**BILL ANALYSIS**

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| Senate Research Center | S.B. 1008 |
| 89R3233 SRA-F | By: Middleton |
|  | Business & Commerce |
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**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas restaurants comply with an especially complicated patchwork of regulations. The Texas Department of State Health Services (DSHS) adopts food safety standards every few years in keeping with the U.S. Food and Drug Administration (FDA) Food Code. Local health departments operated by cities and counties also have the authority to require permits and enforce stricter rules, creating confusion and duplicative permits that become very costly for restaurants, most of which are small businesses and operate on thin margins. In the 88th Session, the Texas Legislature passed S.B. 577 on a bipartisan basis to streamline specific restaurant regulations across the state. Unfortunately, many cities and counties have argued that the bill has loopholes that allow them to ignore the bill's legislative intent.

S.B. 1008 closes these potential loopholes and ensures all local governments comply with S.B. 577's intent by:

* Clarifying that all local governments must stop collecting local food and local alcohol fees from a single foodservice business.
* Clarifying that no local government can require a food manager to pay a local fee or get a local permit when they are already certified by the state.
* Extending the remedy created in the Texas Regulatory Consistency Act to allow the restaurant industry to seek injunctive relief if a local government violates state laws related to foodservice permitting, inspections, and similar regulations.

Additionally, S.B. 1008 creates more consistent and transparent restaurant regulations by:

* Limiting local government foodservice permits and fees to what DSHS requires for foodservice businesses and employees within their jurisdiction—creating parity across the state.
* Requiring local governments to provide advance notice before they change foodservice permit, fee, and inspection rules.
* Prohibiting DSHS and local governments from requiring sound permits and sound fees on top of the restaurant permits businesses are already paying for when a foodservice business is simply accepting deliveries or playing music within reasonable limits and hours.

By creating more transparent, consistent regulations across the state, Texas can improve food safety while reducing regulatory burdens for local businesses.

As proposed, S.B. 1008 amends current law relating to state and local authority to regulate the food service industry.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 102A, Civil Practice and Remedies Code, by adding Section 102A.0015, as follows:

Sec. 102A.0015. APPLICABILITY. Provides that a reference to a municipality or county, in Chapter 102A (Municipal and County Liability for Certain Regulation), includes a public health district created by one or more municipalities or counties.

SECTION 2. Amends Section 102A.002, Civil Practice and Remedies Code, as follows:

Sec. 102A.002. Provides that any person who has sustained an injury in fact, actual or threatened, from a municipal or county ordinance, order, or rule adopted or enforced by a municipality or county in violation of certain provisions, including Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors), 437A (Mobile Food Service Establishments Operating in Certain Counties in More Than One Municipality), or 438 (Public Health Measures Relating to Food), Health and Safety Code, or a trade association representing the person has standing to bring and is authorized to bring an action against the municipality or county.

SECTION 3. Amends Section 437.003, Health and Safety Code, as follows:

Sec. 437.003. COUNTY AUTHORITY TO REQUIRE PERMIT. Authorizes the commissioners court of a county, subject to Section 437.0045, to enforce state law and rules adopted under state law, by order to require certain vendors in certain areas obtain a permit from the county. Makes a nonsubstantive change.

SECTION 4. Amends Section 437.004(a), Health and Safety Code, to make a conforming change.

SECTION 5. Amends Chapter 437, Health and Safety Code, by adding Section 437.0045, as follows:

Sec. 437.0045. LOCAL PERMIT REQUIREMENT LIMITATION. Provides that a county, municipality, or public health district, including an authorized agent, employee, or department, notwithstanding any other law, is authorized to only require a permit, license, certification, or other form of authority if the permit, license, certification, or other form of authority would be required of the food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment or an employee of any of those entities if the entity or person was located within the Department of State Health Services' (DSHS) jurisdiction.

SECTION 6. Amends Section 437.0091, Health and Safety Code, as follows:

Sec. 437.0091. New heading: LOCAL ORDINANCE AND FEE SCHEDULE REGISTRY. Requires DSHS to establish and maintain on DSHS's Internet website a registry for municipal ordinances submitted under Section 437.009(b) (relating to prohibiting certain entities from conducting certain inspections) and fee schedules submitted under Section 437.0124(b). Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 437.01235, Health and Safety Code, as follows:

Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE PERMIT OR LICENSE. Prohibits a county, municipality, or public health district, including an authorized agent, employee, or department, notwithstanding any other law, from charging a fee under Section 11.38 (Local Fee Authorized) or 61.36 (Local Fee Authorized), Alcoholic Beverage Code, for issuance of an alcoholic beverage permit or license for the premises if the premises is a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment that has already paid a fee to operate to any county, municipality, or public health district.

