

BILL ANALYSIS

C.S.H.B. 4346
By: Lozano
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A new form of meal service operations has developed in Texas in which a restaurant or other licensed food establishment prepares food at its facility that is meant to be served and consumed by individuals at a different location. The restaurant or food establishment either utilizes an off-site restaurant service broker or contracts directly with a non-food establishment to provide such a service. It has been suggested that the off-site restaurant services industry benefits the restaurant industry by providing restaurants and other food establishments access to new markets. C.S.H.B. 4346 seeks to provide for the regulation of off-site restaurant services.

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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4346 amends the Health and Safety Code to authorize an off-site restaurant service operator to provide off-site restaurant services directly or under a contract with an off-site restaurant service broker. The bill defines, among other terms, "off-site restaurant services" as the preparation and transport of meals by an off-site restaurant service operator for service, assembly, individual sale, and consumption at a location other than the premises of the food service establishment of the operator. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules necessary to implement the bill's provisions and sets actions the rules must require the operator to take.

C.S.H.B. 4346 prohibits a home-rule municipality from adopting or enforcing a requirement relating to the provision of off-site restaurant services that is more stringent than a requirement prescribed by the executive commissioner or that relates to an issue not specifically addressed in the rules adopted by the executive commissioner. The bill authorizes the Department of State Health Services (DSHS) or a municipality, county, or public health district to only require an operator that is providing such services to obtain as an additional permit the type of permit the operator is required to obtain to provide catering services in the jurisdiction. The bill prohibits DSHS or such an entity from requiring an off-site restaurant service broker to obtain a food service establishment permit to contract for the provision of off-site restaurant services.

C.S.H.B. 4346 authorizes a home-rule municipality to require a person who owns, operates, or otherwise exercises control over a location at which off-site restaurant services are provided to obtain a permit before the services are provided at the location and to charge a reasonable fee for the permit. The bill's provisions apply only to off-site restaurant services provided on or after January 1, 2020.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4346 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 revises applicable definitions by:

- defining "off-site restaurant service operator" in a manner similar to the original's term "off-site restaurant meal operator," except the substitute does not include a specification for the operator to contract with a non-food establishment or non-temporary food establishment to provide an off-site operation;
- defining "catering services" in a manner similar to the original's term "catering operation" except the substitute includes a specification relating to transporting the food;
- defining "off-site restaurant service broker" in a manner similar to the original's term "meal service broker," except the original specifies that a company may be a meal service broker;
- including a definition of "off-site restaurant services" to mean the preparation and transport of meals by an off-site restaurant service operator for service, assembly, individual sale, and consumption at a location other than the premises of the food service establishment of the operator; and
- not including a definition of "off-site restaurant operations" to mean the sales of individual meals conducted by an off-site restaurant meal operator where food is prepared for delivery and is meant to be served and consumed at a location other than the premises of the off-site restaurant operator.

The substitute revises the treatment of off-site restaurant services by:

- changing the limitation on the time off-site restaurant services may be provided from no more than four hours per day to not more than two and one-half in any 12-hour period;
- revising the executive commissioner's requirement to adopt certain rules; and
- including DSHS as an entity whose authority to require an off-site restaurant service operator or off-site restaurant service broker to obtain certain permits is restricted.

The substitute includes the following provisions:

- a prohibition against a home-rule municipality adopting or enforcing a requirement relating to the provision of off-site restaurant services that is more stringent than the requirements under the executive commissioner's rules; and
- an authorization for a home-rule municipality to require an applicable individual to obtain a permit before providing such services and to charge a reasonable fee for the permit.