

BILL ANALYSIS

Senate Research Center

S.B. 1803
By: Duncan
Business & Commerce
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Enrolled

DIGEST AND PURPOSE

Currently, the Texas Department of Health (TDH) is required to issue licenses to food manufacturers for each warehouse in which they store food. However, TDH licenses warehouses on behalf of their customers, not as dictated in statute. S.B. 1803 codifies in statute the current practice of warehouses being licensed on behalf of their customers, requires food manufacturers to register with TDH if they store their products in a licensed warehouse, and requires a food manufacturer to obtain a license for food stored in an unlicensed warehouse.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 6 (Section 431.2211, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subdivision (23), Section 431.002, Health and Safety Code, to redefine “manufacture.”

SECTION 2. Amends Section 431.021, Health and Safety Code, by amending Subdivision (y) and adding Subdivision (aa), as follows:

(y) Changes “food wholesaler” to “warehouse operator,” and adds “or operating as a food wholesaler in this state without having a license under Section 431.222 or being registered under Section 431.2211, as appropriate,” regarding acts which are unlawful in this state.

(aa) Provides that making a false statement or false representation in an application for a license or in a statement, report, or other instrument to be filed with the board, the commissioner, or the department under this chapter is unlawful within this state.

SECTION 3. Amends Section 431.059(a), Health and Safety Code, to provide that a first offense under this subsection is a Class A misdemeanor unless it is shown on the trial of an offense under this subsection that the defendant was previously convicted of an offense under this subsection, in which event the offense is a state jail felony.

SECTION 4. Amends the heading to Subchapter J, Chapter 431, Health and Safety Code, to read as follows:

SUBCHAPTER J. FOOD MANUFACTURERS, FOOD WHOLESALERS, AND WAREHOUSE OPERATORS

SECTION 5. Amends Section 431.221, Health and Safety Code, by amending Subdivision (1) and adding Subdivision (6), as follows:

(1) Creates Subdivision (1)(A) from existing text and adds Subdivision (1)(B) to include “a warehouse where food is stored” to the meaning of “place of business.”

(6) Defines “warehouse operator.”

SECTION 6. Amends Section 431.2211, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(d) Provides that a food wholesaler is not required to obtain a license under this subchapter for a place of business if all of the food distributed from that place of business will be stored in a warehouse licensed under this subchapter.

(e) Requires a food wholesaler that is not required to obtain a license for a place of business under Subsection (d) to register that place of business with the Texas Department of Health (TDH). Requires TDH to adopt rules for the registration of food wholesalers under this section.

SECTION 7. Amends Section 431.222, Health and Safety Code, as follows:

(a) Requires a food manufacturer, food wholesaler, or warehouse operator in this state to apply for and obtain from TDH each year a license for each place of business that the food manufacturer, food wholesaler, or warehouse operator operates in this state, except as provided by Section 431.2211. Requires the food manufacturer, food wholesaler, or warehouse operator to pay a licensing fee for each establishment.

(b) Deletes existing Subsection (b) and redesignates existing Subsection (c) as Subsection (b). Changes the words “wholesale distributor” to “food wholesaler.” Provides that a warehouse operator who also distributes food is required to obtain only a warehouse operator license.

SECTION 8. Amends Section 431.223(a), Health and Safety Code, to include a warehouse operator in relation to licensing applications.

SECTION 9. (a) Makes application of this Act prospective.

(b) Provides that a food wholesaler that obtains or renews a license before the effective date of this act is not entitled to a refund for any fee paid to TDH for the license issuance or renewal, regardless of the food wholesaler’s eligibility for an exemption under Section 431.2211(d), Health and Safety Code, as added by this Act.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2003.