

By: Sherman, Sr., Price, Collier, Smith,  
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H.B. No. 1349

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the marketing and sale of catfish and similar fish by  
3 food service establishments; providing administrative and civil  
4 penalties.

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

6 SECTION 1. Chapter 436, Health and Safety Code, is amended  
7 by adding Subchapter J to read as follows:

8 SUBCHAPTER J. MARKETING AND SALE OF CATFISH AND

9 FISH SIMILAR TO CATFISH

10 Sec. 436.151. DEFINITIONS. In this subchapter:

11 (1) "Catfish" means any species of the scientific  
12 family Ictaluridae. The term does not include any species of the  
13 scientific genus Pangasius, family Clariidae or family Siluridae,  
14 including Swai fish.

15 (2) "Food service establishment" has the meaning  
16 assigned by Section 437.001.

17 (3) "Menu board" means a posted list or pictorial  
18 display of food items offered for sale by a food service  
19 establishment.

20 Sec. 436.152. REQUIREMENTS FOR FOOD SERVICE

21 ESTABLISHMENTS. (a) A food service establishment that offers a  
22 food product for sale may represent and identify the product as  
23 catfish only if the product contains catfish and does not contain  
24 another fish similar to catfish.

1        (b) A food service establishment that offers for sale a food  
2 product containing a fish similar to catfish that is not catfish:

3            (1) may not represent the product as catfish; and

4            (2) shall conspicuously identify the type of fish  
5 contained in the product in the description of the product on the  
6 establishment's menu or menu board.

7        Sec. 436.153. ADMINISTRATIVE PENALTY. (a) The department,  
8 or a public health district or county that under Chapter 437  
9 requires a food service establishment to obtain a permit, may  
10 impose an administrative penalty against a food service  
11 establishment that violates this subchapter or a rule adopted under  
12 this subchapter.

13        (b) The penalty for a violation may be in an amount not to  
14 exceed:

15            (1) \$250 for a food service establishment with gross  
16 annual food sales of less than \$50,000;

17            (2) \$500 for a food service establishment with gross  
18 annual food sales of at least \$50,000 but less than \$145,000; and

19            (3) \$750 for a food service establishment with gross  
20 annual food sales of at least \$145,000.

21        (c) Each day a violation continues or occurs is a separate  
22 violation for purposes of imposing a penalty.

23        Sec. 436.154. CIVIL PENALTY. (a) A food service  
24 establishment that violates this subchapter or a rule adopted under  
25 this subchapter is liable to this state, or a public health district  
26 or county that under Chapter 437 requires the food service  
27 establishment to obtain a permit, for a civil penalty in an amount

1 not to exceed:

2 (1) \$250 for a food service establishment with gross  
3 annual food sales of less than \$50,000;

4 (2) \$500 for a food service establishment with gross  
5 annual food sales of at least \$50,000 but less than \$145,000; and

6 (3) \$750 for a food service establishment with gross  
7 annual food sales of at least \$145,000.

8 (b) Each day a violation continues or occurs is a separate  
9 violation for purposes of imposing a penalty.

10 (c) The attorney general, the district or county attorney  
11 for the county, or the municipal attorney of the municipality in  
12 which the violation is alleged to have occurred may bring an action  
13 to recover a civil penalty under this section.

14 SECTION 2. This Act takes effect September 1, 2023.