

By: Gattis, Vaught, Riddle

H.B. No. 3282

Substitute the following for H.B. No. 3282:

By: McReynolds

C.S.H.B. No. 3282

A BILL TO BE ENTITLED

AN ACT

relating to cottage food production operations.

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

SECTION 1. Section 437.001, Health and Safety Code, is amended by adding Subdivisions (2-a), (2-b), (3-a), and (5) to read as follows:

(2-a) "Baked good" includes cookies, cakes, breads, Danishes, donuts, pastries, pies, and other items that are prepared by baking in an oven. A baked good does not include a potentially hazardous food item as defined by department rule.

(2-b) "Cottage food production operation" means an individual, operating out of the individual's home, who produces a baked good for sale.

(3-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Home" means a primary residence that is occupied by the individual who operates a cottage food production operation and that contains a kitchen and appliances designed for common residential usage.

SECTION 2. Chapter 437, Health and Safety Code, is amended by adding Sections 437.0195, 437.022, and 437.023 to read as follows:

Sec. 437.0195. EXEMPTION FOR CERTAIN BAKED GOODS. A kitchen in a private home that produces baked goods for sale or

1 service at a function, such as a religious, charitable, or  
2 nonprofit organization's bake sale, is not a food service  
3 establishment or cottage food production operation for purposes of  
4 this chapter.

5 Sec. 437.022. REGISTRATION OF COTTAGE FOOD PRODUCTION  
6 OPERATIONS. (a) A cottage food production operation that is  
7 registered under this section is not a food service establishment  
8 for purposes of this chapter.

9 (b) The executive commissioner by rule shall adopt minimum  
10 standards for a cottage food production operation to protect the  
11 public health and ensure a safe food supply. Minimum standards  
12 adopted under this section may not be so onerous as to make the  
13 establishment of a cottage food production operation impractical.  
14 The minimum standards must provide for:

15 (1) the registration of cottage food production  
16 operations under this section; and

17 (2) the labeling of products from a cottage food  
18 production operation as "Home Produced."

19 (c) Minimum standards adopted under Subsection (b) may  
20 require that a registered cottage food production operation comply  
21 with provisions of this chapter that the executive commissioner  
22 determines are appropriate and consistent with this section.

23 (d) The executive commissioner by rule may require an  
24 inspection of a cottage food production operation if the department  
25 has reason to believe that the cottage food production operation is  
26 operating:

27 (1) in violation of this section or a rule adopted

1 under this section; or

2 (2) in an unsanitary manner.

3 (e) The executive commissioner may not require as a  
4 condition of registration under this section:

5 (1) the use of commercial grade surfaces;

6 (2) the use of commercial grade appliances;

7 (3) a separate kitchen for conducting the cottage food  
8 production operation; or

9 (4) the submission of plans and specifications before  
10 the construction or remodel of a cottage food production operation.

11 (f) Before beginning operations as a cottage food  
12 production operation, the operator of the cottage food production  
13 operation must:

14 (1) register with the department as a cottage food  
15 production operation; and

16 (2) successfully complete a basic food safety  
17 education or training program for food handlers accredited by the  
18 department under Chapter 438.

19 (g) The department shall issue a registration to an  
20 applicant for a cottage food production operation if the applicant:

21 (1) pays a registration fee in an amount not to exceed  
22 \$50, as required by the department; and

23 (2) meets the other requirements of this section.

24 (h) A local health department:

25 (1) may not regulate the production of food at a  
26 cottage food production operation conducting business in  
27 compliance with this section that does not offer products to the

1 public for consumption on the premises of the operation; and  
2 (2) may investigate a cottage food production  
3 operation as a part of an investigation into the source of a  
4 food-borne illness outbreak.

5 Sec. 437.023. USE OF PRODUCT OF COTTAGE FOOD PRODUCTION  
6 OPERATION. A food service establishment, other than a cottage food  
7 production operation, may not use a product produced in a cottage  
8 food production operation as an ingredient in any food that is  
9 prepared by the food service establishment and offered by the  
10 establishment to the public for consumption.

11 SECTION 3. This Act takes effect September 1, 2009.