

BILL ANALYSIS

Senate Research Center

S.B. 1008
By: Middleton
Business & Commerce
6/2/2025
Enrolled

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.

(Original Author's/Sponsor's Statement of Intent)

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, in Chapter 102A (Municipal and County Liability for Certain Regulation), a reference to a municipality or county 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. **LIABILITY FOR CERTAIN REGULATION.** 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), (c), and (d), Health and Safety Code, as follows:

(a) Makes a conforming change to this subsection.

(c) Provides that, subject to Section 437.009(b) (relating to prohibiting certain entities from conducting certain inspections), the order is effective throughout the public health district on the 30th day after the first date on which the governing bodies of all members have adopted the order.

(d) Provides that this chapter does not restrict the authority of a municipality that is a member of a public health district to adopt ordinances or administer a permit system concerning food service establishments, retail food stores, mobile food units, and roadside food vendors, to the extent those ordinances or that system does not conflict with a provision of state law.

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 only to 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) 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, 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 DSHS or 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 not later than the 60th day before the date the fee schedule goes into effect.

SECTION 9. Amends Chapter 437, Health and Safety Code, by adding Sections 437.0126, 437.0127, 437.029, and 437.030 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 and except as provided by Subsections (c) and (d), from charging a 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 a fee, including any processing fees or added costs, that exceeds the maximum fee a food service establishment, retail food store, mobile food unit, roadside food vendor, temporary food service establishment, or employee would pay to DSHS if it were located within DSHS's jurisdiction.

(a-1) Prohibits the maximum fee a county, municipality, or public health district is authorized to charge annually, for purposes of Subsection (a), from exceeding the maximum fee that would be charged by DSHS biennially.

(b) Authorizes a county, municipality, or public health district, including an authorized agent, employee, or department, to calculate and assess fees in accordance with Subsection (a) on an annual or biennial basis and using a risk-based assessment.

(c) Authorizes a county, municipality, or public health district, including an authorized agent, employee, or department, to assess a reinspection fee if the reinspection is necessary to cure a violation that presents a direct and significant risk to public health, the reinspection fee does not exceed the lesser of the cost of an initial inspection or \$200, and not more than one reinspection fee is charged within 60 days of the previous inspection, unless the entity on which the fee is imposed failed to make reasonable efforts to correct the violation.

(d) Authorizes a county, municipality, or public health district to charge a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment up to 120 percent of the total fees authorized under Subsection (a) if the county, municipality, or public health district determines that the increased fee is necessary to protect public safety and maintain adequate food safety staffing levels in the county, municipality, or district. Requires a county, municipality, or public health district, before imposing the increased fees under this subsection, to hold at least one annual public meeting or hearing to demonstrate compliance with this subsection. Provides that this subsection applies only to:

(1) a county with a population of 2.5 million or more;

(2) a county with a population of more than 2 million within which are located two municipalities, each of which has a population of at least 350,000;

(3) a municipality with a population of 950,000 or more; or

(4) a public health district that regulates a county or municipality described by Subdivision (1), (2), or (3).

(e) Provides that this section does not prohibit a county, municipality, or public health district, including an authorized agent, employee, or department, from charging a fee that is necessary for the county, municipality, or public health district to comply with an active, legally binding federal consent decree, enforcement order, or administrative agreement mandating food service compliance inspections. Requires a county, municipality, or public health district, before imposing a fee under this subsection, to hold at least one annual public meeting or hearing to demonstrate that the fee is limited to the amount necessary to comply with a decree, order, or agreement.

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, including an authorized agent, employee, or department, 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 if the establishment:

(1) accepts delivery of supplies or other items, provided that if the delivery occurs between 10 p.m. and 5 a.m., then certain requirements are met; or

(2) 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.

Sec. 437.030. TRANSPORTING, DELIVERING, AND SERVING FOOD AT WORKPLACE BY FOOD SERVICE ESTABLISHMENT OR MOBILE FOOD UNIT.

(a) Provides that this section applies only to a permitted food service establishment or permitted mobile food unit transporting and delivering to the premises of a workplace food to be served by an employee of the establishment or unit.

(b) Prohibits a county, a municipality, a public health district, or DSHS, notwithstanding any other law, from requiring a permitted food service establishment or permitted mobile food unit or an employee or contractor of an establishment or unit to obtain an additional permit or certification to transport, deliver, and serve food at the premises of a workplace if certain requirements are met.

(c) Prohibits a county, a municipality, a public health district, or DSHS, notwithstanding any other law, from requiring an owner or operator of a workplace to which food is transported, delivered, or served under Subsection (b) to obtain a permit or certification.

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 pay a fee for or to hold a local food manager card, license, permit, or certification or any other credential or paperwork, rather than charge a fee for issuance of the certificate under this subchapter. Makes a nonsubstantive change.

SECTION 11. Effective date: September 1, 2025.