

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. PROHIBITED RESTRICTIONS ON PACKAGING,
8 UTENSILS, AND STRAWS. Notwithstanding any other law, the
9 department, a county, a municipality, or a public health district
10 may not restrict the type or quantity of packaging, utensils, or
11 straws a food service establishment, retail food store, mobile food
12 unit, roadside food vendor, or temporary food service establishment
13 provides to customers.

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

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

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 577 passed the Senate on April 27, 2023, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 577 passed the House on May 12, 2023, by the following vote: Yeas 137, Nays 3, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor