

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

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BILL: SB 2702

INTRODUCER: Senator Geller

SUBJECT: Energy-efficiency standards

DATE: April 4, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CU</u>	_____
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill provides legislative findings regarding efficiency standards for certain products. Provides definitions. Provides that the act shall apply to certain products and specifies the products for which the act does not apply. Provides that the Department of Environmental Protection (DEP) shall adopt minimum efficiency standards for certain products by January 1, 2009. Provides that on or after January 1, 2012, certain new products may not be sold in this state. Provides that the DEP may adopt certain rules that exceed the specified efficiency standards. Provides that the DEP shall adopt procedures for testing the energy efficiency of the products listed in the bill. Provides that each manufacturer of new products specified in the bill shall make certain certifications to the DEP. Provides that the DEP may conduct periodic inspections regarding the products listed in the bill. Requires the DEP to investigate complaints and report such violations to the Attorney General for enforcement.

The bill would take effect upon becoming a law.

This bill creates unnumbered sections of the Florida Statutes.

**II. Present Situation:**

The Energy Conservation Standards Act, part VI of ch. 553, F.S., provides that the purpose of the standards is to provide statewide minimum standards for energy efficiency in certain products, consistent with energy conservation goals. As provided in s. 553.953, F.S., the standards shall be based on feasible and attainable efficiencies which will reduce Florida's energy consumption growth rate and the growth rate of energy demand. The standards adopted must be cost-effective to the majority of the users and shall consider the expected life of the

covered product. The Department of Community Affairs is required to “adopt, modify, revise, update, and maintain” regulations pertaining to minimum efficiency standards for a specified list of products. The products covered by the act include refrigerators, refrigerator-freezers, freezers, lighting equipment, showerheads, and “any other type of consumer product which the department classifies as a covered product as specified in this part.”<sup>1</sup>

The ENERGY STAR is a joint program of the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy to help save money and protect the environment through energy efficient products and practices. In 1992 the EPA introduced ENERGY STAR as a voluntary labeling program designed to identify and promote energy-efficient products to reduce greenhouse gas emissions. Computers and monitors were the first labeled products. The ENERGY STAR label is now on over 50 product categories including major appliances, office equipment, lighting, and home electronics. EPA has also extended the label to cover new homes and commercial and industrial buildings.

Products covered by ENERGY STAR include:<sup>2</sup>

- Appliances—clothes washers (residential and commercial); dehumidifiers, dishwashers, refrigerators and freezers.
- Heating and cooling units—central and room air conditioners; boilers, furnaces, heat pumps; programmable thermostats; fans (ceiling and ventilating).
- Home Electronics
- Lighting—light bulbs and light fixtures.
- Office equipment—computers, copiers, fax machines, etc.

On October 3, 2007, DCA Secretary Tom Pelham met with the Florida Building Commission to discuss a way his agency and the commission could work together to further Gov. Crist’s executive order to improve the energy efficiency of new buildings and appliances.<sup>3</sup>

The DCA conducted an appliance efficiency rule development workshop on rule 9B-44, Florida Administrative Code, on October 18, 2007. According to materials from that workshop, federal law preempts state standards for federally covered products that are not identical to the federal standard except if the product has been granted a federal waiver. In the federal waiver petition, the state needs to present evidence that the regulation is needed to meet unusual and compelling state or local interests. The covered federal products include:

- Refrigerators, refrigerator-freezers, freezers
- Room air conditioners
- Central air conditioners and heat pumps
- Water heaters
- Furnaces
- Dishwashers
- Clothes washers

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<sup>1</sup> s. 553.963, F.S.

<sup>2</sup> <http://www.energystar.gov/>

<sup>3</sup> Executive Order 07-127 directed the DCA and the Florida Building Commission to begin working to revise the Florida Energy Code for Building Construction in order to increase the energy performance of new construction in Florida by at least 15 percent. <http://www.dca.state.fl.us/News/2007/100307.cfm>

- Clothes dryers
- Direct heating equipment
- Gas cooking products with electric supply cord
- Pool heaters (gas)
- Televisions sets [reserved]
- Fluorescent lamp ballasts
- General service fluorescent lamps and incandescent reflector lamps
- Faucets
- Showerheads
- Water closets
- Urinals
- Ceiling fans and ceiling fan light kits
- Torchieres
- Medium base compact fluorescent lamps
- Dehumidifiers

The DCA's Division of Housing and Community Development has contracted with the Florida Solar Energy Center at the University of Central Florida to recommend ways the state can implement directives contained in the executive order.

### III. Effect of Proposed Changes:

**Section 1.** This section provides the following legislative findings:

- Efficiency standards for certain products sold or installed in the state assure business and residential customers that such products meet minimum efficiency performance levels, thus saving money on utility bills.
- Efficiency standards save energy and thus reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity and natural gas.
- Efficiency standards can make electrical systems more reliable by reducing the strain on the electric power grid during peak demand periods.
- Energy-efficiency standards contribute to the economy of the state by enabling business and residential consumers to spend less on energy, leaving more capital available for the purchase of local goods and services.

**Section 2.** This section defines the following terms: “commercial clothes washer”; “commercial refrigerator and freezer”; “department”; “illuminated exit sign”; “large packaged air-conditioning equipment”; “low-voltage, dry-type distribution transformer”; “packaged air-conditioning equipment”; “pass-through cabinet”; “reach-in cabinet”; “roll-in or roll-through cabinet”; “traffic signal module”; and “transformer.”

