

By: Hull, et al.

H.B. No. 2588

Substitute the following for H.B. No. 2588:

By: VanDeaver

C.S.H.B. No. 2588

A BILL TO BE ENTITLED

AN ACT

relating to cottage food production operations.

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

SECTION 1. Section 437.001, Health and Safety Code, is amended by amending Subdivision (2-b) and adding Subdivisions (3) and (5-a) to read as follows:

(2-b) "Cottage food production operation" means an individual, operating out of the individual's home, or a nonprofit organization that ~~[who]~~:

(A) produces at the individual's home or the home of an individual who is a director or officer of the nonprofit organization, as applicable, any food other than ~~[subject to Section 437.0196]~~:

(i) meat, meat products, poultry, or poultry products;

(ii) seafood, including seafood products, fish, fish products, shellfish, and shellfish products;

(iii) ice or ice products, including shaved ice, ice cream, frozen custard, popsicles, and gelato;

(iv) low-acid canned goods;

(v) products containing cannabidiol or tetrahydrocannabinol; or

(vi) raw milk and raw milk products ~~[a baked good that is not a time and temperature control for safety food, as~~

~~defined by Section 437.0196,~~

- ~~[(ii) candy,~~
- ~~[(iii) coated and uncoated nuts,~~
- ~~[(iv) unroasted nut butters,~~
- ~~[(v) fruit butters,~~
- ~~[(vi) a canned jam or jelly,~~
- ~~[(vii) a fruit pie,~~
- ~~[(viii) dehydrated fruit or vegetables,~~

~~including dried beans,~~

- ~~[(ix) popcorn and popcorn snacks,~~
- ~~[(x) cereal, including granola,~~
- ~~[(xi) dry mix,~~
- ~~[(xii) vinegar,~~
- ~~[(xiii) pickled fruit or vegetables,~~

~~including beets and carrots, that are preserved in vinegar, brine,~~

~~or a similar solution at an equilibrium pH value of 4.6 or less,~~

- ~~[(xiv) mustard,~~
- ~~[(xv) roasted coffee or dry tea,~~
- ~~[(xvi) a dried herb or dried herb mix,~~
- ~~[(xvii) plant-based acidified canned~~

~~goods,~~

- ~~[(xviii) fermented vegetable products,~~

~~including products that are refrigerated to preserve quality,~~

- ~~[(xix) frozen raw and uncut fruit or~~

~~vegetables, or~~

- ~~[(xx) any other food that is not a time and~~

~~temperature control for safety food, as defined by Section~~

1 ~~437.0196~~];

2 (B) has an annual gross income of \$100,000
3 ~~[\$50,000]~~ or less from the sale of food described by Paragraph (A),
4 as the department annually adjusts for inflation using the Consumer
5 Price Index for All Urban Consumers (CPI-U) published by the United
6 States Bureau of Labor Statistics or its successor in function;

7 (C) sells the foods produced under Paragraph (A)
8 ~~[only]~~ directly to consumers or to a cottage food vendor; and

9 (D) delivers products to the consumer or cottage
10 food vendor at the point of sale or another location designated by
11 the consumer or cottage food vendor.

12 (3) "Cottage food vendor" means a person located in
13 this state who:

14 (A) has a contractual relationship with a cottage
15 food production operation; and

16 (B) sells directly to consumers located in this
17 state on behalf of the cottage food production operation a food
18 other than a time and temperature control for safety food.

19 (5-a) "Nonprofit organization" means an organization
20 exempt from federal income tax under Section 501(a), Internal
21 Revenue Code of 1986, as an organization described by Section
22 501(c)(3) of that code.

23 SECTION 2. Section ~~437.0196~~(a), Health and Safety Code, is
24 redesignated as Section ~~437.001~~(8), Health and Safety Code, and
25 amended to read as follows:

26 (8) "Time ~~[(a) In this section, "time]~~ and
27 temperature control for safety food" means a food that requires

1 time and temperature control for safety to limit pathogen growth or
2 toxin production. The term includes a food that must be held under
3 proper temperature controls, such as refrigeration, to prevent the
4 growth of bacteria that may cause human illness. The term:

5 (A) [~~A time and temperature control for safety~~
6 ~~food~~] may include a food that contains protein and moisture and is
7 neutral or slightly acidic, such as meat, poultry, fish, and
8 shellfish products, pasteurized and unpasteurized milk and dairy
9 products, raw seed sprouts, baked goods that require refrigeration,
10 including cream or custard pies or cakes, and ice products; and

11 (B) [~~The term~~] does not include a food that
12 uses time and temperature control for safety food as ingredients if
13 the final food product does not require time or temperature control
14 for safety to limit pathogen growth or toxin production.

15 SECTION 3. Section [437.0191](#), Health and Safety Code, is
16 amended by adding Subsection (c) to read as follows:

17 (c) Notwithstanding any other law, a cottage food
18 production operation that manufactures and distributes at
19 wholesale cottage food for resale by others is exempt from
20 department licensing requirements under Chapter [431](#).

21 SECTION 4. Section [437.0192](#), Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsection (c) to
23 read as follows:

24 (a) A local government authority, including a local health
25 department, may not:

26 (1) regulate the production of food at a cottage food
27 production operation; or

1 (2) require a cottage food production operation to
2 obtain any type of license or permit or pay any fee to produce,
3 sell, or provide samples directly to a consumer or cottage food
4 vendor of a food other than a food described by Sections
5 437.001(2-b)(A)(i)-(vi).

6 (c) A local government authority, including a local health
7 department, may not employ or continue to employ a person who
8 knowingly requires or attempts to require a cottage food production
9 operation to obtain a license or permit in violation of Subsection
10 (a)(2).

