

By: Landgraf, Raymond

H.B. No. 2844

Substitute the following for H.B. No. 2844:

By: King

C.S.H.B. No. 2844

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of mobile food vendors; requiring an occupational license; imposing fees; authorizing an administrative penalty.

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

SECTION 1. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 437B to read as follows:

CHAPTER 437B. MOBILE FOOD VENDORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 437B.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person who applies to the department to receive a license to operate as a mobile food vendor.

(2) "Food vending vehicle" means any motorized vehicle a mobile food vendor uses to sell food and beverages.

(3) "License holder" means a person who holds a mobile food vendor license issued under this chapter.

(4) "Local authority" means a municipality, county, public health authority, special purpose district or authority, or any other political subdivision of this state.

(5) "Mobile food vendor" means any person who dispenses food or beverages from a food vending vehicle for immediate service or consumption.

(6) "Prepackaged food" means any commercially labeled and processed food that is prepackaged to prevent direct human

contact with the food product on distribution from the manufacturer, food facility, or other approved source.

Sec. 437B.002. CONSTRUCTION OF CHAPTER. This chapter may not be construed to require a local authority to enter into a collaborative agreement with the department to conduct health inspections, adopt a program regulating mobile food vendors, or modify a local authority's existing mobile food vendor regulation program, provided the local authority's regulations do not conflict with this chapter.

Sec. 437B.003. LOCAL PREEMPTION. This chapter preempts a local authority's power to prohibit or regulate mobile food vendors in a manner that conflicts with this chapter.

Sec. 437B.004. RULES. The executive commissioner may adopt rules to implement this chapter. The rules must be narrowly tailored to address a demonstrable health or safety risk and may not:

(1) limit the number of mobile food vendor licenses the department may issue;

(2) address the hours of operation for mobile food vendors;

(3) restrict a mobile food vendor's propane capacity below the capacity state law allows for commercial vehicles; or

(4) require a mobile food vendor to:

(A) operate outside a specific perimeter of a commercial establishment or restaurant;

(B) obtain a license or permit for or perform a background or criminal history record check on the vendor's

employees;

(C) enter into any agreement with a commercial establishment or restaurant;

(D) have an operational handwashing sink in the vehicle of a vendor who sells only prepackaged food;

(E) associate with a commissary if the vehicle carries the equipment necessary to comply with state law;

(F) provide the vendor's fingerprints as a condition of holding a mobile food vendor license;

(G) install a global positioning system tracking device on the vehicle;

(H) keep the vehicle in constant motion except when serving customers;

(I) submit to an additional fire inspection a vehicle the vendor demonstrates has passed a state or local fire inspection within the preceding 12 months; or

(J) submit to health inspections other than an inspection the department, or a local authority under a collaborative agreement, conducts unless the department is investigating a reported foodborne illness.

SUBCHAPTER B. LICENSE

Sec. 437B.051. LICENSE REQUIRED. (a) A person may not operate as a mobile food vendor in this state unless the person holds a mobile food vendor's license issued by the department. A separate license is required for each food vending vehicle a mobile food vendor operates.

(b) A local authority may not prohibit the operation in its

jurisdiction of a mobile food vendor who holds a mobile food vendor license and complies with all other state and local laws not in conflict with this chapter.

Sec. 437B.052. FORM OF APPLICATION. The department shall prescribe a written application for a mobile food vendor license. The department shall make the application available to applicants in person and on the department's Internet website.

Sec. 437B.053. APPLICATION REQUIREMENTS. (a) An applicant for a mobile food vendor license must submit an application to the department on the form the department prescribes. The application must contain:

(1) the applicant's name, address, and telephone number;

(2) the name, address, and telephone number of any associated entity or organization the applicant is representing and copies of documents verifying that relationship;

(3) the applicant's primary residences and business addresses during the 12 months preceding the date of the application;

(4) the food or beverages the applicant proposes to sell to enable the department to establish the applicant's food type classification;

(5) a statement of whether the applicant has previously been denied a mobile food vendor license or had a mobile food vendor license suspended or revoked in another state or local jurisdiction and the reasons for any denial, suspension, or revocation; and

1 (6) for each food vending vehicle the applicant is
2 applying for a license to operate:

3 (A) the vehicle license number, description,
4 identification number, and registration;

5 (B) proof of vehicle insurance; and

6 (C) a copy or proof of any additional commercial
7 vehicle licenses or permits required by this state.

