

BILL ANALYSIS

C.S.H.B. 1694
By: Lambert
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding ambiguity in certain statutes relating to the sampling of food at a farmers' market and it has been suggested that some local health departments are using such ambiguity to diverge from the original intent of the statutes. C.S.H.B. 1694 seeks to resolve the ambiguity by setting out provisions relating to limitations on food regulations at farms, farmers' markets, and cottage food production operations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1694 amends the Health and Safety Code to prohibit the Department of State Health Services (DSHS) or a local government authority, including a local health department, from requiring a person to obtain a permit under provisions regulating food service establishments, retail food stores, mobile food units, and roadside food vendors to provide samples of food at a farm or farmers' market under provisions regulating food samples at farms and farmers' markets. The bill prohibits a local government authority, including a local health department, from regulating the provision of samples of food at a farm or farmers' market except as provided by provisions regulating food service establishments, retail food stores, mobile food units, and roadside food vendors.

C.S.H.B. 1694 authorizes DSHS or a local government authority, including a local health department, to perform an inspection to enforce statutory requirements for preparing and distributing samples of food at a farm or farmers' market and to require a person to obtain an applicable permit to offer for sale or distribution to consumers food cooked at a farm or farmers' market. The bill clarifies that a cottage food production operation may only provide samples of food described by applicable law and produced by the operation. The bill exempts from provisions regulating food samples at farms and farmers' markets a person who provides samples of food at a farm or farmers' market and does not sell food directly to consumers at the farm or farmers' market. The bill specifies that, for purposes of the term "food" applicable to those provisions, the inclusion in the term of a product made from a prescribed product by a farmer or other producer who grew or processed the product includes as such a producer a cottage food production operation.

C.S.H.B. 1694 revises the prohibition against the executive commissioner of the Health and

Human Services Commission or a state or local enforcement agency adopting a rule requiring a farmers' market to pay a permit fee for conducting a cooking demonstration or providing samples of food if the demonstration or provision of samples is conducted for a bona fide educational purpose by replacing the local enforcement agency with a local government authority, specifying that such government authority includes a local health department, and removing the condition that the provision of samples is conducted for a bona fide educational purpose.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1694 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions:

- authorizing DSHS or a local government authority to perform inspections to enforce requirements for preparing and distributing samples of food at a farm or farmers' market and to require a person to obtain a permit to offer for sale or distribution to consumers food cooked at a farm or farmers' market;
- clarifying the type of food of which a cottage food production operation may provide samples; and
- exempting certain persons from provisions regulating food samples at farms and farmers' markets.