

## **BILL ANALYSIS**

Senate Research Center  
88R4078 SRA-F

S.B. 577  
By: Springer  
Health & Human Services  
4/3/2023  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Some have noted that Texas restaurants are suffering under the complicated regulatory patchwork of food safety regulations under which they have to operate. Despite the presence of existing regulations from the Texas Department of State Health Services and federal Food and Drug Administration, local health departments have piled on their own oftentimes redundant and inconsistent regulations. This regulatory patchwork by local health departments can create confusion and require restaurants to pay for duplicative permits that can become costly to small businesses.

This bill will maintain the focus on food safety while also streamlining certain restaurant regulations across the state.

As proposed, S.B. 577 amends current law relating to regulation of food service establishments, retail food stores, mobile food units, roadside food vendors, temporary food service establishments, and food managers.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 437, Health and Safety Code, by amending Section 437.009 and adding Sections 437.0091, 437.01235, and 437.027, as follows:

Sec. 437.009. New heading: INSPECTIONS; INSPECTION FOLLOWING ADOPTION OF CERTAIN LOCAL ORDERS; PROHIBITED DISCIPLINARY ACTION. (a) Creates this subsection from existing text.

(b) Authorizes a county or a public health district, notwithstanding Subsection (a), to conduct an inspection to determine compliance with an order the county or district issues that differs from state law or Department of State and Health Services (DSHS) rules or orders only on or after the 60th day following the date the county or district submits a copy of the order to DSHS for inclusion in the registry established under Section 437.0091.

(c) Prohibits DSHS, a county, a municipality, or a public health district, including an authorized agent or employee, that conducts an inspection as authorized under this section, notwithstanding any other law, from taking disciplinary action against or otherwise penalizing a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment for failing to adhere to easily cleanable surface requirements for wall and ceiling surfaces, decorative items, or attachments in a consumer area, provided the surfaces, items, or attachments are kept clean. Provides that a consumer area, for purposes of this subsection, includes a dining room, outdoor dining area, or bar seating area in which customers consume food but does not include a table, bar top, or other similar surface where food is regularly prepared or consumed.

Sec. 437.0091. LOCAL ORDER REGISTRY. Requires DSHS to establish and maintain on DSHS's Internet website a registry for orders submitted as required under Section 437.009(b) and post in the registry each submitted order not later than the 10th day after the date DSHS receives the order.

Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE PERMIT OR LICENSE. Prohibits a county or a municipality with a public health district that requires the payment of a fee for issuing or renewing a permit under Section 437.012 (County and Public Health District Fees) or 437.0123 (County and Public Health District Fees in Certain Populous Counties) for a premises permitted or licensed by the Texas Alcoholic Beverage Commission from also charging a fee under Section 11.38 (Local Fee Authorized) or 61.36 (Local Fee Authorized), Alcoholic Beverage Code, for an alcoholic beverage permit or license issued for premises located in the county or municipality.

Sec. 437.027. SOUND REGULATIONS. Prohibits DSHS, a county, a municipality, or a public health district, notwithstanding any other law, from requiring a food service establishment to obtain a sound regulation permit, charging a sound regulation fee to the establishment, or otherwise prohibiting sound-related activity at the establishment if the establishment:

(1) accepts delivery of supplies only for one hour or less between 5 a.m. and 11 p.m. and delivery of food, water, or ice only after 11 p.m., provided the sound level from the deliveries does not exceed 75 dBA when measured from the residential property closest in proximity to the establishment, excluding traffic and other background noise that can be reasonably excluded; and

(2) limits the use of amplified sound for playing music or amplifying human speech within the establishment's indoor or outside property boundaries to ensure:

(A) the amplified sound is not used after 10 p.m. on Sunday through Thursday and 11 p.m. on Friday and Saturday; and

(B) the amplified sound level does not exceed 75 dBA when measured at the establishment's outermost property perimeter, excluding traffic and other background noise that can be reasonably excluded.

SECTION 2. Amends Subchapter G, Chapter 438, Health and Safety Code, by adding Section 438.1055, as follows:

Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER CARD OR LOCAL FEE. Prohibits a local health jurisdiction from requiring a food manager who holds a food manager certificate issued under Subchapter G (Certification of Food Managers) to hold a local food manager card or charging a fee for issuance of the certificate under this subchapter.

SECTION 3. (a) Requires DSHS, as soon as practicable after the effective date of this Act, to establish the registry required under Section 437.0091, Health and Safety Code, as added by this Act.

(b) Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.