8 (b) An applicant must attest to the information submitted
9 under Subsection (a).

10 (c) The department may require an applicant to submit
11 additional information.

12 (d) An applicant may submit one application for all food
13 vending vehicles to be licensed under this subchapter.

14 (e) An applicant's failure to submit a complete application
15 may result in denial of a license.

16 (f) A person may not intentionally provide false
17 information or intentionally omit requested information on an
18 application.

19 Sec. 437B.054. HEALTH INSPECTION. (a) Not later than the
20 14th day after the date the department receives a complete mobile
21 food vendor license application, the department or a governmental
22 entity acting under a collaborative agreement as provided by
23 Subchapter D shall conduct a health inspection of each of the
24 applicant's food vending vehicles listed on the application. The
25 department may not issue a license to an applicant whose vehicle
26 does not pass a health inspection.

27 (b) The department shall ensure that:

1 (1) an applicant's food vending vehicle is safe for
2 preparing, handling, and selling food; and

3 (2) an applicant is in compliance with all applicable
4 laws and the rules adopted under those laws.

5 Sec. 437B.055. ISSUANCE OF LICENSE. (a) The department
6 shall issue a mobile food vendor license to an applicant who submits
7 a complete application, pays any required fee, and meets the
8 department's licensing requirements and whose food vending vehicle
9 passes a health inspection.

10 (b) A license issued under this section expires on the first
11 anniversary of the date of issuance.

12 Sec. 437B.056. LICENSE RENEWAL. (a) Before expiration of a
13 license, the department shall send notice of the expiration to the
14 mobile food vendor. The vendor shall submit a renewal application
15 before the date the license expires.

16 (b) A mobile food vendor may continue to operate while the
17 vendor's application for renewal is pending with the department.

18 Sec. 437B.057. LICENSE NOT TRANSFERABLE; SUBSTITUTION OF
19 VEHICLE. (a) A mobile food vendor license issued under this
20 subchapter is not transferable and does not authorize the
21 activities of any person other than the person who holds the
22 license.

23 (b) The sale of one food vending vehicle identified in a
24 mobile food vendor license application, when replaced by another
25 food vending vehicle, does not invalidate the license or require
26 issuance of a new license.

27 (c) A license holder who replaces a food vending vehicle

1 with another vehicle must provide to the department for the
2 replacement vehicle the information required by Section 437B.053
3 and have the replacement vehicle inspected as required by Section
4 437B.054. The health inspection shall be conducted as soon as
5 practicable but not later than the 14th calendar day after the date
6 the department receives the information required under this
7 section.

8 (d) The recipient of transferred mobile food vendor
9 business assets must apply for and obtain a new mobile food vendor
10 license before operating as a mobile food vendor.

11 Sec. 437B.058. FEES. (a) The department may charge a fee
12 for each mobile food vendor license application submitted and each
13 license issued or renewed under this chapter. The department may
14 establish a schedule of fees based on the license classifications
15 described by Section 437B.151. The department shall set the fees in
16 amounts reasonable in relation to the costs of administering this
17 chapter but not more than \$150.

18 (b) The department may charge a fee for a health inspection
19 of an applicant's food vending vehicle required under Section
20 437B.054. The department shall set the fee in an amount that covers
21 the cost of conducting a health inspection under that section.

22 (c) At the time the department issues or renews a mobile
23 food vendor license, the department shall charge a fee for a health
24 inspection required under Subchapter D. The department shall set
25 the fee in an amount based on the average cost of conducting a
26 health inspection multiplied by the number of annual health
27 inspections required during the next year for the mobile food

vendor classification type as described by Section 437B.151.

