

BILL ANALYSIS

Senate Research Center

S.B. 1766
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Agriculture, Water & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Honey is a raw agricultural commodity produced by honey bees. As a marketable food product, honey must be extracted from the comb where it has been produced by the bees and placed into a container. Under current Texas law, a beekeeper who extracts honey produced by his own bees, puts it into a container, labels it and offers it for sale falls under manufactured foods regulations and must obtain a Manufactured Foods license from Department of State Health Services (DSHS). In addition, there is no distinction under current law between hobbyists and large producers of honey or whether the honey is sold direct to the consumer, retail, or wholesale.

The beekeeper must meet certain inspected facilities requirements. Building and maintaining an inspected facility is prohibitively expensive for most small scale beekeepers. For beekeepers in urban and suburban settings, it may not be possible for them to have such a facility on their property. The present regulatory requirements are detrimental to small scale beekeepers and create an unnecessary barrier between local producers and local consumers at a time when consumers are looking for fresh, locally produced honey.

Furthermore, in recent years Texas has seen a tremendous and unprecedented growth in small scale and hobby beekeepers that has been extremely positive for honey bees and for the Texas beekeeping industry. Growing awareness and increasing enforcement of current laws with respect to selling honey will discourage small scale beekeepers from taking up the hobby and might result in fewer beekeepers and fewer populations of the bees that are so vital to our ecosystem.

S.B. 1766 provides an exemption from DSHS licensing requirements for small scale/hobby beekeepers who (i) annually produce less than 2500 pounds (approximately 200 gallons) of honey from hives they own and manage in Texas, and who (ii) sell direct to the consumer at the beekeeper's home, a farmer's market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event. It is well known that honey possesses broad-spectrum antimicrobial properties, making it a very low risk food product. Due to honey's low risk food properties, the limited size and scope of a hobbyist/small scale operation, and the limited number of impacted individuals, such an exemption possess little to no risk to the public.

Why not add honey to the list of Cottage Foods under Cottage Food Laws?

Honey is not baked, canned, dehydrated, coated or processed in any way. It is a raw agricultural commodity. Chapter 131 of the Texas Agriculture Code (Bees and Honey) contains some very strong and very important protections for the identity of honey in Texas, which also serve to protect the consumer. DSHS is given the authority to enforce these provisions. If honey is designated a cottage food, DSHS loses this enforcement power. It is important to all honey producers, large and small, for DSHS to maintain this enforcement authority.

S.B. 1766 amends current law relating to exemptions from certain regulation for small honey production operations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 437.001, Health and Safety Code, by adding Subdivisions (1-a) and (7) to define "beekeeper" and "small honey production operation."

SECTION 2. Amends Chapter 437, Health and Safety Code, by adding Sections 437.0197, 437.0198, and 437.0199, as follows:

Sec. 437.0197. EXEMPTION FOR SMALL HONEY PRODUCTION OPERATION. Provides that a small honey production operation is not a food service establishment for purposes of this chapter.

Sec. 437.0198. REGULATION OF SMALL HONEY PRODUCTION OPERATION PROHIBITED. Prohibits a local government authority, including a local health department, from regulating the production of honey or honeycomb at a small honey production operation.

Sec. 437.0199. LABELING REQUIREMENTS FOR SMALL HONEY PRODUCTION OPERATION. Requires that honey or honeycomb sold or distributed by a small honey production operation be labeled in accordance with Subchapter E (Labeling and Sale of Honey), Chapter 131, Agriculture Code. Requires that the label include:

- (1) the net weight of the honey expressed in both the avoirdupois and metric systems;
- (2) the beekeeper's name and address; and
- (3) the statement "Bottled or packaged in a facility not inspected by the Texas Department of State Health Services."

SECTION 3. Effective date: September 1, 2015.