

## **BILL ANALYSIS**

S.B. 617  
By: Kolkhorst  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

There have been calls to clarify certain regulatory requirements relating to farmers and small-scale food producers who sell their products at farmers' markets. Recently enacted legislation capped the amount that local health departments may charge a farmers' market vendor for a permit at \$100 per year. However, it has been reported that some local jurisdictions have only been applying that cap to farmers and not to other individuals selling food at farmers' markets because of an unclear reference to "food producer" in the enacted statute and an old, narrow state agency definition of that term. For example, Harris County Public Health charges as much as \$2,080 annually for food producers at farmers' markets in its jurisdiction. S.B. 617 seeks to resolve this issue by establishing a statutory definition of the term "food producer." The bill also clarifies the definition of "farmers' market" and provides an avenue for recovery of permit fees charged in excess of the cap.

### **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**

S.B. 617 amends the Health and Safety Code to revise provisions that set the minimum permit term, the required coverage area, and the maximum permit fee for permits issued to farmers and food producers in connection with the sale of food at a farmers' market, farm stand, or farm by doing the following:

- changing the locations that such a permit must cover from all locations within the permitting authority's jurisdiction to all locations the permit holder is authorized to sell food within that jurisdiction; and
- changing the applicability of those provisions with respect to individuals other than farmers as follows:
  - making the provisions applicable to a permit issued to a food producer for the sale of food directly to consumers at a farmers' market; and
  - defining "food producer" as a person who grew, raised, processed, prepared, manufactured, or otherwise added value to the food product the person is selling, excluding a person who only packaged or repackaged a food product.

The bill redefines "farmers' market" for certain regulatory purposes as a designated location used for a recurring event at which a majority of the vendors are farmers or other food producers, as defined by the bill, who sell food directly to consumers.

S.B. 617 authorizes a farmer or food producer who is charged an annual fee for such a permit in excess of the \$100 limit set by statute, or whose permit does not otherwise comply with applicable requirements, to bring an action against the governmental entity that charged the fee or issued the permit to recover the amount charged in excess of \$100 and reasonable and necessary attorney's fees incurred in bringing the action.

**EFFECTIVE DATE**

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