

## **BILL ANALYSIS**

Senate Research Center

S.B. 1454  
By: Carona  
Business & Commerce  
8/5/2003  
Enrolled

### **DIGEST AND PURPOSE**

Currently, the Texas Department of Health (TDH) cannot prevent certain damaged or misbranded frozen desserts from reaching consumers. TDH lacks authority to take any action when violations of the law occur and voluntary corrective action is ineffective. S.B. 1454 establishes enforcement tools for TDH to utilize in regulating manufacturers and distributors of frozen desserts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 431, Health and Safety Code, by adding Section 431.009, as follows:

Sec. 431.009. **APPLICABILITY OF CHAPTER TO FROZEN DESSERTS.** (a) Provides that this chapter applies to a frozen dessert, an imitation frozen dessert, a product sold in semblance of a frozen dessert, or a mix for one of those products subject to Chapter 440 (Frozen Desserts Manufacturer Licensing Act). Provides that a frozen dessert, an imitation frozen dessert, a product sold in semblance of a frozen dessert, or a mix for one of those products is food for purposes of this chapter.

(b) Provides that except as provided by Subsection (c), this chapter applies to the conduct of a person licensed under Chapter 440.

(c) Provides that a person who holds a license under Chapter 440 related to the manufacturing of a product regulated under that chapter and is engaging in conduct within the scope of that license is not required to hold a license as a food manufacturer or food wholesaler under Subchapter J.

SECTION 2. Amends Section 431.2211, Health and Safety Code, by adding Subsection (a-1), as follows:

(a-1) Provides that a person is not required to hold a license under this subchapter if the person holds a license under Chapter 440 and is engaging in conduct within the scope of that license.

SECTION 3. Amends Subchapter A, Chapter 440, Health and Safety Code, by adding Section 440.007, as follows:

Sec. 440.007. **APPLICABILITY OF OTHER LAW.** Provides that, except as provided by Section 431.009(c), Chapter 431 applies to a person or product regulated under this chapter, including a frozen dessert manufacturer, a frozen dessert, an imitation frozen dessert, a product sold in semblance of a frozen dessert, and a mix for one of those products.

SECTION 4. Amends Subchapter B, Chapter 440, Health and Safety Code, by adding Section 440.017, as follows:

Sec. 440.017. REFUSAL TO GRANT LICENSE; SUSPENSION OR REVOCATION OF LICENSE. Authorizes the commissioner of health to refuse an application for a license under this chapter or suspend or revoke a license issued under this chapter, in accordance with rules adopted under Section 440.006.

SECTION 5. Amends Section 440.031, Health and Safety Code, by adding Subsection (c) to provide that the inspection procedures provided by this section are in addition to the procedures provided by Chapter 431.

SECTION 6. Amends Section 440.032(c), Health and Safety Code, to provide that the penalty prescribed by this section is in addition to any civil or administrative penalty or sanction otherwise imposed under Chapter 431 or other law.

SECTION 7. Effective date: September 1, 2003.