

1-1 By: Kolkhorst S.B. No. 617  
 1-2 (In the Senate - Filed February 8, 2021; March 11, 2021,  
 1-3 read first time and referred to Committee on Health & Human  
 1-4 Services; April 20, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 April 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 617 By: Buckingham

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of certain direct sales of food to  
 1-22 consumers and a limitation on the fee amount for certain permits.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 437.0065, Health and Safety Code, is  
 1-25 amended to read as follows:

1-26 Sec. 437.0065. PERMITS FOR CERTAIN FARMERS AND FOOD  
 1-27 PRODUCERS. (a) In this section, "farmers' market" and "food  
 1-28 producer" have ~~has~~ the meanings ~~meaning~~ assigned by Section  
 1-29 437.020.

1-30 (b) This section applies only to a permit issued under this  
 1-31 chapter to:

1-32 (1) a farmer for the sale of food directly to consumers  
 1-33 at a farmers' market, a farm stand, or the farmer's farm; and

1-34 (2) a food producer, other than a farmer, for the sale  
 1-35 of food directly to consumers [an individual who prepares food for  
 1-36 sale] at a farmers' market.

1-37 (c) A permit issued under Section 437.003, 437.004,  
 1-38 437.0055, or 437.0201 to a person described by Subsection (b):

1-39 (1) must be valid for a term of not less than one year;

1-40 (2) may impose an annual fee in an amount not to exceed  
 1-41 \$100 for the issuance or renewal; and

1-42 (3) must cover sales at all locations the permit  
 1-43 holder is authorized to sell food under Subsection (b), including  
 1-44 farmers' markets, farm stands, and farms [locations] within the  
 1-45 jurisdiction of the permitting authority.

1-46 (d) A farmer or food producer who is charged an annual fee in  
 1-47 an amount that exceeds the amount authorized by Subsection (c)(2)  
 1-48 or whose permit does not otherwise comply with this section may  
 1-49 bring an action against the governmental entity that charged the  
 1-50 fee or issued the permit to recover:

1-51 (1) the amount the farmer or food producer was charged  
 1-52 in excess of the annual fee authorized by Subsection (c)(2); and

1-53 (2) reasonable and necessary attorney's fees incurred  
 1-54 in bringing the action.

1-55 SECTION 2. Section 437.020(a), Health and Safety Code, is  
 1-56 amended by amending Subdivision (1) and adding Subdivision (3) to  
 1-57 read as follows:

1-58 (1) "Farmers' market" means a designated location used  
 1-59 for a recurring event at which a majority of the vendors are  
 1-60 [primarily for the distribution and sale directly to consumers of

2-1 ~~food by]~~ farmers or other food producers who sell food directly to  
2-2 consumers.

2-3 (3) "Food producer" means a person who grew, raised,  
2-4 processed, prepared, manufactured, or otherwise added value to the  
2-5 food product the person is selling. The term does not include a  
2-6 person who only packaged or repackaged a food product.

2-7 SECTION 3. (a) The change in law made by this Act applies  
2-8 only to an original or renewal permit issued on or after the  
2-9 effective date of this Act. A permit issued before the effective  
2-10 date of this Act is covered by the law in effect when the permit was  
2-11 issued, and the former law is continued in effect for that purpose.

2-12 (b) Section 437.0065(d), Health and Safety Code, as added by  
2-13 this Act, applies only to a cause of action that accrues on or after  
2-14 the effective date of this Act.

2-15 SECTION 4. This Act takes effect immediately if it receives  
2-16 a vote of two-thirds of all the members elected to each house, as  
2-17 provided by Section 39, Article III, Texas Constitution. If this  
2-18 Act does not receive the vote necessary for immediate effect, this  
2-19 Act takes effect September 1, 2021.

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