

1-1 By: West S.B. No. 247  
1-2 (In the Senate - Filed January 25, 2005; February 3, 2005,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; April 18, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 April 18, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 247 By: Nelson

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

1-10 relating to permitting samples of produce at certain municipally  
1-11 owned farmers' markets.

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

1-13 SECTION 1. Chapter 437, Health and Safety Code, is amended  
1-14 by adding Section 437.020 to read as follows:

1-15 Sec. 437.020. PRODUCE SAMPLES AT MUNICIPALLY OWNED FARMERS'  
1-16 MARKETS. (a) Except as provided by Subsection (b):

1-17 (1) this chapter does not regulate the provision of  
1-18 samples of produce to consumers at a municipally owned farmers'  
1-19 market; and

1-20 (2) a rule adopted under state law may not regulate the  
1-21 provision of samples of produce to consumers at a municipally owned  
1-22 farmers' market.

1-23 (b) Produce samples may only be distributed at a municipally  
1-24 owned farmers' market if the following sanitary conditions exist:

1-25 (1) produce samples must be kept in approved, clean,  
1-26 and covered containers;

1-27 (2) produce samples must be distributed in a sanitary  
1-28 manner;

1-29 (3) clean, disposable plastic gloves must be used when  
1-30 cutting produce samples;

1-31 (4) produce intended for sampling must be washed in  
1-32 potable water of any soil or other material so that it is wholesome  
1-33 and safe for consumption;

1-34 (5) potable water must be available for hand washing  
1-35 and sanitizing as approved by the local or state enforcement  
1-36 agency;

1-37 (6) potentially hazardous cut produce, as determined  
1-38 by rule of the department, must be maintained at or below 41 degrees  
1-39 Fahrenheit, and produce samples must be disposed of within two  
1-40 hours after cutting;

1-41 (7) utensil and hand washing water must be disposed of  
1-42 in a facility connected to the public sewer system or in a manner  
1-43 approved by the local or state enforcement agency; and

1-44 (8) utensils and cutting surfaces must be smooth,  
1-45 nonabsorbent, and easily cleaned or disposed of as approved by the  
1-46 local or state enforcement agency.

1-47 SECTION 2. This Act takes effect immediately if it receives  
1-48 a vote of two-thirds of all the members elected to each house, as  
1-49 provided by Section 39, Article III, Texas Constitution. If this  
1-50 Act does not receive the vote necessary for immediate effect, this  
1-51 Act takes effect September 1, 2005.

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