

By: Rodriguez

H.B. No. 2397

A BILL TO BE ENTITLED

AN ACT

relating to the administration, implementation, and enforcement of federal produce safety standards by the Department of Agriculture.

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

SECTION 1. Section 91.009, Agriculture Code, is amended by amending Subsections (a) and (c-1) and adding Subsections (e) and (f) to read as follows:

(a) The department shall administer, implement, and enforce in this state [~~is the lead agency for the administration, implementation, and enforcement of, and education and training relating to,~~] the United States Food and Drug Administration Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (21 C.F.R. Part 112) or any successor federal produce safety rule or standard. This section does not authorize the department to implement or enforce any other federal regulation.

(c-1) The department may enter into a cooperative agreement, interagency agreement, grant agreement, or memorandum of understanding with a federal or state agency as necessary to carry out the department's [~~for the~~] administration, implementation, or enforcement of this section.

(e) With respect to a farm that is not subject to the federal rules or standards described by Subsection (a) because the farm does not generate more than the threshold amount of revenue from the

1 sale of produce to be a covered farm, the department:

2 (1) may not use the authority granted by this section  
3 as justification to physically enter the farm;

4 (2) is limited to inquiring about whether the farm  
5 generates more than the threshold amount of revenue from the sale of  
6 produce to be a covered farm; and

7 (3) may not conduct further investigative activity  
8 after receiving documentation indicating the farm generates less  
9 than the threshold amount of revenue from the sale of produce to be  
10 a covered farm.

11 (f) The department's rules may not impose additional or more  
12 burdensome requirements than those provided by the federal rules or  
13 standards described by Subsection (a). Specifically, the  
14 department may not:

15 (1) require registration of a farm that is not covered  
16 by, is exempt from, or is eligible for a qualified exemption from  
17 the rules or standards;

18 (2) without probable cause that the farm is violating  
19 an applicable law, conduct a physical inspection of a farm that is  
20 not covered by, is exempt from, or is eligible for a qualified  
21 exemption from the rules or standards; or

22 (3) create a new or different standard, including a  
23 standard for imposing penalties, that is not contained in the  
24 federal rules or standards.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2021.