

By: Simpson

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 Subdivisions (3-b) and (6) to read as follows:

8 (3-b) "Farmers' market" means a designated location
9 used primarily for the distribution and sale directly to consumers
10 by farmers or other producers.

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

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

14 Sec. 437.020. REGULATION OF FOOD [PRODUCE] SAMPLES AT FARMS
15 AND [MUNICIPALLY OWNED] FARMERS' MARKETS. (a) In this section,
16 "food" means an agricultural, apicultural, horticultural,
17 silvicultural, viticultural, or vegetable product for human
18 consumption, in either its natural or processed state, that has
19 been produced or processed or otherwise has had value added to the
20 product in this state. The term includes:

21 (1) fish or other aquatic species;

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

24 (3) planting seed;

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

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

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

7 (7) 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
11 four [~~two~~] 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 SECTION 3. Section 437.0201, Health and Safety Code, is
19 amended by amending Subsection (a) and adding Subsection (e) to
20 read as follows:

21 (a) In this section, "food" has the meaning assigned by
22 Section 437.020 [~~"farmers' market" means a designated location used~~
23 ~~primarily for the distribution and sale directly to consumers of~~
24 ~~food products by farmers or other producers~~].

25 (e) The executive commissioner or a state or local
26 enforcement agency may not adopt a rule requiring a farmers' market
27 to pay a permit fee for conducting a cooking demonstration or

1 providing samples of food if the demonstration or provision of
2 samples is conducted for a bona fide educational purpose.

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

5 (a) In this section, "food" [~~"farmers' market"~~] has the
6 meaning assigned by Section 437.020 [~~437.0201~~].

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

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

16 Sec. 437.0203. REGULATION OF COOKING DEMONSTRATIONS AT
17 FARMERS' MARKETS. (a) In this section, "food" has the meaning
18 assigned by Section 437.020.

19 (b) Except as provided by this section and Sections 437.020,
20 437.0201, and 437.0202:

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

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

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

27 (1) regardless of whether the demonstrator provides a

1 sample of food to consumers, the farmers' market that hosts the
2 demonstration:

3 (A) has an establishment operator with a valid
4 certification under Subchapter D, Chapter 438, supervising the
5 demonstration; and

6 (B) complies with Sections 437.020 and 437.0202,
7 the requirements of a temporary food establishment under this
8 chapter, and rules adopted under this chapter; and

9 (2) when the demonstrator provides a sample of food to
10 consumers:

11 (A) the demonstrator provides a sample only and
12 not a full serving; and

13 (B) samples of food prepared during a
14 demonstration are disposed of not later than four hours after the
15 beginning of the demonstration.

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