

1-1 By: Parker, et al. (Senate Sponsor - Springer) H.B. No. 1276
 1-2 (In the Senate - Received from the House April 23, 2021;
 1-3 May 4, 2021, read first time and referred to Committee on Health &
 1-4 Human Services; May 14, 2021, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 14, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the sale of certain food by food service
 1-20 establishments.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 437, Health and Safety Code, is amended
 1-23 by adding Section 437.026 to read as follows:

1-24 Sec. 437.026. SALE OF CERTAIN FOOD BY FOOD SERVICE
 1-25 ESTABLISHMENT. (a) Except as provided by Subsection (b), a food
 1-26 service establishment that holds a permit under this chapter may
 1-27 sell directly to an individual consumer food, other than prepared
 1-28 food, that:

1-29 (1) is labeled, which may include a handwritten label,
 1-30 with any information required by the department's food service
 1-31 establishment rules;

1-32 (2) for a meat product or poultry product, is obtained
 1-33 from a source that is appropriately inspected and bears an official
 1-34 mark of inspection from the department or the United States
 1-35 Department of Agriculture; and

1-36 (3) for food requiring refrigeration other than whole,
 1-37 uncut produce, is:

1-38 (A) maintained at or below 41 degrees Fahrenheit
 1-39 until the establishment sells or donates the food; and

1-40 (B) protected from contamination.

1-41 (b) A food service establishment described by Subsection
 1-42 (a) may not sell directly to an individual consumer food that is:

1-43 (1) in a package exhibiting damage; or

1-44 (2) distressed because the food:

1-45 (A) has been subjected to fire, flooding,
 1-46 excessive heat, smoke, radiation, or another environmental
 1-47 contamination;

1-48 (B) is not held at the correct temperature for
 1-49 the food type; or

1-50 (C) is not in good condition.

1-51 (c) A municipality or public health district may not require
 1-52 a food service establishment that sells food directly to an
 1-53 individual consumer under this section to obtain a food
 1-54 manufacturer license or permit if the establishment:

1-55 (1) complies with this section; and

1-56 (2) is not required to hold a food manufacturer
 1-57 license or permit under other state law.

1-58 SECTION 2. Section 431.2211(a), Health and Safety Code, is
 1-59 amended to read as follows:

1-60 (a) A person is not required to hold a license under this
 1-61 subchapter if the person is:

2-1 (1) a person, firm, or corporation that only harvests,
2-2 packages, or washes raw fruits or vegetables for shipment at the
2-3 location of harvest;

2-4 (2) an individual who only sells prepackaged
2-5 nonperishable foods, including dietary supplements, from a private
2-6 home as a direct seller;

2-7 (3) a person who holds a license under Chapter 432 and
2-8 who only engages in conduct within the scope of that license; or

2-9 (4) a restaurant that:
2-10 (A) provides food for immediate human
2-11 consumption to a political subdivision or to a licensed nonprofit
2-12 organization if the restaurant would not otherwise be required to
2-13 hold a license under this subchapter; or

2-14 (B) sells food directly to an individual consumer
2-15 if:

2-16 (i) the restaurant holds a permit as a food
2-17 service establishment under Chapter 437;

2-18 (ii) the restaurant complies with Section
2-19 437.026; and

2-20 (iii) the restaurant is not otherwise
2-21 required to hold a license under this subchapter.

2-22 SECTION 3. As soon as practicable after the effective date
2-23 of this Act, the executive commissioner of the Health and Human
2-24 Services Commission shall adopt rules to implement the changes in
2-25 law made by this Act.

2-26 SECTION 4. The changes in law made by this Act apply only to
2-27 the sale of food by a food service establishment that occurs on or
2-28 after the effective date of this Act. The sale of food by a food
2-29 service establishment that occurs before the effective date of this
2-30 Act is governed by the law in effect on the date the sale occurred,
2-31 and the former law is continued in effect for that purpose.

2-32 SECTION 5. Section 431.2211(a), Health and Safety Code, as
2-33 amended by this Act, applies only to a license issued or renewed on
2-34 or after the effective date of this Act.

2-35 SECTION 6. This Act takes effect immediately if it receives
2-36 a vote of two-thirds of all the members elected to each house, as
2-37 provided by Section 39, Article III, Texas Constitution. If this
2-38 Act does not receive the vote necessary for immediate effect, this
2-39 Act takes effect September 1, 2021.

2-40 * * * * *