

By: Simpson, Rodriguez of Travis, Kolthorst,
Burnam, et al.

H.B. No. 1382

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of food prepared, stored, distributed,
3 or sold at farms and farmers' markets; limiting the applicability
4 of a fee.

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

6 SECTION 1. Section 437.001, Health and Safety Code, is
7 amended by adding Subdivision (6) to read as follows:

8 (6) "Produce" means fresh fruits or vegetables.

9 SECTION 2. Section 437.020, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 437.020. REGULATION OF FOOD [PRODUCE] SAMPLES AT FARMS
12 AND [MUNICIPALLY OWNED] FARMERS' MARKETS. (a) In this section:

13 (1) "Farmers' market" means a designated location used
14 primarily for the distribution and sale directly to consumers of
15 food by farmers or other producers.

16 (2) "Food" means an agricultural, apicultural,
17 horticultural, silvicultural, viticultural, or vegetable product
18 for human consumption, in either its natural or processed state,
19 that has been produced or processed or otherwise has had value added
20 to the product in this state. The term includes:

21 (A) fish or other aquatic species;

22 (B) livestock, a livestock product, or a
23 livestock by-product;

24 (C) planting seed;

1 (D) poultry, a poultry product, or a poultry
2 by-product;

3 (E) wildlife processed for food or by-products;

4 (F) a product made from a product described by
5 this subdivision by a farmer or other producer who grew or processed
6 the product; or

7 (G) produce.

8 (b) Except as provided by this section and Sections
9 437.0201, 437.0202, and 437.0203 [Subsection (b)]:

10 (1) this chapter does not regulate the provision of
11 samples of food or the sale of food [~~produce~~] to consumers at a farm
12 or [municipally owned] farmers' market; and

13 (2) a rule adopted under state law may not regulate the
14 provision of samples of food or the sale of food [~~produce~~] to
15 consumers at a farm or [municipally owned] farmers' market.

16 (c) Samples of food [~~(b) Produce samples~~] may [~~only~~] be
17 prepared and distributed at a farm or [municipally owned] farmers'
18 market if the following sanitary conditions exist:

19 (1) [~~produce samples must be kept in approved, clean,~~
20 ~~and covered containers;~~

21 [~~(2) produce~~] samples must be distributed in a
22 sanitary manner;

23 (2) a person preparing produce samples on-site must:

24 (A) wear [~~(3)~~] clean, disposable plastic gloves
25 [must be used] when preparing [cutting produce] samples; or

26 (B) observe proper hand washing techniques
27 immediately before preparing samples;

1 (3) [~~(4)~~] produce intended for sampling must be washed
2 in potable water to remove any soil or other visible material [~~so~~
3 ~~that it is wholesome and safe for consumption~~];

4 (4) [~~(5)~~] potable water must be available for [~~hand~~
5 washing [~~and sanitizing as approved by the local or state~~
6 ~~enforcement agency~~];

7 (5) except as provided by Section 437.0202(b), [~~(6)~~]
8 potentially hazardous food [~~cut produce~~], as determined by rule of
9 the department, must be maintained at or below 41 degrees
10 Fahrenheit or [~~, and produce samples must be~~] disposed of within two
11 hours after cutting or preparing; and

12 (6) [~~(7)~~] ~~utensil and hand washing water must be~~
13 ~~disposed of in a facility connected to the public sewer system or in~~
14 ~~a manner approved by the local or state enforcement agency; and~~

15 [~~(8)~~] utensils and cutting surfaces used for cutting
16 samples must be smooth, nonabsorbent, and easily cleaned or
17 disposed of [~~as approved by the local or state enforcement agency~~].

18 (d) A person who sells or provides a sample of meat or
19 poultry or food containing meat or poultry must comply with Chapter
20 433.

21 SECTION 3. Section 437.0201, Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsection (e) to
23 read as follows:

24 (a) In this section, "farmers' market" and "food" have the
25 meanings assigned by Section 437.020 [~~means a designated location~~
26 ~~used primarily for the distribution and sale directly to consumers~~
27 ~~of food products by farmers or other producers~~].

1 (e) The executive commissioner or a state or local
2 enforcement agency may not adopt a rule requiring a farmers' market
3 to pay a permit fee for conducting a cooking demonstration or
4 providing samples of food if the demonstration or provision of
5 samples is conducted for a bona fide educational purpose.

6 SECTION 4. Sections 437.0202(a) and (b), Health and Safety
7 Code, are amended to read as follows:

8 (a) In this section, "farmers' market" and "food" have [~~has~~]
9 the meanings [~~meaning~~] assigned by Section 437.020 [~~437.0201~~].

10 (b) The executive commissioner by rule may adopt
11 temperature requirements for food sold at, prepared on-site at, or
12 transported to or from a farmers' market under Section 437.020,
13 [~~or~~] 437.0201, or 437.0203. Food prepared on-site at a farmers'
14 market may be sold or distributed at the farmers' market only if the
15 food is prepared in compliance with the temperature requirements
16 adopted under this section.

17 SECTION 5. Chapter 437, Health and Safety Code, is amended
18 by adding Section 437.0203 to read as follows:

19 Sec. 437.0203. REGULATION OF COOKING DEMONSTRATIONS AT
20 FARMERS' MARKETS. (a) In this section, "farmers' market" and "food"
21 have the meanings assigned by Section 437.020.

22 (b) Except as provided by this section and Sections 437.020,
23 437.0201, and 437.0202:

24 (1) this chapter does not regulate cooking
25 demonstrations at a farmers' market; and

26 (2) a rule adopted under state law may not regulate
27 cooking demonstrations at a farmers' market.

1 (c) A person may conduct a cooking demonstration at a
2 farmers' market only if:

3 (1) regardless of whether the demonstrator provides a
4 sample of food to consumers, the farmers' market that hosts the
5 demonstration:

6 (A) has an establishment operator with a valid
7 certification under Subchapter D, Chapter 438, supervising the
8 demonstration; and

9 (B) complies with Sections 437.020 and 437.0202,
10 the requirements of a temporary food establishment under this
11 chapter, and rules adopted under this chapter; and

12 (2) when the demonstrator provides a sample of food to
13 consumers:

14 (A) the demonstrator provides a sample only and
15 not a full serving; and

16 (B) samples of food prepared during a
17 demonstration are disposed of not later than two hours after the
18 beginning of the demonstration.

19 SECTION 6. This Act takes effect September 1, 2013.