

BILL ANALYSIS

Senate Research Center

S.B. 541
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texans deserve food freedom. We are a community made up of farmers, ranchers, chefs, line cooks, home cooks, bakers, culinary and garden educators, beekeepers, homesteaders, restaurateurs, and food lovers.

S.B. 541 supports Texans from every walk of life, ensuring stronger local food systems, economic advancement, uplifting culturally diverse communities, and decreasing reliance on entitlement programs.

The passing of cottage food laws in Texas paved the way for Texans to enter and expand the workforce from home, opening job opportunities to more women, marginalized groups, homebound citizens, and those with limited resources. Considering the COVID-19 public health emergency, cottage food production provides a source of income to those suddenly unemployed or underemployed and fulfills an exposed deficit in our food supply.

After passing the 2019 cottage food bill, S.B. 572, cottage food laws needed to evolve to the food supply and employment changes of 2020. Today, due to lessons learned from the pandemic, Texans want to better support local food systems that offer more transparency and food security.

The provisions in the 2025 bill address the changing landscape of home businesses, entrepreneurship, cost of living increases, food shortages, food transparency, and accessibility to larger consumer markets.

S.B. 541 amends current law relating to cottage food production operations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 5 (Section 437.0193, Health and Safety Code) and SECTION 7 (Sections 437.01953 and 437.01965, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 5 (Section 437.0193, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 437.001, Health and Safety Code, by amending Subdivision (2-b) to redefine "cottage food production operation" and adding Subdivisions (3) and (5-a) to define "cottage food vendor" and "nonprofit organization."

SECTION 2. Redesignates Section 437.0196(a), Health and Safety Code, as Section 437.001(8), Health and Safety Code, and amends it to redefine "time and temperature control for safety food."

SECTION 3. Amends Section 437.0191, Health and Safety Code, by adding Subsection (c) to provide that, notwithstanding any other law, a cottage food production operation that manufactures and distributes at wholesale cottage food for resale by others is exempt from the

Department of State Health Services (DSHS) licensing requirements under Chapter 431 (Texas Food, Drug, and Cosmetic Act).

SECTION 4. Amends Section 437.0192, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a local government authority, including a local health department, from requiring a cottage food production operation to obtain any type of license or permit or pay any fee to produce or sell directly to a consumer or cottage food vendor, or to provide samples directly to a consumer, a food other than a food described by Sections 437.001(2-b)(A)(i)-(vi) (relating to certain food products excluded from the list of products produced by a cottage food production operation). Makes nonsubstantive changes.

(c) Prohibits a local government authority, including a local health department, from employing or continuing to employ a person who knowingly requires or attempts to require a cottage food production operation to obtain a license or permit in violation of Subsection (a)(2) (relating to prohibiting certain entities from requiring a cottage food production operation obtain any type of license or permit or certain other actions).

SECTION 5. Amends Section 437.0193, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsections (b-1) and (e), as follows:

(a) Requires that food, rather than food described by Section 437.001(2-b)(A) (relating to foods produced by a cottage food production operation), sold by a cottage food production operation be packaged in a manner that prevents product contamination, except that a food item is not required to be packaged if it is too large or bulky for conventional packaging.

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules requiring a cottage food production operation to label all of the foods the operation sells to consumers. Requires that the cottage food production operation label include the name and address of the cottage food production operation and the following disclosure:

"THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE THAT IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION."

Deletes existing text requiring that the cottage food production operation label include a statement that the food is not inspected by DSHS or a local health department. Makes conforming and nonsubstantive changes.

(b-1) Provides that, notwithstanding Subsection (b)(1) (relating to requiring that a cottage food production label include the operation's name and address), a cottage food production operation is not required to include on a food label the address of the operation if the operation registers with DSHS in the form and manner DSHS prescribes, and includes on the label a unique identification number provided by DSHS. Authorizes the executive commissioner to adopt rules to implement this subsection.

(e) Requires a cottage food production operation that sells a time and temperature control for safety food to include on the food label the date the food was made and on the food label or on an invoice or receipt provided with the food when sold the following statement in at least 12-point font:

"SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food refrigerated or frozen until the food is prepared for consumption."

