and labeled in accordance with the rules adopted by the commission.

(b) The commission shall adopt rules for the marking or labeling of plumbing fixtures. The rules must require information concerning water-saving measures to be included in required marks or labels. In developing marking or labeling requirements, the commission shall consider the technological and economical feasibility of a mark or label.

(c) The commission by rule shall prohibit the sale, offering for sale, distribution, or importation into this state of a new commercial or residential clothes-washing machine, dish-washing machine, or lawn sprinkler unless:

(1) the manufacturer has furnished to the commission, in the form prescribed by the commission, the identification and performance specifications of the device; and

(2) the clothes-washing or dish-washing machine or lawn sprinkler is labeled in accordance with rules adopted by the commission with a statement that describes the device's water use characteristics.

(d) Rules adopted or amended under this section shall be developed by the commission in conjunction with a technical advisory panel of designated representatives of the Texas Water Development Board and the Texas State Board of Plumbing Examiners.

(e) This section shall not apply to those clothes-washing or dish-washing machines that are subject to and in compliance with the labeling requirements of the National Appliance Energy Conservation Act of 1987, Public Law 100-12.

Added by Acts 1991, 72nd Leg., ch. 293, Sec. 2, eff. Sept. 1, 1991. Renumbered from Sec. 421.003 by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.047, eff. Aug. 12, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.049, eff. Aug. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.135, eff. Sept. 1, 1995.

Sec. 372.0035. LEAD IN PLUMBING FIXTURES, PIPE, AND PIPE FITTING. (a) A person may not sell or offer for sale a plumbing fixture, pipe, or pipe fitting that contains more than eight percent lead for installing or repairing:

(1) a public drinking water system; or

(2) plumbing that provides water for human consumption and is connected to a public drinking water system.

(b) A person may not sell or offer for sale solder or flux that contains more than two-tenths percent lead for installing or repairing:

(1) a public drinking water system; or

(2) plumbing that provides water for human consumption and is connected to a public drinking water system.

(c) For purposes of this section, a person engaged in the business of installing or repairing plumbing is considered to have sold or offered for sale a plumbing fixture, pipe, pipe fitting, solder, or flux if the person uses or offers to use the fixture, pipe, fitting, solder, or flux to install or repair plumbing.

(d) This section does not prohibit the sale or offer for sale of a lead joint necessary for the repair of cast-iron pipe. The commission shall adopt rules to implement this subsection.

(e) The commission may adopt rules to implement this section.

(f) If a person licensed under Chapter 1301, Occupations Code, violates this section, the Texas State Board of Plumbing Examiners may discipline the person under Subchapter I of that chapter as if a violation of this section were a violation of that chapter.

(g) A person commits an offense if the person violates Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor. Each violation is a separate offense and each day of a continuing violation is a separate offense.

(h) A field representative of the Texas State Board of Plumbing Examiners or, within the jurisdiction of a municipality, a municipal plumbing inspector may issue a citation to a person who violates this section.

Added by Acts 1993, 73rd Leg., ch. 751, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.136, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.787, eff. Sept. 1, 2003.

Sec. 372.004. REPORT TO LEGISLATURE. (a) In this section, "water consumption factor" has the meaning assigned by 10 C.F.R. Part 430, Subpart B, Appendix J, as that appendix existed on September 1, 2001.

(b) This section does not apply to a clothes-washing machine with a capacity of more than 3.5 cubic feet or less than 1.6 cubic feet.

(c) The commission shall report to the legislature not later than February 28 of each year on:

(1) the number of clothes-washing machines with a water consumption factor of more than 11 that were imported into this state during the preceding calendar year;

(2) the number of clothes-washing machines with a water consumption factor of more than 9.5 but not more than 11 that were imported into this state during the preceding calendar year;

(3) the number of clothes-washing machines with a water consumption factor of 9.5 or less that were imported into this state during the preceding calendar year; and

(4) the average water consumption factor of all clothes-washing machines that were imported into this state during the preceding calendar year.

(d) The commission by rule shall require appropriate industry trade associations or other entities to provide the information described by Subsection (c) to the commission not later than January 31 of each year.

Added by Acts 2001, 77th Leg., ch. 1322, Sec. 1, eff. Sept. 1, 2001.

Sec. 372.005. COMMERCIAL PRERINSE SPRAY VALVE PERFORMANCE STANDARDS. (a) A person may not sell, offer for sale, distribute, lease, or import into this state a commercial prerinse spray valve for use in this state unless the prerinse spray valve:

(1) has a flow rate of 1.6 gallons of water per minute or less, as determined using the standard test method for prerinse spray valves developed by the American Society for Testing and Materials as specified in ASTM F2324-03 as that method existed on January 1, 2006; and

(2) is listed by the commission under Subsection (b).

(b) The commission shall make and maintain a current list of commercial prerinse spray valves that are certified to the commission by the manufacturer or importer to meet the performance standards provided by Subsection (a)(1). To have a commercial prerinse spray valve included on the list, the manufacturer or importer must supply to the commission, in the form prescribed by the commission, the identification and the performance specifications of the prerinse spray valve. The commission may test a listed commercial prerinse spray valve to determine the accuracy of the manufacturer's or importer's certification and shall remove from the list a prerinse spray valve the commission determines to be inaccurately certified.

(c) The commission may assess against a manufacturer or an importer a reasonable fee for an inspection of a commercial prerinse spray valve to determine the accuracy of the manufacturer's or importer's certification in an amount determined by the commission to cover the expenses incurred in the administration of this chapter. A fee received by the commission under this subsection shall be deposited in the state treasury to the credit of the water resource management account. Fees deposited under this section may be appropriated only for the administration of this chapter.

Added by Acts 2005, 79th Leg., Ch. 1117, Sec. 2, eff. January 1, 2006.