

## **BILL ANALYSIS**

Senate Research Center  
88R21038 MCF-F

C.S.S.B. 829  
By: Kolkhorst  
Health & Human Services  
3/31/2023  
Committee Report (Substituted)

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

Texans deserve food freedom. S.B. 829 strengthens the local Texas economy by supporting food entrepreneurs in diverse markets. The bill encourages food resiliency by advocating for Texans' ability to provide for themselves and their communities.

The passing of cottage food laws in Texas paved the way for Texans to enter and expand the workforce from home, opening job opportunities to more women, marginalized groups, home-bound citizens, and those with limited resources. In light of the COVID-19 public health emergency, cottage food production provided a source of income to those suddenly unemployed or underemployed, as well as fulfilling an exposed deficit in our food supply.

After passing the 2019 cottage food bill, cottage food laws need to evolve to the food supply and employment changes of 2020. The provisions in the 2023 bill address the changing landscape of home businesses, entrepreneurship, cost of living increases, food shortages, and accessibility to larger consumer markets.

S.B. 829 addresses the inequitable gap between marginalized populations and entrepreneurial trajectories to self-sufficiency. Increasing the annual income for cottage food operations provides more Texans with sustainable incomes to support their families. Keeping the Texas workforce strong empowers individuals and communities, and can potentially decrease demand for state-funded assistance.

The bill extends cottage food production operators to include nonprofit organizations and the directors or officers therein.

The bill includes "cottage food vendor" as a recipient to resell non-temperature controlled cottage food products produced by cottage food operators.

The bill will increase the current annual income allowed for a cottage food operation from \$50,000 to \$100,000.

The bill clarifies that no local government authority or health department may regulate or require licensing or permits for cottage food production operations.

The bill will remove the cottage food operator's home address requirement from the label. The bill will make it optional to provide a home address or registration with DSHS.

C.S.S.B. 829 amends current law relating to cottage food production operations.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 3 (Section 437.0193, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Section 437.0193, Health and Safety Code) and SECTION 7 (Section 437.01965, Health and Safety Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 437.001, Health and Safety Code, by amending Subdivision (2-b) and adding Subdivisions (3) and (5-a) to redefine "cottage food production operation" and define "cottage food vendor" and "nonprofit organization."

SECTION 2. Amends Section 437.0192, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a local government authority, including a local health department, from:

(1) creates this subdivision from existing text; or

(2) requiring a cottage food production operation to obtain any type of license or permit or pay any fee to sell food described by Section 437.001(2-b)(A) (relating to providing that "cottage food production operation" means an entity that provides certain food items at an individual's home) directly to a consumer or cottage food vendor.

(c) Prohibits a local government authority, including a local health department, from employing or continuing to employ a person who knowingly requires or attempts to require a cottage food production operation to obtain a license or permit in violation of Subsection (a)(2).

SECTION 3. Amends Section 437.0193, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1) and (e), as follows:

(b) Requires that the label on all of the foods described in Section 437.001(2-b)(A) include:

(1) makes a nonsubstantive change to this subdivision;

(2) at least one of the following for the cottage food production operation: the phone number, the e-mail address, or the mailing address; and

(3) a certain disclosure. Sets forth the language required to be included in the disclosure.

Deletes existing text requiring that the label include a statement that the food is not inspected by certain entities.

(b-1) Provides that a cottage food production operation, notwithstanding Subsection (b)(1), is not required to include on a food label the address of the operation if the operation registers with the Department of State Health Services (DSHS) in the form and manner prescribed by DSHS. Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules to implement this subsection.

(e) Requires a cottage food production operation that sells time and temperature control for safety baked goods to include a certain statement on the label of the food or on an invoice or receipt provided with the food when sold. Sets forth the language required to be included in the statement.

SECTION 4. Amends Section 437.0194, Health and Safety Code, by amending Subsections (a) and (c) and adding Subsection (a-1), as follows:

(a) Creates an exception under Subsection (a-1).

(a-1) Authorizes a cottage food production operation to sell food described by Section 437.001(2-b)(A) to a cottage food vendor at wholesale.

(c) Provides that the operator of a cottage food production operation that sells a food described by Section 437.001(2-b)(A) in this state in the manner described by Subsection (b) (relating to authorizing a cottage food production operation to sell certain foods through the Internet or by mail order only in certain circumstances):

(1) is not required to include the information required under Section 437.0193(b)(2) for, rather than the address of, the operation in the labeling information required under Subsection (b)(2) (relating to authorizing a cottage food production operation to sell certain foods through the Internet or by mail order only if, before the operator accepts payment for the food, the operator provides all the required labeling information) before the operator accepts payment for the food; and

(2) makes conforming change to this subdivision.

SECTION 5. Amends Chapter 437, Health and Safety Code, by adding Section 437.01953, as follows:

Sec. 437.01953. REQUIREMENTS FOR SALE OF CERTAIN BAKED GOODS. Requires a cottage food production operation that sells to consumers time and temperature control for safety baked goods to store and deliver the food at the air temperature necessary to prevent the growth of bacteria that may cause human illness and to label the food in accordance with Section 437.0193(e).

SECTION 6. Amends Section 437.0196(a), Health and Safety Code, to redefine "time and temperature control for safety food."

SECTION 7. Amends Chapter 437, Health and Safety Code, by adding Section 437.01965, as follows:

Sec. 437.01965. COTTAGE FOOD VENDOR. (a) Authorizes a cottage food vendor to sell food described by Section 437.001(2-b)(A) directly to consumers at a farmers' market, farm stand, food service establishment, or retail food store.

(b) Requires a cottage food vendor who sells food described by Section 437.001(2-b)(A) to display in a certain location a sign. Sets forth the language required to be included on the sign.

(c) Requires a cottage food vendor that purchases food from a cottage food production operation at wholesale to register with DSHS in the form and manner prescribed by DSHS. Authorizes the executive commissioner to adopt rules to implement this subsection.

SECTION 8. Effective date: September 1, 2023.