

By: Kolkhorst, Rodriguez, et al.

H.B. No. 2084

Substitute the following for H.B. No. 2084:

By: Coleman

C.S.H.B. No. 2084

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of small food production and sales operations.

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

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

(1) "Board" means the executive commissioner [~~Texas Board of Health~~].

(2-a) "Baked good" includes cookies, cakes, breads, Danish, donuts, pastries, pies, and other items that are prepared by baking the item 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:

(A) produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the person's home or a farmers' market;

(B) has an annual gross income of \$50,000 or less from the sale of food described by Paragraph (A); and

(C) sells the foods produced under Paragraph (A) only directly to consumers.

(3) "Department" means the [~~Texas~~] Department of State Health Services.

1           (3-a) "Executive commissioner" means the executive  
2 commissioner of the Health and Human Services Commission.

3           (5) "Home" means a primary residence that contains a  
4 kitchen and appliances designed for common residential usage.

5           SECTION 2. Chapter 437, Health and Safety Code, is amended  
6 by adding Sections 437.0191 and 437.0192 to read as follows:

7           Sec. 437.0191. EXEMPTION FOR COTTAGE FOOD PRODUCTION  
8 OPERATIONS. A cottage food production operation is not a food  
9 service establishment for purposes of this chapter.

10           Sec. 437.0192. REGULATION OF COTTAGE FOOD PRODUCTION  
11 OPERATIONS BY LOCAL HEALTH DEPARTMENT PROHIBITED; COMPLAINTS. (a)  
12 A local health department may not regulate the production of food at  
13 a cottage food production operation.

14           (b) Each local health department and the department shall  
15 maintain a record of a complaint made by a person against a cottage  
16 food production operation.

17           SECTION 3. (a) The speaker of the house of representatives  
18 shall charge a house standing committee with subject matter  
19 jurisdiction over food regulation to conduct an interim study on  
20 the regulation of small food production and sales operations.

21           (b) The committee designated under Subsection (a) of this  
22 section shall:

23           (1) study the regulation of small dairy production  
24 operations and analyze whether:

25           (A) a regulatory scheme that is separate from the  
26 regulatory scheme for dairy producers under Chapter 435, Health and  
27 Safety Code, should be developed for small dairy production

1 operations; and

2 (B) permit fees for small dairy production  
3 operations should be decreased;

4 (2) study the feasibility and desirability of  
5 establishing a nutritional assistance program that would:

6 (A) allow a person receiving benefits under a  
7 nutritional assistance program administered under Chapter 33,  
8 Human Resources Code, to purchase at a farmers' market items  
9 eligible under the program;

10 (B) provide an affordable method for enabling  
11 individual sellers at a farmers' market to accept and process an  
12 electronic benefits transfer as payment for food; and

13 (C) make available to a person receiving benefits  
14 under a nutritional assistance program administered under Chapter  
15 33, Human Resources Code, information regarding the program and a  
16 list of participating farmers' markets; and

17 (3) in coordination with the comptroller:

18 (A) determine whether land is eligible, under  
19 current law, for appraisal under Subchapter C or D, Chapter 23, Tax  
20 Code, if the land is used to:

- 21 (i) cultivate an urban farm;  
22 (ii) cultivate a community garden;  
23 (iii) produce specialty crops; or  
24 (iv) raise livestock or produce crops using  
25 organic, sustainable, or other unconventional methods; and

26 (B) study issues regarding the eligibility of  
27 land used for the purposes listed in Paragraph (A) of this

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1 subdivision for appraisal under Subchapter C or D, Chapter 23, Tax  
2 Code.

3 SECTION 4. This Act takes effect September 1, 2011.