

By: Armbrister

S.B. No. 381

A BILL TO BE ENTITLED

1 AN ACT

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 nonprofit
16 organization if the restaurant would not otherwise be considered a
17 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 nonprofit
5 organization if the restaurant would not otherwise be considered a
6 food wholesaler under this subdivision.

7 (6) "Nonprofit organization" means an organization
8 that is exempt from federal income taxation under Section 501(a),
9 Internal Revenue Code of 1986, and its subsequent amendments, as an
10 organization described in Section 501(c)(3) of that code.

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

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

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

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

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

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

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 381

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2003.