

By: Kolkhorst

H.B. No. 1290

A BILL TO BE ENTITLED

AN ACT

relating to food safety.

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

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

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

(1) a person, firm, or corporation that only harvests, packages, or washes [~~, or ships~~] raw fruits or vegetables for shipment at the location of harvest;

(2) an individual who only sells prepackaged nonperishable foods, including dietary supplements, from a private home as a direct seller;

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

(4) a restaurant that provides food for immediate human consumption to a political subdivision or to a licensed nonprofit organization if the restaurant would not otherwise be required to hold a license under this subchapter.

SECTION 2. Subchapter J, Chapter 431, Health and Safety Code, is amended by adding Section 431.227 to read as follows:

Sec. 431.227. FOOD SAFETY BEST PRACTICE EDUCATION PROGRAM.

(a) The department shall approve food safety best practice education programs for places of business licensed under this

1 chapter.

2 (b) A place of business that completes a food safety best  
3 practice education program approved by the department shall receive  
4 a certificate valid for five years from the date of completion of  
5 the program.

6 (c) When determining which places of business to inspect  
7 under Section 431.042, the appropriate inspecting authority shall  
8 consider whether the place of business holds a valid certificate  
9 from a food safety best practice education program under this  
10 section.

11 (d) The executive commissioner of the Health and Human  
12 Services Commission shall adopt rules to implement this section.

13 SECTION 3. Section 431.241(c), Health and Safety Code, is  
14 amended to read as follows:

15 (c) The enumeration of specific federal laws and  
16 regulations in Section [~~Sections 431.244 and~~] 431.245 does not  
17 limit the general authority granted to the board in Subsection (b)  
18 to conform its rules to those adopted under the federal Act.

19 SECTION 4. Section 431.244, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 431.244. RELATIONSHIP BETWEEN FEDERAL REGULATIONS AND  
22 [ADOPTED AS] STATE RULES. (a) [~~A regulation adopted by the~~  
23 ~~secretary under the federal Act concerning pesticide chemicals,~~  
24 ~~food additives, color additives, special dietary use, processed low~~  
25 ~~acid food, acidified food, infant formula, bottled water, or vended~~  
26 ~~bottled water is a rule for the purposes of this chapter, unless the~~  
27 ~~board modifies or rejects the rule.~~

1           ~~[(b) A regulation adopted under the Fair Packaging and~~  
2 ~~Labeling Act (15 U.S.C. 1451 et seq.) is a rule for the purposes of~~  
3 ~~this chapter, unless the board modifies or rejects the rule.]~~ The  
4 board may not adopt a rule that conflicts with:

5           (1) the labeling requirements for the net quantity of  
6 contents required under Section 4 of the Fair Packaging and  
7 Labeling Act (15 U.S.C. 1453) and the regulations adopted under  
8 that Act; or

9           (2) ~~[-~~

10           ~~[(c) A regulation adopted by the secretary under Sections~~  
11 ~~403(b) through (i) of the federal Act is a rule for the purposes of~~  
12 ~~this chapter unless the board modifies or rejects the rule. The~~  
13 ~~board may not adopt a rule that conflicts with]~~ the limitations  
14 provided by Sections 403(q) and (r) of the federal Act.

15           (b) ~~[(d) A federal regulation that this section provides as a~~  
16 ~~rule for the purposes of this chapter is effective.~~

17           ~~[(1) on the date that the regulation becomes effective~~  
18 ~~as a federal regulation; and~~

19           ~~[(2) whether or not the department has fulfilled the~~  
20 ~~rulemaking provisions of Chapter 2001, Government Code.~~

21           ~~[(e)]~~ If the board adopts a rule responding to ~~[modifies or~~  
22 ~~rejects]~~ a federal regulation, the board shall comply with the  
23 rulemaking provisions of Chapter 2001, Government Code. The board  
24 shall also consult with the chairs of the appropriate standing  
25 committees of the legislature before promulgating a rule proposed  
26 in response to a federal regulation.

27           SECTION 5. (a) The Department of State Health Services

1 shall study food safety issues along the Texas border, including  
2 the effect of any border violence on food safety inspections and  
3 food importation.

4 (b) The Department of State Health Services shall submit a  
5 report detailing the results of the study required under Subsection  
6 (a) of this section to the legislature not later than December 1,  
7 2012.

8 SECTION 6. (a) Except as provided by Subsection (b) of this  
9 section, this Act takes effect September 1, 2011.

10 (b) Section 431.2211(a), Health and Safety Code, as amended  
11 by of this Act, takes effect September 1, 2012.