

By: Sherman, Sr., Price

H.B. No. 928

A BILL TO BE ENTITLED

AN ACT

relating to the marketing and sale of catfish and similar fish by food service establishments; providing administrative and civil penalties.

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

SECTION 1. Chapter 436, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. MARKETING AND SALE OF CATFISH AND FISH SIMILAR TO CATFISH

Sec. 436.121. DEFINITIONS. In this subchapter:

(1) "Catfish" means any species of the scientific family Ictaluridae. The term does not include any species of the scientific genus Pangasius, family Claridae or family Siluridae, including Swai fish.

(2) "Food service establishment" has the meaning assigned by Section 437.001.

(3) "Menu board" means a posted list or pictorial display of food items offered for sale by a food service establishment.

Sec. 436.122. REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS. (a) A food service establishment that offers a food product for sale may represent and identify the product as catfish only if the product contains catfish and does not contain another fish similar to catfish.

1        (b) A food service establishment that offers for sale a food  
2 product containing a fish similar to catfish that is not catfish:

3            (1) may not represent the product as catfish; and

4            (2) shall conspicuously identify the type of fish  
5 contained in the product in the description of the product on the  
6 establishment's menu or menu board.

7        Sec. 436.123. ADMINISTRATIVE PENALTY. (a) The department,  
8 or a public health district or county that requires a food service  
9 establishment to hold a permit under Chapter 437, may impose an  
10 administrative penalty against a food service establishment that  
11 violates this subchapter or a rule adopted under this subchapter.

12        (b) The penalty for a violation may be in an amount not to  
13 exceed:

14            (1) \$250 for a food service establishment with gross  
15 annual food sales of less than \$50,000;

16            (2) \$500 for a food service establishment with gross  
17 annual food sales of at least \$50,000 but less than \$145,000; and

18            (3) \$750 for a food service establishment with gross  
19 annual food sales of at least \$145,000.

20        (c) Each day a violation continues or occurs is a separate  
21 violation for purposes of imposing a penalty.

22        Sec. 436.124. CIVIL PENALTY. (a) A food service  
23 establishment that violates this subchapter or a rule adopted under  
24 this subchapter is liable to this state, or a public health district  
25 or county that requires the food service establishment to hold a  
26 permit under Chapter 437, for a civil penalty in an amount not to  
27 exceed:

1           (1) \$250 for a food service establishment with gross  
2 annual food sales of less than \$50,000;

3           (2) \$500 for a food service establishment with gross  
4 annual food sales of at least \$50,000 but less than \$145,000; and

5           (3) \$750 for a food service establishment with gross  
6 annual food sales of at least \$145,000.

7           (b) Each day a violation continues or occurs is a separate  
8 violation for purposes of imposing a penalty.

9           (c) The attorney general, the district or county attorney  
10 for the county, or the municipal attorney of the municipality in  
11 which the violation is alleged to have occurred may bring an action  
12 to recover a civil penalty under this section.

13           SECTION 2. This Act takes effect September 1, 2021.