

By: Sherman, Sr.

H.B. No. 1349

A BILL TO BE ENTITLED

1 AN ACT

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.