

AN ACT

relating to the regulation of certain direct sales of food to consumers and a limitation on the fee amount for certain permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 437.0065, Health and Safety Code, is amended to read as follows:

Sec. 437.0065. PERMITS FOR CERTAIN FARMERS AND FOOD PRODUCERS. (a) In this section, "farmers' market" and "food producer" have ~~has~~ the meanings ~~meaning~~ assigned by Section 437.020.

(b) This section applies only to a permit issued under this chapter to:

(1) a farmer for the sale of food directly to consumers at a farmers' market, a farm stand, or the farmer's farm; and

(2) a food producer, other than a farmer, for the sale of food directly to consumers ~~[an individual who prepares food for sale]~~ at a farmers' market.

(c) A permit issued under Section 437.003, 437.004, 437.0055, or 437.0201 to a person described by Subsection (b):

(1) must be valid for a term of not less than one year;

(2) may impose an annual fee in an amount not to exceed \$100 for the issuance or renewal; and

(3) must cover sales at all locations the permit holder is authorized to sell food under Subsection (b), including

1 farmers' markets, farm stands, and farms [~~locations~~] within the
2 jurisdiction of the permitting authority.

3 (d) A farmer or food producer who is charged an annual fee in
4 an amount that exceeds the amount authorized by Subsection (c)(2)
5 or whose permit does not otherwise comply with this section may
6 bring an action against the governmental entity that charged the
7 fee or issued the permit to recover:

8 (1) the amount the farmer or food producer was charged
9 in excess of the annual fee authorized by Subsection (c)(2); and

10 (2) reasonable and necessary attorney's fees incurred
11 in bringing the action.

12 SECTION 2. Section 437.020(a), Health and Safety Code, is
13 amended by amending Subdivision (1) and adding Subdivision (3) to
14 read as follows:

15 (1) "Farmers' market" means a designated location used
16 for a recurring event at which a majority of the vendors are
17 [primarily for the distribution and sale directly to consumers of
18 food by] farmers or other food producers who sell food directly to
19 consumers.

20 (3) "Food producer" means a person who grew, raised,
21 processed, prepared, manufactured, or otherwise added value to the
22 food product the person is selling. The term does not include a
23 person who only packaged or repackaged a food product.

24 SECTION 3. (a) The change in law made by this Act applies
25 only to an original or renewal permit issued on or after the
26 effective date of this Act. A permit issued before the effective
27 date of this Act is covered by the law in effect when the permit was

1 issued, and the former law is continued in effect for that purpose.

2 (b) Section 437.0065(d), Health and Safety Code, as added by
3 this Act, applies only to a cause of action that accrues on or after
4 the effective date of this Act.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2021.

S.B. No. 617

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 617 passed the Senate on April 29, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 617 passed the House on May 26, 2021, by the following vote: Yeas 146, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor