

By: Thimesch, Harris of Anderson, Rosenthal,  
Goodwin, Orr, et al.

H.B. No. 3373

A BILL TO BE ENTITLED

AN ACT

relating to the administration, implementation, and enforcement of  
federal produce safety standards by the Department of Agriculture.

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

SECTION 1. Section 91.009, Agriculture Code, is amended by  
amending Subsections (a) and (c-1) and adding Subsections (e), (f),  
(g), (h), (i), and (j) to read as follows:

(a) The department shall administer, implement, and enforce  
in this state [~~is the lead agency for the administration,~~  
~~implementation, and enforcement of~~], and provide education and  
training relating to, the United States Food and Drug  
Administration Standards for the Growing, Harvesting, Packing, and  
Holding of Produce for Human Consumption (21 C.F.R. Part 112) or any  
successor federal produce safety rule or standard. This section  
does not authorize the department to implement or enforce any other  
federal regulation.

(c-1) The department may enter into a cooperative  
agreement, interagency agreement, grant agreement, or memorandum  
of understanding with a federal or state agency as necessary to  
carry out the department's [~~for the~~] administration,  
implementation, or enforcement of this section.

(e) The department shall provide a farmer with the option to  
provide the information necessary to determine whether a farm is  
covered by, is not covered by, is exempt from, or meets the criteria

1 for a qualified exemption from 12 C.F.R. Part 112 by telephone call,  
2 videoconference, or another remote method. If a farmer chooses to  
3 provide the information using a remote method, the department may  
4 conduct an on-farm interview only:

5 (1) after three failed attempts to conduct the remote  
6 interview; or

7 (2) as a follow-up to a remote interview when the  
8 information provided is incomplete or insufficient.

9 (f) The department may not use the authority granted by this  
10 section as justification to:

11 (1) inquire about the amount of revenue generated by a  
12 farm more often than every three years after the date the farm  
13 establishes that it is not subject to the federal rules or standards  
14 described by Subsection (a) because it does not generate more than  
15 the threshold amount of revenue from the sale of produce to be a  
16 covered farm; or

17 (2) conduct further investigative activity after  
18 receiving documentation indicating that a farm generates less than  
19 the threshold amount of revenue from the sale of produce to be a  
20 covered farm under the federal rules or standards described by  
21 Subsection (a).

22 (g) Subsection (f) does not prevent the department from  
23 collecting data regarding the type of commodities grown by a farm  
24 and whether those commodities are covered produce under the federal  
25 rules or standards described by Subsection (a).

26 (h) The department's rules may not impose additional or more  
27 burdensome requirements than those provided by the federal rules or

1 standards described by Subsection (a). Specifically, the  
2 department may not:

3 (1) require registration of a farm that is not covered  
4 by, is exempt from, or meets the criteria for a qualified exemption  
5 from the rules or standards;

6 (2) without probable cause that the farm is violating  
7 an applicable law, conduct a physical inspection of a farm that is  
8 not covered by, is exempt from, or meets the criteria for a  
9 qualified exemption from the rules or standards; or

10 (3) create a new or different standard that is not  
11 contained in the federal rules or standards or required under other  
12 law.

13 (i) Information collected by the department for purposes of  
14 this section is confidential and not subject to disclosure under  
15 Chapter 552, Government Code.

16 (j) The department may use information collected for  
17 purposes of this section to determine whether farms are covered by,  
18 are not covered by, are exempt from, or meet the criteria for a  
19 qualified exemption from the federal rules or standards described  
20 by Subsection (a).

21 SECTION 2. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2023.