

BILL ANALYSIS

C.S.H.B. 2878
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Food trucks have become increasingly popular across Texas. Unlike traditional restaurants that apply for health department permits from the city in which they are located, these mobile food service establishments must apply for a separate permit in each municipality in which they wish to operate. Applying for additional permits is a costly barrier to doing business for many of these vendors. For example, Tarrant County has 41 separate incorporated areas. By creating a system in which a universal license exists within the county, mobile food service establishments can plan their budgets accordingly and would no longer need to worry about compliance issues as they cross a road into a new city's jurisdiction. C.S.H.B. 2878 seeks to shift the responsibility of inspecting mobile food service establishments solely to the county and allow counties to issue one permit that would be valid in any municipality within the county. The county must assume responsibility for inspections and licensing by their health department.

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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2878 amends the Health and Safety Code to prohibit a mobile food service establishment from operating in a county with a population of more than 2.1 million in which is located partly or wholly an airport that meets the following criteria without first obtaining a permit from the county:

- an airport jointly operated by two or more public agencies; and
- an airport owned by the principal municipality in the county that does not offer commercial air service.

The bill defines "mobile food service establishment" as one or more mobile food units or roadside food vendors operating from a single preparation facility under the managerial authority of a single permit or license holder and provides for the meaning of "food," "mobile food unit," and "roadside food vendor" by reference to rules adopted under statutory provisions relating to the regulation of food service establishments, retail food stores, mobile food units, and roadside food vendors. The bill requires the permit to authorize the establishment to operate in any municipality located in the county and establishes that the permit is considered a permit issued under those statutory provisions for purposes of those provisions.

C.S.H.B. 2878 requires a county to approve or deny an establishment's application for a permit to operate in the county not later than the third business day after the date the county receives

the application and all information necessary for the county to consider the application. The bill authorizes a county to refuse to issue a permit if the establishment is not in good standing in another jurisdiction or if the county has previously imposed on the establishment a citation or fine that raises public health and safety concerns and requires a county that refuses to do so to provide the establishment with written notice regarding the basis for the county's refusal and to advise the establishment of any remedial actions it may take to become eligible for a permit.

C.S.H.B. 2878 subjects a mobile food service establishment to periodic and unannounced inspections by the county that issues the permit and requires the establishment to allow the county access to the establishment for an inspection. The bill authorizes the county, if an inspection determines the establishment committed a violation, to issue a fine to the establishment or suspend the establishment's permit. The bill requires a mobile food service establishment to annually renew the establishment's permit.

C.S.H.B. 2878 requires the executive commissioner of the Health and Human Services Commission to adopt the rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2878 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced set out provisions authorizing a mobile food service establishment to operate in a county other than the establishment's county of origin or the county that includes the establishment's public health district after requesting and receiving authorization from the county, the substitute sets out provisions instead requiring such an establishment in a county that meets specified population and airport-related criteria to obtain a permit from the county before operating in the county. Additionally, the substitute and introduced both reflect these differences in their provisions relating to a county's refusal to authorize a mobile food service establishment to operate in, or issue a permit for operation in, the county, as applicable, if the establishment is not in good standing in the applicable counties; provisions relating to a county's response to a request to operate or application for a permit, as applicable; and provisions relating to inspection of the establishment by the county.

The substitute includes the following provisions that were absent from the introduced:

- a requirement for a permit issued by a county to authorize a mobile food service establishment to operate in any municipality located in the county; and
- a provision establishing that the permit is considered a permit issued under statutory provisions relating to the regulation of food service establishments, retail food stores, mobile food units, and roadside food vendors for purposes of those provisions.

The substitute omits the following provisions from the introduced:

- provisions requiring the mobile food service establishment to submit to the other county in which it seeks to operate copies of its permit issued by its county of origin or public health district of origin and the applicable permit or license issued by the Department of State Health Services (DSHS) and a list of each county in which the establishment is authorized to operate;
- provisions relating to a county's verification of the establishment's permit or license as being in good standing in each applicable county and the county's authorization of the establishment's operation in the applicable county;

- a requirement for a county to use discretion when inspecting a mobile food service establishment to ensure the establishment is not inspected more frequently than necessary to protect public health and safety;
- a requirement for the applicable county to notify DSHS of a violation by the mobile food service establishment;
- an authorization for the applicable county to notify the establishment's county or public health district of origin or any other county in which the establishment is authorized to operate of the violation;
- requirements relating to the establishment and maintenance of a statewide database by DSHS for use by DSHS and counties that includes certain information relating to each mobile food unit and roadside food vendor permit or license holder and mobile food service establishments and a requirement for each county and public health district to submit the information required to be included in the database;
- an authorization for a mobile food service establishment to submit periodically to DSHS an itinerary for planned locations of the establishment's mobile food units and roadside food vendors for inclusion in the database;
- an authorization for DSHS to establish for use by counties an expedited authorization process for mobile food service establishments;
- a requirement for DSHS to establish the database by a certain date; and
- a requirement for a mobile food service establishment to provide each county in which the establishment operates a copy of its renewal permit or license before operating under such.