

By: Harris of Anderson

H.B. No. 1247

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. Chapter 437, Health and Safety Code, is amended  
7 by amending Section 437.009 and adding Sections 437.0091,  
8 437.01235, and 437.027 to read as follows:

9 Sec. 437.009. INSPECTIONS; INSPECTION FOLLOWING ADOPTION  
10 OF CERTAIN LOCAL ORDERS; PROHIBITED DISCIPLINARY ACTION. (a)  
11 Authorized agents or employees of the department, a county, or a  
12 public health district may enter the premises of a food service  
13 establishment, retail food store, mobile food unit, roadside food  
14 vendor, or temporary food service establishment under the  
15 department's, county's, or district's jurisdiction during normal  
16 operating hours to conduct inspections to determine compliance  
17 with:

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

20 (2) rules adopted under state law; and

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

23 (b) Notwithstanding Subsection (a), a county or a public  
24 health district may conduct an inspection to determine compliance

1 with an order the county or district issues that differs from state  
2 law or department rules or orders only on or after the 60th day  
3 following the date the county or district submits a copy of the  
4 order to the department for inclusion in the registry established  
5 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 as  
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. LOCAL ORDER REGISTRY. The department shall  
21 establish and maintain on the department's Internet website a  
22 registry for orders submitted as required under Section 437.009(b)  
23 and post in the registry each submitted order not later than the  
24 10th day after the date the department receives the order.

25 Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE  
26 PERMIT OR LICENSE. A county or a municipality with a public health  
27 district that requires the payment of a fee for issuing or renewing

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

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

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

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

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

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

27 SECTION 2. Subchapter G, Chapter 438, Health and Safety

1 Code, is amended by adding Section 438.1055 to read as follows:

2 Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER  
3 CARD OR LOCAL FEE. A local health jurisdiction may not require a  
4 food manager who holds a food manager certificate issued under this  
5 subchapter to hold a local food manager card or charge a fee for  
6 issuance of the certificate under this subchapter.

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

11 (b) The changes in law made by this Act apply only to an  
12 inspection conducted or order issued on or after the effective date  
13 of this Act.

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