

1-1 By: Armbrister S.B. No. 381
1-2 (In the Senate - Filed February 6, 2003; February 11, 2003,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 14, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 14, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 381 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to food manufacturer and food wholesaler licensing
1-11 requirements under the Texas Food, Drug, and Cosmetic Act.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivisions (2) and (3), Section 431.221,
1-14 Health and Safety Code, are amended to read as follows:

1-15 (2) "Food manufacturer" means a person who combines,
1-16 purifies, processes, or packages food for sale through a wholesale
1-17 outlet. The term also includes a retail outlet that packages or
1-18 labels food before sale and a person that represents itself as
1-19 responsible for the purity and proper labeling of an article of food
1-20 by labeling the food with the person's name and address. The term
1-21 does not include a restaurant that provides food for immediate
1-22 human consumption to a political subdivision if the restaurant
1-23 would not otherwise be considered a food manufacturer under this
1-24 subdivision.

1-25 (3) "Food wholesaler" means a person who distributes
1-26 food for resale, either through a retail outlet owned by that person
1-27 or through sales to another person. The term "food wholesaler"
1-28 shall not include:

1-29 (A) a commissary which distributes food
1-30 primarily intended for immediate consumption on the premises of a
1-31 retail outlet under common ownership; ~~or~~

1-32 (B) an establishment engaged solely in the
1-33 distribution of nonalcoholic beverages in sealed containers; or

1-34 (C) a restaurant that provides food for immediate
1-35 human consumption to a political subdivision if the restaurant
1-36 would not otherwise be considered a food wholesaler under this
1-37 subdivision.

1-38 SECTION 2. Subsection (a), Section 431.2211, Health and
1-39 Safety Code, is amended to read as follows:

1-40 (a) A person is not required to hold a license under this
1-41 subchapter if the person is:

1-42 (1) a person, firm, or corporation that only harvests,
1-43 packages, washes, or ships raw fruits or vegetables;

1-44 (2) an individual who only sells prepackaged
1-45 nonperishable foods, including dietary supplements, from a private
1-46 home as a direct seller; ~~or~~

1-47 (3) a person who holds a license under Chapter 432 and
1-48 who only engages in conduct within the scope of that license; or

1-49 (4) a restaurant that provides food for immediate
1-50 human consumption to a political subdivision if the restaurant
1-51 would not otherwise be required to hold a license under this
1-52 subchapter.

1-53 SECTION 3. This Act takes effect immediately if it receives
1-54 a vote of two-thirds of all the members elected to each house, as
1-55 provided by Section 39, Article III, Texas Constitution. If this
1-56 Act does not receive the vote necessary for immediate effect, this
1-57 Act takes effect September 1, 2003.

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