

By: Kolkhorst

S.B. No. 617

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 Sec. 437.0065. PERMITS FOR CERTAIN FARMERS AND FOOD
8 PRODUCERS. (a) In this section, "farmers' market" and "food
9 producer" have [~~has~~] the meanings [~~meaning~~] assigned by Section
10 437.020.

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

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

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

18 (c) A permit issued under Section 437.003, 437.004,
19 437.0055, or 437.0201 to a person described by Subsection (b):

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

21 (2) may impose an annual fee in an amount not to exceed
22 \$100 for the issuance or renewal; and

23 (3) must cover sales at all locations the permit
24 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 (e) Sovereign and governmental immunity of a governmental
13 entity to suit and from liability is waived to the extent of
14 liability created by this section.

15 SECTION 2. Section [437.020](#)(a), Health and Safety Code, is
16 amended by amending Subdivision (1) and adding Subdivision (3) to
17 read as follows:

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

23 (3) "Food producer" means a person who grew, raised,
24 processed, prepared, manufactured, or otherwise added value to the
25 food product the person is selling.

26 SECTION 3. (a) The change in law made by this Act applies
27 only to an original or renewal permit issued on or after the

1 effective date of this Act. A permit issued before the effective
2 date of this Act is covered by the law in effect when the permit was
3 issued, and the former law is continued in effect for that purpose.

4 (b) Sections 437.0065(d) and (e), Health and Safety Code, as
5 added by this Act, apply only to a cause of action that accrues on or
6 after the effective date of this Act.

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