

BILL ANALYSIS

C.S.H.B. 1276
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The restaurant industry has been negatively impacted by the COVID-19 pandemic and stay-at-home orders have caused many restaurants to suspend dine-in operations, which has resulted in a loss of profits for numerous food establishments. While wholesale restaurant suppliers struggled to sell their product, workers in the supply chain logged long hours in an effort to restock the shelves in grocery stores. It has been noted that, at the onset of the pandemic, Governor Greg Abbott directed the Department of State Health Services to release guidance to permit the sale of bulk retail products by certain food service establishments and that the temporary guidance released created a new revenue source for restaurants and provided relief to an overwhelmed supply chain. C.S.H.B. 1276 seeks to address this issue and provide for the ability of a food service establishment to sell directly to an individual certain consumer food products.

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. 1276 amends the Health and Safety Code to authorize a permitted food service establishment to sell directly to an individual consumer food, other than prepared food, that satisfies the following criteria:

- is labeled, which may include a handwritten label, with any information required by Department of State Health Services (DSHS) food service establishment rules;
- for a meat product or poultry product, is obtained from a source that is appropriately inspected and bears an official mark of inspection from DSHS or the U.S. Department of Agriculture; and
- for food requiring refrigeration other than whole uncut produce, is protected from contamination and is maintained at or below 41 degrees Fahrenheit until the establishment sells or donates the food.

C.S.H.B. 1276 prohibits a food service establishment from selling the following foods directly to an individual consumer:

- food that is in a package exhibiting damage; or
- food that is distressed because it is not held at the correct temperature for the food type, is not in good condition, or has been subjected to fire, flooding, excessive heat, smoke, radiation, or another environmental contamination.

C.S.H.B. 1276 excludes a restaurant that sells food directly to an individual consumer from state food manufacturer, food wholesaler, and food warehouse operator licensing requirements if the restaurant holds a food service establishment permit, complies with the bill's provisions, and is not otherwise required to hold such a license. The bill prohibits a municipality or public health district from requiring a food service establishment to obtain a food manufacturer license or permit if the establishment complies with the bill's provisions and is not required to hold the license or permit under other state law.

C.S.H.B. 1276 requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement the bill.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1276 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 changes the criteria for the food that a food service establishment may sell directly to an individual consumer to permit the sale of repackaged food products. The substitute changes labeling standards for the food to require the inclusion of any information required by DSHS food service establishment rules.

The substitute does not include a prohibition against the sale of food that is distressed because of prolonged storage but prohibits the sale of food that is distressed because it is not in good condition.

The substitute includes the following:

- a provision excluding a restaurant that sells food directly to an individual consumer from certain additional state licensing requirements if the restaurant holds a food service establishment permit, complies with the bill's provisions, and is not otherwise required to hold the applicable license; and
- a prohibition against a municipality or public health district requiring a food service establishment that sells food directly to an individual consumer to obtain a food manufacturer license or permit if the establishment complies with the bill's provisions and is not required to hold the license or permit under other state law.

The substitute changes the bill's effective date from September 1, 2021, to on passage or September 1, 2021, if the bill does not receive the necessary vote for immediate effect.