By:  Kolkhorst S.B. No. 617

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain direct sales of food to consumers and a limitation on the fee amount for certain permits.

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

SECTION 1.  Section 437.0065, Health and Safety Code, is amended to read as follows:

Sec. 437.0065.  PERMITS FOR CERTAIN FARMERS AND FOOD PRODUCERS. (a) In this section, "farmers' market" and "food producer" have [~~has~~] the meanings [~~meaning~~] assigned by Section 437.020.

(b)  This section applies only to a permit issued under this chapter to:

(1)  a farmer for the sale of food directly to consumers at a farmers' market, a farm stand, or the farmer's farm; and

(2)  a food producer, other than a farmer, for the sale of food directly to consumers [~~an individual who prepares food for sale~~] at a farmers' market.

(c)  A permit issued under Section 437.003, 437.004, 437.0055, or 437.0201 to a person described by Subsection (b):

(1)  must be valid for a term of not less than one year;

(2)  may impose an annual fee in an amount not to exceed $100 for the issuance or renewal; and

(3)  must cover sales at all locations the permit holder is authorized to sell food under Subsection (b), including farmers' markets, farm stands, and farms [~~locations~~] within the jurisdiction of the permitting authority.

(d)  A farmer or food producer who is charged an annual fee in an amount that exceeds the amount authorized by Subsection (c)(2) or whose permit does not otherwise comply with this section may bring an action against the governmental entity that charged the fee or issued the permit to recover:

(1)  the amount the farmer or food producer was charged in excess of the annual fee authorized by Subsection (c)(2); and

(2)  reasonable and necessary attorney's fees incurred in bringing the action.

SECTION 2.  Section 437.020(a), Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1)  "Farmers' market" means a designated location used for a recurring event at which a majority of the vendors are [~~primarily for the distribution and sale directly to consumers of food by~~] farmers or other food producers who sell food directly to consumers.

(3)  "Food producer" means a person who grew, raised, processed, prepared, manufactured, or otherwise added value to the food product the person is selling. The term does not include a person who only packaged or repackaged a food product.

SECTION 3.  (a) The change in law made by this Act applies only to an original or renewal permit issued on or after the effective date of this Act. A permit issued before the effective date of this Act is covered by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

(b)  Section 437.0065(d), Health and Safety Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.