Deletes existing text prohibiting a county or a municipality with a public health district that charges a fee for issuance or renewal of a permit under Section 437.012 (County and Public Health District Fees) or 437.0123 (County and Public Health District Fees in Certain Populous Counties) for a premises located in the county or municipality and permitted or licensed by the Texas Alcoholic Beverage Commission from also charging a fee under Section 11.38 or 61.36, Alcoholic Beverage Code, for issuance of an alcoholic beverage permit or license for the premises.

SECTION 8. Amends Section 437.0124, Health and Safety Code, as follows:

Sec. 437.0124. New heading: COUNTY, MUNICIPALITY, AND PUBLIC HEALTH DISTRICT FEE SCHEDULE. (a) Creates this subsection from existing text. Requires a county, municipality, or public health district to establish a fee schedule for any fees collected under this chapter and revise the fee schedule as necessary.

(b) Requires a county, municipality, or public health district to submit a copy of the fee schedule to DSHS for inclusion in the registry established under Section 437.0091.

SECTION 9. Amends Chapter 437, Health and Safety Code, by adding Sections 437.0126, 437.0127, and 437.029, as follows:

Sec. 437.0126. LOCAL FEE LIMITATION. Prohibits a county, municipality, or public health district, including an authorized agent, employee, or department, notwithstanding any other law, from charging a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment a fee, including any processing fees or added costs, that exceeds the fee the food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment would pay to DSHS if it were located within DSHS's jurisdiction.

Sec. 437.0127. STAKEHOLDER NOTICE. (a) Requires a county, municipality, or public health district that charges fees, requires permits, or conducts inspections under this chapter to provide an opportunity for stakeholders to sign up for e-mail updates from the entity.

(b) Requires the county, municipality, or public health district, at least 60 days before a fee, permit, or inspection protocol or procedure is revised, to notify by e-mail all stakeholders who have signed up for e-mail updates under this section.

Sec. 437.029. SOUND REGULATIONS. (a) Prohibits DSHS, a county, a municipality, or a public health district, notwithstanding any other law, from requiring a food service establishment to obtain a sound regulation permit, charge a sound regulation fee to an establishment, or otherwise prohibit sound-related activity at an establishment:

(1) for sound arising from the delivery of food, nonalcoholic beverages, food service supplies, or ice to the establishment if the establishment accepts delivery of those items for one hour or less between 10 p.m. and 5 a.m., provided the sound level from the deliveries does not exceed 75 dBA when measured from the residential property closest in proximity to the establishment, excluding traffic and other background noise that can be reasonably excluded; or

(2) for amplified sound if the establishment is a restaurant, as defined by Section 1.04 (Definitions), Alcoholic Beverage Code, that limits the use of amplified sound for playing music or amplifying human speech within the establishment's indoor or outside property boundaries to ensure the amplified sound is not used at certain times and the amplified sound level does not exceed certain levels.

(b) Provides that Subsection (a)(2) does not apply to a food service establishment on property that is located within 300 feet of a residence that was occupied before the food service establishment was located on the property.

(c) Provides that this section does not restrict the authority of a municipality or county to enforce the limitations described by Subsection (a) or an ordinance or order the municipality or county adopts, to the extent the ordinance or order does not conflict with that subsection.

SECTION 10. Amends Section 438.1055, Health and Safety Code, as follows:

Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER CARD OR LOCAL FEE. Prohibits a local health jurisdiction, notwithstanding any other law, from requiring a food manager who holds a food manager certificate issued under Subchapter G (Certification of Food Managers) to hold a local food manager card, license, permit, or certification or any other credential or paperwork or charge a fee for issuance of the certificate under this subchapter. Makes a nonsubstantive change.

SECTION 11. Repealer: Section 437.004(d) (relating to providing that Chapter 437 does not restrict the authority of certain municipalities to adopt ordinances or administer certain permit systems concerning certain food vendors), Health and Safety Code.

SECTION 12. Effective date: September 1, 2025.