

By: Lozano

H.B. No. 4346

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of off-site restaurant services;
authorizing a permit; authorizing a fee.

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

SECTION 1. Chapter 437, Health and Safety Code, is amended
by adding Section 437.022 to read as follows:

Sec. 437.022. OFF-SITE RESTAURANT SERVICES. (a) In this
section:

(1) "Catering services" means the preparation and
transport of food by an off-site restaurant service operator for
consumption at a location other than the premises of the food
service establishment of the operator.

(2) "Off-site restaurant service broker" means a
person who contracts with an off-site restaurant service operator
for the operator to provide off-site restaurant services.

(3) "Off-site restaurant service operator" means a
food service establishment that provides off-site restaurant
services.

(4) "Off-site restaurant services" means 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.

(b) An off-site restaurant service operator may provide

1 off-site restaurant services directly or may provide the services
2 under a contract with an off-site restaurant service broker.

3 (c) The executive commissioner shall adopt rules necessary
4 to implement this section. The rules must require an off-site
5 restaurant service operator to:

6 (1) provide off-site restaurant services only at a
7 location that:

8 (A) is in or adjacent to a commercial building;
9 and

10 (B) provides access to toilets, urinals, a mop
11 sink, and a portable or plumbed handwashing sink for customers and
12 employees;

13 (2) prepare all food on the premises of the operator
14 and transport the food to the off-site location;

15 (3) provide off-site restaurant services for not more
16 than two and one-half hours in any twelve-hour period;

17 (4) provide utensils, linens, and other supplies
18 necessary to ensure that food is protected and work spaces are kept
19 clean; and

20 (5) ensure that food provided by the operator is
21 properly time or temperature controlled at the off-site location
22 and time or temperature readings of the food are recorded.

23 (d) A home-rule municipality may not adopt or enforce a
24 requirement relating to the provision of off-site restaurant
25 services that is more stringent than a requirement prescribed by
26 the executive commissioner under Subsection (c) or that relates to
27 an issue not specifically addressed in rules adopted in accordance

1 with that subsection.

2 (e) The department or a municipality, county, or public
3 health district may only require an off-site restaurant service
4 operator that is providing off-site restaurant services to obtain
5 as an additional permit under this chapter the type of permit the
6 operator is required to obtain to provide catering services under
7 this chapter in the jurisdiction.

8 (f) The department or a municipality, county, or public
9 health district may not require an off-site restaurant service
10 broker to obtain a food service establishment permit under this
11 chapter to contract for the provision of off-site restaurant
12 services under this section.

13 (g) A home-rule municipality may:

14 (1) require a person who owns, operates, or otherwise
15 exercises control over a location at which off-site restaurant
16 services are provided to obtain a permit before the services are
17 provided at the location; and

18 (2) charge a reasonable fee for the permit.

19 SECTION 2. As soon as practicable after the effective date
20 of this Act, the executive commissioner of the Health and Human
21 Services Commission shall adopt the rules required by Section
22 437.022, Health and Safety Code, as added by this Act.

23 SECTION 3. The change in law made by this Act applies only
24 to off-site restaurant services provided on or after January 1,
25 2020. Off-site restaurant services provided before that date are
26 governed by the law as it existed immediately before the effective
27 date of this Act, and the former law is continued in effect for that

1 purpose.

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