

By: Harris of Anderson, et al.

H.B. No. 1247

Substitute the following for H.B. No. 1247:

By: Tinderholt

C.S.H.B. No. 1247

A BILL TO BE ENTITLED

AN ACT

relating to regulation of food service establishments, retail food stores, mobile food units, roadside food vendors, temporary food service establishments, and food managers.

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

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

Sec. 437.009. INSPECTIONS; INSPECTION FOLLOWING ADOPTION OF CERTAIN LOCAL ORDERS; PROHIBITED DISCIPLINARY ACTION. (a)

Authorized agents or employees of the department, a county, or a public health district may enter the premises of a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment under the department's, county's, or district's jurisdiction during normal operating hours to conduct inspections to determine compliance with:

(1) state law, including a requirement to hold and display written authorization under Section 437.021;

(2) rules adopted under state law; and

(3) orders adopted by the department, county, or district.

(b) A municipality or public health district of which the municipality is a member may not conduct an inspection to determine

1 compliance with an ordinance the municipality adopts that differs
2 from state law or department rules or orders before the 60th day
3 following the date the municipality or district submits a copy of
4 the ordinance to the department for inclusion in the registry
5 established under Section 437.0091.

6 (c) Notwithstanding any other law, the department, a
7 county, a municipality, or a public health district, including an
8 authorized agent or employee, that conducts an inspection
9 authorized under this section may not take disciplinary action
10 against or otherwise penalize a food service establishment, retail
11 food store, mobile food unit, roadside food vendor, or temporary
12 food service establishment for failing to adhere to easily
13 cleanable surface requirements for wall and ceiling surfaces,
14 decorative items, or attachments in a consumer area, provided the
15 surfaces, items, or attachments are kept clean. For purposes of
16 this subsection, a consumer area includes a dining room, outdoor
17 dining area, or bar seating area in which customers consume food but
18 does not include a table, bar top, or other similar surface where
19 food is regularly prepared or consumed.

20 Sec. 437.0091. MUNICIPAL ORDINANCE REGISTRY. The
21 department shall establish and maintain on the department's
22 Internet website a registry for municipal ordinances submitted
23 under Section 437.009(b) and post in the registry each submitted
24 ordinance not later than the 10th day after the date the department
25 receives the ordinance.

26 Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE
27 PERMIT OR LICENSE. A county or a municipality with a public health

1 district that charges a fee for issuance or renewal of a permit
2 under Section 437.012 or 437.0123 for a premises located in the
3 county or municipality and permitted or licensed by the Texas
4 Alcoholic Beverage Commission may not also charge a fee under
5 Section 11.38 or 61.36, Alcoholic Beverage Code, for issuance of an
6 alcoholic beverage permit or license for the premises.

7 Sec. 437.027. SOUND REGULATIONS. (a) Notwithstanding any
8 other law, the department, a county, a municipality, or a public
9 health district may not require a food service establishment to
10 obtain a sound regulation permit, charge the establishment a sound
11 regulation fee, or otherwise prohibit sound-related activity at the
12 establishment if the establishment:

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

19 (2) is a restaurant, as defined by Section 1.04,
20 Alcoholic Beverage Code, that limits the use of amplified sound for
21 playing music or amplifying human speech within the establishment's
22 indoor or outside property boundaries to ensure:

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

25 (B) the amplified sound level when measured at
26 the establishment's property perimeter does not exceed 70 dBA or
27 75 dBC, excluding traffic and other background noise reasonably

1 excluded.

2 (b) Subsection (a)(2) does not apply to a food service
3 establishment on property that is within 100 feet of a residence
4 that was occupied before any food service establishment was located
5 on the property.

6 (c) This section does not restrict the authority of a
7 municipality or county to enforce the limitations on sound level
8 under Subsection (a) or an ordinance or order the municipality or
9 county adopts, to the extent the ordinance or order does not
10 conflict with that subsection.

11 SECTION 2. Subchapter G, Chapter 438, Health and Safety
12 Code, is amended by adding Section 438.1055 to read as follows:

13 Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER
14 CARD OR LOCAL FEE. A local health jurisdiction may not require a
15 food manager who holds a food manager certificate issued under this
16 subchapter to hold a local food manager card or charge a fee for
17 issuance of the certificate under this subchapter.

18 SECTION 3. (a) As soon as practicable after the effective
19 date of this Act, the Department of State Health Services shall
20 establish the registry required under Section 437.0091, Health and
21 Safety Code, as added by this Act.

22 (b) The changes in law made by this Act apply only to an
23 inspection conducted or order or ordinance issued on or after the
24 effective date of this Act.

25 SECTION 4. This Act takes effect September 1, 2023.