

1-1 By: Hodge, et al. (Senate Sponsor - West) H.B. No. 894  
1-2 (In the Senate - Received from the House April 18, 2005;  
1-3 April 19, 2005, read first time and referred to Committee on Health  
1-4 and Human Services; May 5, 2005, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to produce samples at municipally owned farmers' markets.  
1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 437, Health and Safety Code, is amended  
1-11 by adding Section 437.020 to read as follows:

1-12 Sec. 437.020. PRODUCE SAMPLES AT MUNICIPALLY OWNED FARMERS'  
1-13 MARKETS. (a) Except as provided by Subsection (b):

1-14 (1) this chapter does not regulate the provision of  
1-15 samples of produce to consumers at a municipally owned farmers'  
1-16 market; and

1-17 (2) a rule adopted under state law may not regulate the  
1-18 provision of samples of produce to consumers at a municipally owned  
1-19 farmers' market.

1-20 (b) Produce samples may only be distributed at a municipally  
1-21 owned farmers' market if the following sanitary conditions exist:

1-22 (1) produce samples must be kept in approved, clean,  
1-23 and covered containers;

1-24 (2) produce samples must be distributed in a sanitary  
1-25 manner;

1-26 (3) clean, disposable plastic gloves must be used when  
1-27 cutting produce samples;

1-28 (4) produce intended for sampling must be washed in  
1-29 potable water to remove any soil or other material so that it is  
1-30 wholesome and safe for consumption;

1-31 (5) potable water must be available for hand washing  
1-32 and sanitizing as approved by the local or state enforcement  
1-33 agency;

1-34 (6) potentially hazardous cut produce, as determined  
1-35 by rule of the department, must be maintained at or below 41 degrees  
1-36 Fahrenheit, and produce samples must be disposed of within two  
1-37 hours after cutting;

1-38 (7) utensil and hand washing water must be disposed of  
1-39 in a facility connected to the public sewer system or in a manner  
1-40 approved by the local or state enforcement agency; and

1-41 (8) utensils and cutting surfaces must be smooth,  
1-42 nonabsorbent, and easily cleaned or disposed of as approved by the  
1-43 local or state enforcement agency.

1-44 SECTION 2. This Act takes effect immediately if it receives  
1-45 a vote of two-thirds of all the members elected to each house, as  
1-46 provided by Section 39, Article III, Texas Constitution. If this  
1-47 Act does not receive the vote necessary for immediate effect, this  
1-48 Act takes effect September 1, 2005.

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