

By: Capriglione

H.B. No. 2878

A BILL TO BE ENTITLED

AN ACT

relating to the operation of certain mobile food service establishments in more than one county.

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

SECTION 1. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 437A to read as follows:

CHAPTER 437A. MOBILE FOOD SERVICE ESTABLISHMENTS OPERATING IN MORE THAN ONE COUNTY

Sec. 437A.001. DEFINITIONS. In this chapter:

(1) "Food," "mobile food unit," and "roadside food vendor" have the meanings assigned by rules adopted under Chapter 437.

(2) "Mobile food service establishment" means one or more mobile food units or roadside food vendors operating from a single preparation facility under the managerial authority of a single permit or license holder.

Sec. 437A.002. REQUEST FOR AUTHORIZATION TO OPERATE IN ANOTHER COUNTY. (a) Before operating in a county other than a mobile food service establishment's county of origin, or the county that includes the establishment's public health district of origin, the establishment shall request authorization to operate in another county by submitting to the other county:

(1) a copy of the establishment's permit issued in accordance with Chapter 437 by the establishment's county of origin

1 or public health district of origin, as applicable;

2 (2) a copy of the establishment's mobile food unit or
3 roadside food vendor permit or license issued by the department, as
4 applicable; and

5 (3) a list of each county in which the establishment is
6 authorized to operate.

7 (b) A mobile food service establishment shall submit the
8 information required by Subsection (a) in person, by e-mail, or
9 through an electronic form on the county's website, if available.

10 Sec. 437A.003. VERIFICATION OF INFORMATION; AUTHORIZATION
11 TO OPERATE IN ANOTHER COUNTY. (a) On receipt of a request under
12 Section 437A.002, the county shall verify, using the department's
13 database established under 437A.008 or by directly contacting each
14 relevant county, that the mobile food service establishment's
15 permit or license is in good standing in each county in which the
16 establishment is authorized to operate.

17 (b) On verification that the mobile food service
18 establishment's permit or license is in good standing in each
19 county in which the establishment is authorized to operate, the
20 county shall authorize the establishment to operate in the county.
21 The county has regulatory authority over the establishment's
22 operations within the county as provided by Chapter 437.

23 Sec. 437A.004. REFUSAL TO AUTHORIZE OPERATION WITHIN
24 COUNTY. (a) A county may refuse to authorize a mobile food service
25 establishment to operate in the county if the establishment is not
26 in good standing in the establishment's county of origin or public
27 health district of origin or if the county or district has imposed

1 on the establishment a citation or fine that raises public health
2 and safety concerns.

3 (b) If a county refuses to authorize a mobile food service
4 establishment to operate in the county, the county shall provide
5 the establishment with written notice regarding the basis for the
6 county's refusal and advise the establishment of any remedial
7 actions the establishment may take to become eligible for
8 authorization to operate in the county.

9 Sec. 437A.005. COUNTY RESPONSE TO REQUEST. A county shall
10 approve or deny a mobile food service establishment's request to
11 operate in the county not later than the third business day after
12 the date the county receives the establishment's request for
13 authorization to operate and all information required under Section
14 437A.002.

15 Sec. 437A.006. INSPECTION BY COUNTY. (a) A mobile food
16 service establishment is subject to periodic and unannounced
17 inspections in a county in which the establishment is authorized to
18 operate under this chapter.

19 (b) A county shall use discretion when inspecting a mobile
20 food service establishment that is operating in multiple counties
21 and has superior scores for previous inspections to ensure the
22 establishment is not inspected more frequently than necessary to
23 protect public health and safety.

24 (c) A mobile food service establishment shall allow a county
25 access to the establishment for an inspection when the
26 establishment is operating in the county.

27 (d) If an inspection by a county other than the mobile food

1 service establishment's county of origin, or the county that
2 includes the establishment's public health district of origin,
3 results in a violation, the other county:

4 (1) shall notify the department of the violation;

5 (2) may notify the establishment's county or public
6 health district of origin and any other county in which the
7 establishment is authorized to operate of the violation; and

8 (3) may issue a fine to the establishment or suspend
9 the establishment's authority to operate in the other county.

10 Sec. 437A.007. PERMIT OR LICENSE RENEWAL; NOTICE. A mobile
11 food service establishment annually shall renew the
12 establishment's original permit or license and shall provide each
13 county in which the establishment is authorized to operate a copy of
14 the establishment's renewal permit or license before operating
15 under the renewal permit or license.

16 Sec. 437A.008. DEPARTMENT DATABASE. (a) The department
17 shall establish and maintain a statewide database for use by the
18 department and counties that includes:

19 (1) the name of each mobile food unit and roadside food
20 vendor permit or license holder;

21 (2) the results of each health inspection of a mobile
22 food unit or roadside food vendor, including the inspection report;

23 (3) each public complaint filed against a mobile food
24 service establishment or the establishment's mobile food units or
25 roadside food vendors; and

26 (4) itineraries submitted under Subsection (c).

27 (b) Each county and public health district shall submit in

1 the form and manner required by the department the information the
2 department requires to maintain the database.

3 (c) A mobile food service establishment may periodically
4 submit to the department an itinerary for the planned locations of
5 the establishment's mobile food units and roadside food vendors for
6 inclusion in the department's database.

7 Sec. 437A.009. EXPEDITED AUTHORIZATION PROCESS. The
8 department may establish for use by counties an expedited
9 authorization process for mobile food service establishments that
10 is consistent with this chapter.

11 Sec. 437A.010. RULES. The executive commissioner may adopt
12 the rules necessary to implement this chapter.

13 SECTION 2. As soon as practicable after the effective date
14 of this Act, but not later than January 1, 2024, the Department of
15 State Health Services shall establish the database as required by
16 Section 437A.008, Health and Safety Code, as added by this Act.

17 SECTION 3. This Act takes effect September 1, 2023.