This bill provides that “department” is defined as the DEP, and not the Department of Community Affairs.

**Section 3.** This act would apply to the testing, certification, and enforcement of efficiency standards for the following types of new products sold, offered for sale, or installed in the state:

- Commercial clothes washers;

- Commercial refrigerators and freezers;
- Illuminated exit signs;
- Large packaged air-conditioning equipment;
- Low-voltage, dry-type distribution transformers; and
- Traffic signal modules.

The act does not apply to:

- New products manufactured in the state and sold outside the state;
- New products manufactured outside the state and sold outside the state;
- Products installed in mobile manufactured homes at the time of construction; or
- Products designed expressly for installation and use in recreational vehicles.

**Section 4.** By January 1, 2009, the DEP, in consultation with the Public Service Commission shall adopt rules establishing minimum efficiency standards for the types of new products identified in this bill. The rules shall provide for certain minimum efficiency standards.

- Commercial clothes washers shall meet the requirements shown in Table P-3 of section 1605.3 of the California Code of Regulations, Title 20: Division 2, Chapter 4, Article 4: Appliance Efficiency Regulations which took effect on November 27, 2002.
- Commercial refrigerators and freezers shall meet the requirements shown in Table A-6 of section 1605.3 of the California Code of Regulations, Title 20: Division 2, Chapter 4, Article 4: Appliance Efficiency Regulations which took effect on November 27, 2002.
- Illuminated exit signs shall meet the product specification (Version 2.0) of the ENERGY STAR Program requirements for exist signs developed by the EPA.
- Large packaged air conditioning equipment shall meet the Tier 2 efficiency levels of the Minimum Equipment Efficiencies for Unitary Commercial Air Conditioners and Minimum Equipment Efficiencies for Heat Pumps, developed by the Consortium for Energy Efficiency in Boston, MA, which took effect on July 1, 2002.
- Low-voltage, dry-type distribution transformers shall meet or exceed the energy-efficiency values show in Table 4-2 of National Electrical Manufacturers Association Standard TP-1-2002.
- Traffic signal modules shall meet the product specifications of the ENERGY STAR Program requirements for traffic signals, developed by the EPA which took effect in February 2001.

**Section 5.** On or after January 1, 2012, a new product as specified in this bill may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the specified efficiency standards. On or after January 1, 2009, a new product may not be installed in the state unless the efficiency of the new product meets or exceeds the efficiency standards specified in this bill.

**Section 6.** The DEP may adopt rules that increase efficiency standards for products listed in this bill beyond the efficiency levels specified in the bill. The rules must be based on a determination that the increased efficiency levels would promote energy conservation and be cost-effective for consumers who purchase and use such products. A rule establishing revised efficiency standards does not take effect until one year after the rule is adopted. The DEP may apply for a waiver of federal preemption, under 42 U.S.C. s. 6297(d), for those products regulated by the federal government.

**Section 7.** The DEP shall adopt procedures for testing the energy efficiency of the products listed in this bill if such procedures are not provided for in the Florida Building Code. The test methods to be used by the DEP are specified.

Each manufacturer of the new products specified in the bill shall certify to the DEP that such products are in compliance with the act. The DEP shall adopt rules governing the certification of such products and may work in coordination with the certification program of other states that have similar standards.

Each manufacturer of the listed new products shall identify each product offered for sale or installed in the state as in compliance with the act by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The DEP shall adopt certain rules.

The DEP may test the products listed in this bill using an accredited testing facility.

The DEP may conduct periodic inspections of distributors or retailers of the listed products to determine compliance with the act. The DEP shall work with the Department of Business and Professional Regulation to coordinate inspections when such products are also covered by the Florida Building Code.

The DEP shall investigate complaints received concerning violations of the act and shall report the results of such violations to the Attorney General for enforcement. Provides for civil penalties and fines. Repeat violations are subject to a civil penalty of not more than \$250.

The DEP shall adopt certain rules.

**Section 8.** This act shall take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

After January 1, 2012, consumers will not be able to buy the products specified in this bill unless they meet the new specified efficiency standards. After January 1, 2009, a new product may not be installed that does not meet the standards specified in the bill. There seems to be a period of time where products cannot be bought or installed in this state. It would appear that products can be purchased up to January 1, 2012, but cannot be installed after January 1, 2009.

**C. Government Sector Impact:**

Indeterminate. The DEP is required to adopt rules to establish the minimum efficiency standards. Also, the DEP may adopt rules that increase efficiency standards beyond the efficiency levels specified in the bill.

DEP will also have to enter into rulemaking to

- Provide for testing the energy efficiency of the products identified in the bill;
- Govern the certification of such products;
- Administer and enforce the provisions of the bill.

Also, the DEP may test the products and investigate complaints regarding violations of this bill and report the results to the Attorney General to institute civil proceedings.

The cost to the DEP to carry out these responsibilities cannot be determined at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Currently, products covered by the Energy Conservation Standards Act, part VI of ch. 553, F.S., are covered by rules adopted by the Department of Community Affairs. This bill essentially adds to the list of such products in an unnumbered section of the statutes and gives that responsibility to the DEP. Therefore, there would two separate agencies establishing efficiency standards for products and appliances.

This bill would require Florida to adopt California standards; thereby adopting standards for which Florida had no input into and the standards do not take into consideration Florida-specific needs and requirements.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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