Sec. 437B.059. MOBILE FOOD VENDOR GUIDE. (a) The department shall develop a guide on the mobile food vendor licensing procedures. The guide must include:

(1) instructions for obtaining, maintaining, and renewing a mobile food vendor license; and

(2) a description of the department's standards for inspecting a food vending vehicle.

(b) The department shall make the guide available at the department's office and on the department's Internet website.

Sec. 437B.060. DEPARTMENT DATABASE. (a) The department shall establish and maintain a statewide database for use by the department and local authorities that includes the:

(1) names of mobile food vendors licensed under this chapter;

(2) results of health inspections of mobile food vendors' food vending vehicles, including inspection reports;

(3) public complaints made against mobile food vendors; and

(4) itineraries of mobile food vendors submitted under Subsection (b).

(b) A mobile food vendor may periodically submit to the department an itinerary of the locations of the mobile food vendor's food vending vehicles.

SUBCHAPTER C. MOBILE FOOD VENDOR OPERATIONS

Sec. 437B.101. COMPLIANCE WITH STATE AND LOCAL LAW. A mobile food vendor shall comply with all state and local laws in the

jurisdiction in which the mobile food vendor operates, including all fire codes and zoning codes.

Sec. 437B.102. FOOD VENDING VEHICLE DRIVER REQUIREMENTS. A person who drives a food vending vehicle must hold a current commercial driver's license issued under Chapter 522, Transportation Code.

Sec. 437B.103. OPERATIONAL STANDARDS. A mobile food vendor shall:

(1) submit to and pass any required health inspection conducted under Subchapter D; and

(2) display the mobile food vendor license and health inspection certificate in a conspicuous location for public view.

Sec. 437B.104. FOOD SAFETY. (a) A mobile food vendor shall comply with all laws and rules regarding food safety.

(b) At least one person working in a food vending vehicle must hold a current food safety certification from a food service program accredited as provided by Subchapter D, Chapter 438.

SUBCHAPTER D. HEALTH INSPECTIONS

Sec. 437B.151. MOBILE FOOD VENDOR CLASSIFICATIONS. (a) The executive commissioner by rule shall establish classifications of mobile food vendors for purposes of conducting health inspections as follows:

(1) mobile food type I vendor for a vendor who dispenses prepackaged foods, does not dispense time or temperature control for safety beverages, or poses a low risk of harm to the public;

(2) mobile food type II vendor for a vendor who

1 dispenses food that requires limited handling and preparation; and
2 (3) mobile food type III vendor for a vendor who
3 prepares, cooks, holds, and serves food from a food vending
4 vehicle.

5 (b) The rules adopted under Subsection (a) shall specify the
6 categories of foods or beverages that mobile food vendors in each
7 classification may serve.

8 Sec. 437B.152. CHANGING CLASSIFICATIONS. A mobile food
9 vendor who seeks to serve food or beverages that may require the
10 vendor's reclassification shall notify the department of the nature
11 of the food or beverages to be sold. The department, or a local
12 authority in a collaborative agreement with the department under
13 Section 437B.153, may conduct a health inspection and reclassify
14 the vendor in accordance with the rules adopted under Section
15 437B.151.

16 Sec. 437B.153. INSPECTIONS; COLLABORATIVE AGREEMENT WITH
17 LOCAL AUTHORITY. (a) To protect public health and safety, the
18 department shall ensure ongoing, randomized inspections are
19 conducted on each mobile food vendor based on the mobile food
20 vendor's classification and health inspection grade.

21 (b) On request by a local authority, the department may
22 enter into a collaborative agreement with the local authority for
23 conducting health inspections. The department shall reimburse the
24 local authority acting under a collaborative agreement for the cost
25 of conducting a health inspection using money collected for health
26 inspection fees under Section 437B.058(c).

27 Sec. 437B.154. INSPECTION CRITERIA AND GRADING. (a) The

1 executive commissioner by rule shall establish statewide objective
2 criteria and a score-based grading system for the conduct of health
3 inspections of mobile food vendors by the department or a local
4 authority acting under a collaborative agreement.

