

By: Armbrister

S.B. No. 381

Substitute the following for S.B. No. 381:

By: Taylor

C.S.S.B. No. 381

A BILL TO BE ENTITLED

AN ACT

1
2 relating to food manufacturer and food wholesaler licensing
3 requirements under the Texas Food, Drug, and Cosmetic Act.

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

5 SECTION 1. Section 431.221, Health and Safety Code, is
6 amended by amending Subdivisions (2) and (3) and adding Subdivision
7 (6) to read as follows:

8 (2) "Food manufacturer" means a person who combines,
9 purifies, processes, or packages food for sale through a wholesale
10 outlet. The term also includes a retail outlet that packages or
11 labels food before sale and a person that represents itself as
12 responsible for the purity and proper labeling of an article of food
13 by labeling the food with the person's name and address. The term
14 does not include a restaurant that provides food for immediate
15 human consumption to a political subdivision or to a licensed
16 nonprofit organization if the restaurant would not otherwise be
17 considered a food manufacturer under this subdivision.

18 (3) "Food wholesaler" means a person who distributes
19 food for resale, either through a retail outlet owned by that person
20 or through sales to another person. The term "food wholesaler"
21 shall not include:

22 (A) a commissary which distributes food
23 primarily intended for immediate consumption on the premises of a
24 retail outlet under common ownership; [~~or~~]

1 (B) an establishment engaged solely in the
2 distribution of nonalcoholic beverages in sealed containers; or

3 (C) a restaurant that provides food for immediate
4 human consumption to a political subdivision or to a licensed
5 nonprofit organization if the restaurant would not otherwise be
6 considered a food wholesaler under this subdivision.

7 (6) "Licensed nonprofit organization" means an
8 organization that is licensed under any statutory authority of the
9 State of Texas and is exempt from federal income taxation under
10 Section 501(a), Internal Revenue Code of 1986, and its subsequent
11 amendments, as an organization described in Section 501(c)(3) of
12 that code.

13 SECTION 2. Section 431.2211(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) A person is not required to hold a license under this
16 subchapter if the person is:

17 (1) a person, firm, or corporation that only harvests,
18 packages, washes, or ships raw fruits or vegetables;

19 (2) an individual who only sells prepackaged
20 nonperishable foods, including dietary supplements, from a private
21 home as a direct seller; ~~or~~

22 (3) a person who holds a license under Chapter 432 and
23 who only engages in conduct within the scope of that license; or

24 (4) a restaurant that provides food for immediate
25 human consumption to a political subdivision or to a licensed
26 nonprofit organization if the restaurant would not otherwise be
27 required to hold a license under this subchapter.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.