SECTION 6. Amends Section 437.0194, Health and Safety Code, as follows:

Sec. 437.0194. CERTAIN SALES BY COTTAGE FOOD PRODUCTION OPERATIONS PROHIBITED OR RESTRICTED. (a) Creates an exception under Subsection (a-1). Makes conforming and nonsubstantive changes.

(a-1) Authorizes a cottage food production operation to sell to a cottage food vendor at wholesale food other than a food described by Sections 437.002(2-b)(A)(i)-(vi) or a time and temperature control for safety food.

(b) Provides that a cottage food production operation is authorized to sell a food other than a food described by Sections 437.002(2-b)(A)(i)-(vi) in this state through the Internet only if:

(1) the consumer purchases the food through the Internet from the operation and the operator or operator's employee or household member personally delivers the food to the consumer; and

(2) subject to Subsection (c), before the operator accepts payment for the food, the operator provides all labeling information required by Section 437.0193(e) and DSHS rules to the consumer by posting a legible statement on the operation's Internet website.

Deletes existing text providing that a cottage food production operation is authorized to sell a food other than a food described by Section 437.001(2-b)(A) in this state through the Internet or by mail order only if certain criteria are met, including, subject to Subsection (c), before the operator accepts payment for the food, the operator provides all labeling information required by Section 437.0193(d) (relating to certain labeling requirements for frozen raw and uncut fruit or vegetables) and DSHS rules to the consumer by posting a legible statement on the operation's Internet website, publishing the information in a catalog, or otherwise communicating the information to the consumer. Makes conforming and nonsubstantive changes.

(c) Requires the operator of a cottage food production operation that sells a food in this state in the manner described by Subsection (b) to provide the address or unique identification number of the operation on the label of the food in the manner required by Section 437.0193(b) or (b-1) after the operator accepts payment for the food. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Chapter 437, Health and Safety Code, by adding Sections 437.01953, 437.01955, and 437.01965, as follows:

Sec. 437.01953. REQUIREMENTS FOR SALE OF CERTAIN FOOD. (a) Requires a cottage food production operation that sells to consumers a time and temperature control for safety food to register with DSHS in the form and manner prescribed by DSHS, store and deliver the food at the air temperature necessary to prevent the growth of bacteria that may cause human illness, and label the food in accordance with Section 437.0193 (Packaging and Labeling Requirements For Cottage Food Production Operations).

(b) Authorizes the executive commissioner to adopt rules to implement this section.

Sec. 437.01955. SAMPLING AND DONATION OF COTTAGE FOOD. (a) Authorizes a cottage food production operation to provide samples of its products to consumers at any location in this state in accordance with the standards provided by Section 437.020(c) (relating to certain sanitary requirements for food samples prepared and distributed at farms and farmers' markets).

(b) Authorizes a cottage food production operation to donate food other than time and temperature control for safety food for sale or service at an event, including a

religious or charitable organization's bake sale, to the same extent an individual is allowed by law to donate food.

Sec. 437.01965. COTTAGE FOOD VENDOR. (a) Authorizes a cottage food vendor to sell food produced by a cottage food production operation in accordance with Section 437.0194(a-1) directly to consumers at a farmers' market, a farm stand, a food service establishment, or any retail store.

(b) Requires a cottage food vendor who sells food described by Subsection (a) to display in a prominent place near the location where the food is offered for sale a sign with the following disclosure:

"THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE THAT IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION."

(c) Requires that food produced by a cottage food production operation and sold by a cottage food vendor include on the label the date the food was made.

(d) Requires a cottage food vendor that purchases food from a cottage food production operation at wholesale to register with DSHS in the form and manner DSHS prescribes. Authorizes the executive commissioner to adopt rules to implement this subsection.

SECTION 8. Repealers: Sections 437.0193(d) (relating to certain labeling requirements for frozen raw and uncut fruit or vegetables) and 437.0196(b) (relating to certain exceptions to a prohibition on a cottage food production operation from selling to consumers time and temperature control for safety foods), Health and Safety Code.

Repealer: Section 437.01952 (Requirements For Sale of Frozen Fruit or Vegetables), Health and Safety Code.

Repealer: the heading to Section 437.0196 (Time and Temperature Control For Safety Food; Prohibition For Cottage Food Production Operations; Exception), Health and Safety Code.

SECTION 9. Effective date: September 1, 2025.