89R3233 SRA-F

By:  Middleton S.B. No. 1008

A BILL TO BE ENTITLED

AN ACT

relating to state and local authority to regulate the food service industry.

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

SECTION 1.  Chapter 102A, Civil Practice and Remedies Code, is amended by adding Section 102A.0015 to read as follows:

Sec. 102A.0015.  APPLICABILITY. In this chapter, a reference to a municipality or county includes a public health district created by one or more municipalities or counties.

SECTION 2.  Section 102A.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 102A.002.  LIABILITY FOR CERTAIN REGULATION. 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 any of the following provisions or a trade association representing the person has standing to bring and may bring an action against the municipality or county:

(1)  Section 1.004, Agriculture Code;

(2)  Section 1.109, Business & Commerce Code;

(3)  Section 1.004, Finance Code;

(3-a)  Chapter 437, 437A, or 438, Health and Safety Code;

(4)  Section 30.005, Insurance Code;

(5)  Section 1.005, Labor Code;

(6)  Section 229.901, Local Government Code;

(7)  Section 1.003, Natural Resources Code;

(8)  Section 1.004, Occupations Code; or

(9)  Section 1.004, Property Code.

SECTION 3.  Section 437.003, Health and Safety Code, is amended to read as follows:

Sec. 437.003.  COUNTY AUTHORITY TO REQUIRE PERMIT. Subject to Section 437.0045, to [~~To~~] enforce state law and rules adopted under state law, the commissioners court of a county by order may require food service establishments, retail food stores, mobile food units, and roadside food vendors in unincorporated areas of the county, including areas in the extraterritorial jurisdiction of a municipality, to obtain a permit from the county.

SECTION 4.  Section 437.004(a), Health and Safety Code, is amended to read as follows:

(a)  Subject to Section 437.0045, a [~~A~~] public health district that is established by at least one county and one or more municipalities in the county by order may require food service establishments, retail food stores, mobile food units, and roadside food vendors in the district to obtain a permit from the district.

SECTION 5.  Chapter 437, Health and Safety Code, is amended by adding Section 437.0045 to read as follows:

Sec. 437.0045.  LOCAL PERMIT REQUIREMENT LIMITATION. Notwithstanding any other law, a county, municipality, or public health district, including an authorized agent, employee, or department, may 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's jurisdiction.

SECTION 6.  Section 437.0091, Health and Safety Code, is amended to read as follows:

Sec. 437.0091.  LOCAL [~~MUNICIPAL~~] ORDINANCE AND FEE SCHEDULE REGISTRY. The department shall establish and maintain on the department's Internet website a registry for municipal ordinances submitted under Section 437.009(b) and fee schedules submitted under Section 437.0124(b). The department shall [~~and~~] post in the registry each submitted ordinance or fee schedule not later than the 10th day after the date the department receives the ordinance or fee schedule.

SECTION 7.  Section 437.01235, Health and Safety Code, is amended to read as follows:

Sec. 437.01235.  FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE PERMIT OR LICENSE. Notwithstanding any other law, a [~~A~~] county, [~~or a~~] municipality, or public health district, including an authorized agent, employee, or department, [~~with a public health district that charges a fee for issuance or renewal of a permit under Section 437.012 or 437.0123 for a premises located in the county or municipality and permitted or licensed by the Texas Alcoholic Beverage Commission~~] may not [~~also~~] charge a fee under Section 11.38 or 61.36, 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.

SECTION 8.  Section 437.0124, Health and Safety Code, is amended to read as follows:

Sec. 437.0124.  COUNTY, MUNICIPALITY, AND PUBLIC HEALTH DISTRICT FEE SCHEDULE. (a) A county, municipality, or public health district shall establish a fee schedule for any fees collected under this chapter and revise the fee schedule as necessary.

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

SECTION 9.  Chapter 437, Health and Safety Code, is amended by adding Sections 437.0126, 437.0127, and 437.029 to read as follows:

Sec. 437.0126.  LOCAL FEE LIMITATION. Notwithstanding any other law, a county, municipality, or public health district, including an authorized agent, employee, or department, may not charge 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 the department if it were located within the department's jurisdiction.

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

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

Sec. 437.029.  SOUND REGULATIONS. (a) Notwithstanding any other law, the department, a county, a municipality, or a public health district may not require 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, 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:

(A)  the amplified sound is not used after 10 p.m. on Sunday through Thursday and 11 p.m. on Friday and Saturday; and

(B)  the amplified sound level does not exceed 70 dBA or 75 dBC when measured at the establishment's property perimeter, excluding traffic and other background noise that can be reasonably excluded.

(b)  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)  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.  Section 438.1055, Health and Safety Code, is amended to read as follows:

Sec. 438.1055.  PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER CARD OR LOCAL FEE. Notwithstanding any other law, a [~~A~~] local health jurisdiction may not require a food manager who holds a food manager certificate issued under this subchapter 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.

SECTION 11.  Section 437.004(d), Health and Safety Code, is repealed.

SECTION 12.  This Act takes effect September 1, 2025.