11 SECTION 5. Section 437.0193, Health and Safety Code, is
12 amended by amending Subsections (a) and (b) and adding Subsections
13 (b-1) and (e) to read as follows:

14 (a) Food [~~described by Section 437.001(2-b)(A)~~] sold by a
15 cottage food production operation must be packaged in a manner that
16 prevents product contamination, except that a food item is not
17 required to be packaged if it is too large or bulky for conventional
18 packaging.

19 (b) The executive commissioner shall adopt rules requiring
20 a cottage food production operation to label all of the foods
21 [~~described in Section 437.001(2-b)(A) that~~] the operation sells to
22 consumers. The label must include:

23 (1) the name and address of the cottage food
24 production operation; and

25 (2) the following disclosure:

26 "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE THAT IS NOT
27 SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION." [~~a statement that~~

1 ~~the food is not inspected by the department or a local health~~
2 ~~department.]~~

3 (b-1) Notwithstanding Subsection (b)(1), a cottage food
4 production operation is not required to include on a food label the
5 address of the operation if the operation registers with the
6 department in the form and manner the department prescribes, and
7 includes on the label a unique identification number provided by
8 the department. The executive commissioner may adopt rules to
9 implement this subsection.

10 (e) A cottage food production operation that sells a time
11 and temperature control for safety food must include:

12 (1) on the food label the date the food was made; and

13 (2) on the food label or on an invoice or receipt
14 provided with the food when sold the following statement in at least
15 12-point font: "SAFE HANDLING INSTRUCTIONS: To prevent illness from
16 bacteria, keep this food refrigerated or frozen until the food is
17 prepared for consumption."

18 SECTION 6. Section [437.0194](#), Health and Safety Code, is
19 amended to read as follows:

20 Sec. 437.0194. CERTAIN SALES BY COTTAGE FOOD PRODUCTION
21 OPERATIONS PROHIBITED OR RESTRICTED. (a) Except as provided by
22 Subsection (a-1), a [A] cottage food production operation may not
23 sell food [any of the foods described in Section [437.001\(2-b\)\(A\)](#)]
24 at wholesale.

25 (a-1) A cottage food production operation may sell to a
26 cottage food vendor at wholesale food other than a food described by
27 Sections [437.002\(2-b\)\(A\)\(i\)-\(vi\)](#) or a time and temperature control

1 for safety food.

2 (b) A cottage food production operation may sell a food
3 other than a food described by Sections 437.002(2-b)(A)(i)-(vi)
4 [~~Section 437.001(2-b)(A)~~] in this state through the Internet [~~or by~~
5 ~~mail order~~] only if:

6 (1) the consumer purchases the food through the
7 Internet [~~or by mail order~~] from the operation and the operator or
8 operator's employee or household member personally delivers the
9 food to the consumer; and

10 (2) subject to Subsection (c), before the operator
11 accepts payment for the food, the operator provides all labeling
12 information required by Section 437.0193(e) [~~437.0193(d)~~] and
13 department rules to the consumer by[+]

14 [~~(A)~~] posting a legible statement on the
15 operation's Internet website[+]

16 [~~(B) publishing the information in a catalog, or~~

17 [~~(C) otherwise communicating the information to~~
18 ~~the consumer~~].

19 (c) The operator of a cottage food production operation that
20 sells a food [~~described by Section 437.001(2-b)(A)~~] in this state
21 in the manner described by Subsection (b):

22 (1) is not required to include the address of the
23 operation in the labeling information required under Subsection
24 (b)(2) before the operator accepts payment for the food; and

25 (2) shall provide the address or unique identification
26 number of the operation on the label of the food in the manner
27 required by Section 437.0193(b) or (b-1) after the operator accepts

1 payment for the food.

2 SECTION 7. Chapter [437](#), Health and Safety Code, is amended
3 by adding Sections 437.01953, 437.01955, and 437.01965 to read as
4 follows:

5 Sec. 437.01953. REQUIREMENTS FOR SALE OF CERTAIN FOOD. (a)
6 A cottage food production operation that sells to consumers a time
7 and temperature control for safety food shall:

8 (1) register with the department in the form and
9 manner prescribed by the department;

10 (2) store and deliver the food at the air temperature
11 necessary to prevent the growth of bacteria that may cause human
12 illness; and

13 (3) label the food in accordance with Section
14 [437.0193](#).

15 (b) The executive commissioner may adopt rules to implement
16 this section.

17 Sec. 437.01955. SAMPLING AND DONATION OF COTTAGE FOOD. (a)
18 A cottage food production operation may provide samples of its
19 products to consumers at any location in this state in accordance
20 with the standards provided by Section [437.020\(c\)](#).

21 (b) A cottage food production operation may donate food
22 other than time and temperature control for safety food for sale or
23 service at an event, including a religious or charitable
24 organization's bake sale, to the same extent an individual is
25 allowed by law to donate food.

26 Sec. 437.01965. COTTAGE FOOD VENDOR. (a) A cottage food
27 vendor may sell food other than food described by Sections

437.001(2-b)(A)(i)-(vi) or time and temperature control for safety food directly to consumers at a farmers' market, farm stand, food service establishment, or any retail store.

(b) A cottage food vendor who sells food described by Subsection (a) must 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) Food produced by a cottage food production operation and sold by a cottage food vendor must include on the label the date the food was made.

(d) A cottage food vendor that purchases food from a cottage food production operation at wholesale shall register with the department in the form and manner the department prescribes. The executive commissioner may adopt rules to implement this subsection.

SECTION 8. The following provisions of the Health and Safety Code are repealed:

- (1) Section 437.0193(d);
- (2) Section 437.01952;
- (3) the heading to Section 437.0196; and
- (4) Section 437.0196(b).

SECTION 9. This Act takes effect September 1, 2025.