

BILL ANALYSIS

S.B. 1451
By: Carona
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Texas Department of Health (TDH), cannot prevent adulterated or misbranded products from reaching consumers without suspending the certificate of a milk and dairy products manufacturer or distributor. Other food and drug safety programs have at their disposal additional enforcement tools such as the ability to obtain an injunction, detain or embargo adulterated or misbranded articles, issue recall or emergency orders, establish requirements for and access to distribution records, obtain condemnation of detained or embargoes articles, prevent interference with an inspection, and assess and collect administrative and/or civil penalties. Grade "A" dairies are primarily regulated by the Grade "A" Pasteurized Milk Ordinance (PMO, a federal ordinance applicable to all Grade A milk sold in interstate commerce); however, non-Grade A dairy products and Raw for Retail Dairies are not subject to the PMO, thus making this bill important to the regulatory scheme concerning all milk and dairy products in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Health in SECTION 5 (Section 435.012, Health and Safety Code) of this bill.

ANALYSIS

Subchapter A, Chapter 431, Health and Safety Code is amended by adding 431.010 which defines to whom this chapter applies.

Section 431.2211, Health and Safety Code is amended by adding (a-2) to define what person is not required to hold a licence under this subchapter.

Section 435.0015, Health and Safety Code, provides for applicability of other law.

Section 435.011, Health and Safety Code is amended to provide that the refusal, revocation or suspension of a permit by TDH and the appeal of that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

Section 435.012, Health and Safety Code is amended to provide for the refusal to grant or suspension of a permit. The Texas Board of Health shall provide for the denial, suspension, or revocation of a permit and establish reasonable minimum standards for granting and maintaining a permit.

Section 435.014, Health and Safety Code is amended to by adding subsection (d) to provide for penalties.

The Texas Board of Health shall adopt the necessary rules and procedures by December 1, 2003.

EFFECTIVE DATE

September 1, 2003.