5 (b) The health inspection criteria established under
6 Subsection (a) shall provide a letter grade to a mobile food vendor.
7 The grade of "A," "B," "C," or "F" must be based on the score
8 received during a health inspection.

9 (c) The department shall provide a certificate of
10 excellence to a mobile food vendor who receives two consecutive
11 grades of "A." The department shall suspend the license of a mobile
12 food vendor who receives a grade of "F" until the vendor:

13 (1) corrects all violations discovered during the
14 health inspection; and

15 (2) is reinspected by the department or local
16 authority and receives a grade of "A," "B," or "C" for the
17 reinspection.

18 Sec. 437B.155. INSPECTION CERTIFICATE. (a) On completion
19 of a health inspection of a mobile food vendor, the department, or
20 local authority operating under a collaborative agreement, shall
21 issue a certificate to the vendor displaying the vendor's letter
22 grade and any applicable achievement of excellence and record the
23 grade in the department's database.

24 (b) A mobile food vendor shall display the certificate
25 received under Subsection (a) in a conspicuous location within view
26 of customers on the vendor's food vending vehicle.

27 Sec. 437B.156. FREQUENCY OF INSPECTIONS. The department,

or local authority operating under a collaborative agreement, shall
conduct randomized health inspections of mobile food vendors based
on the vendor's classification as follows:

(1) a mobile food type I vendor may be inspected only
when the department or a local authority receives a public health or
safety complaint regarding the vendor unless a health inspection
reveals a violation, then the vendor is subject to health
inspections at the frequency set for a mobile food type II vendor
until the vendor obtains a certificate of excellence;

(2) a mobile food type II vendor shall be inspected
once each calendar year unless:

(A) on a health inspection the vendor receives a
certificate of excellence, then the vendor shall subsequently be
inspected at the frequency set for a mobile food type I vendor; and

(B) the vendor holds a certificate of excellence
and receives a score lower than an "A" on a health inspection, then
the certificate of excellence is voided and the vendor shall
subsequently be inspected once each calendar year; and

(3) a mobile food type III vendor shall be inspected
twice each calendar year unless:

(A) on a health inspection the vendor receives a
certificate of excellence, then the vendor shall be inspected at
the frequency set for mobile food type II vendors; and

(B) the vendor holds a certificate of excellence
and receives a score lower than an "A" on a health inspection, then
the certificate of excellence is voided and the vendor shall
subsequently be inspected three times each calendar year.

1 Sec. 437B.157. NOTICE OF LOCATION FOR INSPECTIONS. A
2 mobile food vendor shall make available to the department a list of
3 all locations at which the vendor operates. A vendor may provide
4 the list of locations through the vendor's social media or on the
5 vendor's Internet website. If the vendor does not provide the list
6 of operating locations on social media or the vendor's Internet
7 website, the vendor shall submit to the department in the form and
8 manner the department prescribes a list of the locations at which
9 the vendor operates.

10 Sec. 437B.158. REIMBURSEMENT OF INSPECTION FEE. On request
11 of a mobile food vendor, the department shall reimburse the vendor
12 the portion of the fee charged for each health inspection required
13 under this subchapter that was not conducted by the department or
14 local authority under a collaborative agreement during the time the
15 vendor's license was valid. The department shall reimburse the
16 vendor not later than the 30th day after the date the department
17 receives the vendor's request.

18 SUBCHAPTER E. INVESTIGATION; ENFORCEMENT

19 Sec. 437B.201. INVESTIGATION. (a) The department or a
20 local authority may investigate a mobile food vendor on reasonable
21 suspicion the vendor is violating the law or on receipt of a health
22 or safety complaint. The department must record a complaint in the
23 state's mobile food vendor database. The local authority shall
24 report suspected violations of state law to the department and may
25 recommend the department suspend or revoke a mobile food vendor
26 license.

27 (b) The mobile food vendor shall cooperate with the

department or local authority during an investigation. Failure to cooperate with the department or local authority may result in suspension or revocation of a license.

