

BILL ANALYSIS

C.S.S.B. 1803
By: Duncan
Public Health
Committee Report (Substituted)

BACKGROUND 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. TDH may detain a product that cannot be documented as coming through legitimate avenues of commerce. However, TDH licenses warehouses on behalf of their customers, not as dictated in statute. C.S.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. In addition, the bill makes a false statement or false representation in a license application under this Act or in other instruments to be filed with certain entities, a violation of the Health and Safety Code.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Health in SECTION 6 (Section 431.2211, Health and Safety Code) of this bill.

ANALYSIS

Amends Subdivision (23), Section 431.002, Health and Safety Code, to redefine "manufacture."

Amends Section 431.021, Health and Safety Code, to change "food wholesaler" to "warehouse operator," and add "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.

Amends Section 431.021, Health and Safety Code, to add 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 Texas Board of Health, the commissioner of health, or the Texas Department of Health (TDH) under this chapter is an unlawful and prohibited act.

Amends Section 431.059(a), Health and Safety Code, to provide that a first offense, rather than an 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.

Amends the heading to Chapter 431 Subchapter J, Health and Safety Code, to add warehouse operators.

Amends Section 431.221, Health and Safety Code, by amending Subdivision (1) which to add "a warehouse where food is stored" to the meaning of "place of business." and adding Subdivision (6) which defines "warehouse operator."

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 and (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). TDH is required to adopt rules for the registration of food wholesalers under this section.

Amends Section 431.222, Health and Safety Code to require 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. 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.

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

This Act applies only to a food manufacturer license, food wholesaler license, or warehouse operator license issued on or after the effective date of this Act. 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.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1803 differs from the original by adding new language that redefines “manufacture”. The substitute adds new language to prohibit the making of a false statement or representation to the Texas Board of Health, the commissioner of health, or the Texas Department of Health. The substitute adds new language to provide that a first offense, rather than an 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. The substitute adds new language to make the application of this Act prospective.