

By: Carona S.B. No. 1451
(In the Senate - Filed March 13, 2003; March 20, 2003, read first time and referred to Subcommittee on Agriculture; March 31, 2003, reported to Committee on Natural Resources; April 30, 2003, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 30, 2003, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1451 By: Estes

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of milk and milk products.

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

SECTION 1. Subchapter A, Chapter 431, Health and Safety Code, is amended by adding Section 431.010 to read as follows:

Sec. 431.010. APPLICABILITY OF CHAPTER TO MILK AND MILK PRODUCTS. (a) This chapter applies to milk or a milk product subject to Chapter 435. Milk or a milk product is a food for purposes of this chapter.

(b) Except as provided by Subsection (c), this chapter applies to the conduct of a person who holds a permit under Chapter 435.

(c) A person who holds a permit under Chapter 435 related to the processing, producing, bottling, receiving, transferring, or transporting of Grade "A" milk or milk products and who is engaging in conduct within the scope of that permit is not required to hold a license as a food manufacturer or food wholesaler under Subchapter J.

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

(a-2) A person is not required to hold a license under this subchapter if the person holds a permit under Chapter 435 related to the processing, producing, bottling, receiving, transferring, or transporting of Grade "A" milk or milk products and is engaging in conduct within the scope of that permit.

SECTION 3. Subchapter A, Chapter 435, Health and Safety Code, is amended by adding Section 435.0015 to read as follows:

Sec. 435.0015. APPLICABILITY OF OTHER LAW. Except as provided by Section 431.010(c), Chapter 431 applies to a person and milk or a milk product regulated under this chapter.

SECTION 4. Section 435.011, Health and Safety Code, is amended to read as follows:

Sec. 435.011. HEARING ~~[ON APPLICATION OF RULE OR DENIAL OF PERMIT]~~. (a) The board shall establish a procedure by which a person aggrieved by the application of a board rule ~~[or the denial of a permit]~~ may receive a hearing ~~[on that action]~~ under Chapter 2001, Government Code.

(b) The refusal or the suspension or revocation of a permit by the department and the appeal of that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

SECTION 5. Section 435.012, Health and Safety Code, is amended to read as follows:

Sec. 435.012. REFUSAL TO GRANT PERMIT; SUSPENSION OR REVOCATION OF PERMIT. (a) The department may refuse an application for a permit under this chapter or may suspend or revoke a permit issued under this chapter ~~[if the permit holder fails to make timely payment of the monthly fees required under Section 435.009].~~

(b) The board and its representative may revoke and regrade permits if on inspection the board or its representative finds that the use of the grade label does not conform to the specifications or requirements adopted by the board under this chapter.

(c) The board by rule shall:

2-1 (1) provide for the denial, suspension, or revocation
2-2 of a permit; and

2-3 (2) establish reasonable minimum standards for
2-4 granting and maintaining a permit issued under this chapter.

2-5 SECTION 6. Section 435.014, Health and Safety Code, is
2-6 amended by adding Subsection (d) to read as follows:

2-7 (d) The penalty prescribed by this section is subject to
2-8 either the sanctions prescribed in the Grade "A" Pasteurized Milk
2-9 Ordinance for products covered by the ordinance or any civil or
2-10 administrative penalty or sanction otherwise imposed by Chapter 431
2-11 or other law for products not covered by the ordinance.

2-12 SECTION 7. The Texas Board of Health shall adopt the rules
2-13 and establish the procedures required by Section 435.012, Health
2-14 and Safety Code, as amended by this Act, not later than December 1,
2-15 2003.

2-16 SECTION 8. This Act takes effect September 1, 2003.