(c) This chapter may not be construed to impede the department or local authority when conducting an investigation of a reported foodborne illness.

Sec. 437B.202. LICENSE DENIAL, SUSPENSION, OR REVOCATION. The department may deny, suspend, or revoke a mobile food vendor license only if:

(1) the applicant or license holder:

(A) violates this chapter, a rule adopted under this chapter, or a department order;

(B) obtains a license by means of fraud, misrepresentation, or concealment of a material fact;

(C) commits fraud or makes a misrepresentation or false statement in connection with the sale of food or beverages while operating as a mobile food vendor;

(D) is cited three or more times during a 12-month period for a violation of this chapter or rules adopted under this chapter; or

(E) receives a grade of "F" during a health inspection or a complaint made against the license holder is sustained; or

(2) the department determines that material facts or conditions related to the applicant or application provide reasonable justification for the denial, suspension, or revocation of the license.

1 Sec. 437B.203. NOTICE AND HEARING. (a) The department
2 shall provide written notice to an applicant or license holder that
3 the applicant's mobile food vendor application has been denied or
4 that the license may be suspended or revoked. Not later than 14
5 calendar days after the date an applicant or license holder
6 receives notice from the department of a denial, suspension, or
7 revocation of a license, the applicant or license holder may
8 request a hearing in the form and manner the department prescribes.

9 (b) The department shall hold a hearing not later than 14
10 calendar days after the date the department receives a request for a
11 hearing from a license holder under Subsection (a). Following a
12 hearing under this section, the department shall promptly issue an
13 order that includes findings of fact and conclusions of law.

14 (c) The department may not suspend or revoke a license until
15 the department issues an order under Subsection (b) unless the
16 department determines that the license holder's mobile food vendor
17 operations pose an imminent threat to the public's health and
18 safety.

19 (d) The department shall immediately provide notice to a
20 license holder of a suspension or revocation of a license based on
21 an imminent threat to the public's health and safety. Not later
22 than 14 calendar days after the date a license holder receives
23 notice from the department of a license suspension or revocation
24 under Subsection (c), the license holder may request a hearing in
25 the form and manner the department prescribes.

26 (e) The department shall hold a hearing not later than seven
27 calendar days after the date the department receives a license

holder's request for hearing under Subsection (d). The department shall give priority to a hearing under this subsection over all other license denial, suspension, or revocation proceedings. Following a hearing, the department shall promptly issue an order that includes findings of fact and conclusions of law.

Sec. 437B.204. RIGHT TO APPEAL. Except as otherwise provided by this section, the department's suspension or revocation of a mobile food vendor license and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

Sec. 437B.205. ADMINISTRATIVE PENALTY. A license holder who continues to operate after the department suspends or revokes the license holder's mobile food vendor license is subject to an administrative penalty in an amount the department determines.

SECTION 2. Section 437.0055(a), Health and Safety Code, is amended to read as follows:

(a) A person may not operate a food service establishment, retail food store, ~~[mobile food unit]~~, or temporary food service establishment located in an area in which a county or public health district does not require a permit or conduct inspections under this chapter unless the person has a permit issued by the department.

SECTION 3. Section 437A.003, Health and Safety Code, is repealed.

SECTION 4. (a) Chapter 437B, Health and Safety Code, as added by this Act, applies to an ordinance, rule, regulation, policy, or procedure adopted before, on, or after the effective

1 date of this Act.

2 (b) Not later than May 1, 2026, the executive commissioner
3 of the Health and Human Services Commission shall adopt the rules
4 required by Chapter 437B, Health and Safety Code, as added by this
5 Act.

6 (c) A mobile food vendor is not required to hold a license
7 under Chapter 437B, Health and Safety Code, as added by this Act,
8 before July 1, 2026.

9 SECTION 5. (a) Except as provided by Subsection (b) of this
10 section, this Act takes effect July 1, 2026.

11 (b) Section 437B.004, Health and Safety Code, as added by
12 this Act, takes effect September 1, 2025.