

By: Rodriguez of Travis

H.B. No. 970

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to regulation of cottage food products and cottage food  
3 production operations.

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

5 SECTION 1. Section 437.001(2-b), Health and Safety Code, is  
6 amended to read as follows:

7 (2-b) "Cottage food production operation" means an  
8 individual, operating out of the individual's home, who:

9 (A) produces at the individual's home a baked  
10 good, a canned jam or jelly, dried fruit, candy, snack food, cereal,  
11 granola, dry mix, vinegar, or a dried herb or herb mix for sale at  
12 the individual's [~~person's~~] home or at another location;

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

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

17 SECTION 2. The heading to Section 437.0192, Health and  
18 Safety Code, is amended to read as follows:

19 Sec. 437.0192. REGULATION OF COTTAGE FOOD PRODUCTION  
20 OPERATIONS BY LOCAL GOVERNMENT AUTHORITIES [~~HEALTH DEPARTMENT~~]  
21 PROHIBITED; COMPLAINTS.

22 SECTION 3. Section 437.0192(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) A local government authority, including a local health

1 department, may not regulate the production of food at a cottage  
2 food production operation.

3 SECTION 4. Chapter 211, Local Government Code, is amended  
4 by adding Subchapter C to read as follows:

5 SUBCHAPTER C. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

6 Sec. 211.031. DEFINITIONS. In this subchapter, "cottage  
7 food production operation" and "home" have the meanings assigned by  
8 Section 437.001, Health and Safety Code.

9 Sec. 211.032. CERTAIN ZONING REGULATIONS PROHIBITED. A  
10 municipal zoning ordinance may not prohibit the use of a home for  
11 cottage food production operations.

12 Sec. 211.033. ACTION FOR NUISANCE OR OTHER TORT. This  
13 subchapter does not affect the right of a person to bring a cause of  
14 action under other law against an individual for nuisance or  
15 another tort arising out of the individual's use of the individual's  
16 home for cottage food production operations.

17 SECTION 5. Chapter 231, Local Government Code, is amended  
18 by adding Subchapter M to read as follows:

19 SUBCHAPTER M. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

20 Sec. 231.281. DEFINITIONS. In this subchapter, "cottage  
21 food production operation" and "home" have the meanings assigned by  
22 Section 437.001, Health and Safety Code.

23 Sec. 231.282. CERTAIN ZONING REGULATIONS PROHIBITED. A  
24 county zoning ordinance may not prohibit the use of a home for  
25 cottage food production operations.

26 Sec. 231.283. ACTION FOR NUISANCE OR OTHER TORT. This  
27 subchapter does not affect the right of a person to bring a cause of

1 action under other law against an individual for nuisance or  
2 another tort arising out of the individual's use of the individual's  
3 home for cottage food production operations.

4 SECTION 6. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2013.