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H.B. No. 644

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of cottage food production operations.

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

SECTION 1. Section 437.001, Health and Safety Code, is amended by adding Subdivision (1) and amending Subdivision (2-b) to read as follows:

(1) "Acidified canned goods" means food with a finished equilibrium pH value of 4.6 or less that is thermally processed before being placed in an airtight container.

(2-b) "Cottage food production operation" means an individual, operating out of the individual's home, who:

(A) produces at the individual's home, subject to Section 437.0196:

(i) a baked good that is not a potentially hazardous food, as defined by Section 437.0196;

(ii) candy;

(iii) coated and uncoated nuts;

(iv) unroasted nut butters;

(v) fruit butters;

(vi) a canned jam or jelly;

(vii) a fruit pie;

(viii) dehydrated fruit or vegetables, including dried beans;

(ix) popcorn and popcorn snacks;

(x) cereal, including granola;
(xi) dry mix;
(xii) vinegar;
(xiii) pickled fruit or vegetables,
including beets and carrots, that are preserved in vinegar, brine,
or a similar solution at an equilibrium pH value of 4.6 or less
[pickles];

(xiv) mustard;
(xv) roasted coffee or dry tea; ~~[or]~~
(xvi) a dried herb or dried herb mix;
(xvii) acidified canned goods; or
(xviii) any other food that is not a
potentially hazardous food, as defined by Section 437.0196;

(B) has an annual gross income of \$50,000 or less
from the sale of food described by Paragraph (A);

(C) sells the foods produced under Paragraph (A)
only directly to consumers ~~[at the individual's home, a farmers'~~
~~market, a farm stand, or a municipal, county, or nonprofit fair,~~
~~festival, or event];~~ and

(D) delivers products to the consumer at the
point of sale or another location designated by the consumer.

SECTION 2. Chapter 437, Health and Safety Code, is amended
by adding Section 437.01951 to read as follows:

Sec. 437.01951. REQUIREMENTS FOR SALE OF ACIDIFIED CANNED
GOODS. (a) A cottage food production operation that sells to
consumers acidified canned goods shall:

(1) use a recipe that:

1 (A) is from a source approved by the department;

2 (B) has been tested by an appropriately certified
3 laboratory that confirmed the finished canned good has an
4 equilibrium pH value of 4.6 or less; or

5 (C) is approved by a qualified process authority;

6 or

7 (2) if the operation does not use a recipe described by
8 Subdivision (1), test each batch of the recipe with a calibrated pH
9 meter to confirm the finished canned good has an equilibrium pH
10 value of 4.6 or less.

11 (b) The department shall:

12 (1) approve sources for recipes that a cottage food
13 production operation may use to produce acidified canned goods; and

14 (2) annually post on the department's Internet website
15 a list of the approved sources for recipes, appropriately certified
16 laboratories, and qualified process authorities.

17 (c) For purposes of this section, "process authority" means
18 a person who has expert knowledge acquired through appropriate
19 training and experience in the acidification and process of
20 acidified foods.

21 SECTION 3. As soon as practicable after the effective date
22 of this Act:

23 (1) the executive commissioner of the Health and Human
24 Services Commission shall adopt rules as necessary to implement the
25 changes made by this Act; and

26 (2) the Department of State Health Services shall
27 approve sources for recipes for acidified canned goods and post a

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1 list of sources, appropriately certified laboratories, and
2 qualified process authorities on the department's Internet website
3 as required by Section 437.01951, Health and Safety Code, as added
4 by this Act.

5 SECTION 4. This Act takes effect September 1, 2019.