

By: Landgraf

H.B. No. 2844

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of mobile food vendors; requiring an  
3 occupational license; imposing fees; authorizing an administrative  
4 penalty.

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

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

8 CHAPTER 437B. MOBILE FOOD VENDORS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 437B.001. This chapter may be cited as the Mobile Food  
11 Vendor Regulatory Consistency Act.

12 Sec. 437B.002. PURPOSES. The purposes of this chapter are  
13 to:

14 (1) foster opportunities for small businesses and  
15 stimulate innovation;

16 (2) increase consumer access to desired local foods;  
17 and

18 (3) simplify and standardize mobile food vending  
19 regulations.

20 Sec. 437B.003. DEFINITIONS. In this chapter:

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

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

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

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

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

9           (6) "Prepackaged food" means any commercially labeled  
10 and processed food that is prepackaged to prevent direct human  
11 contact with the food product on distribution from the  
12 manufacturer, food facility, or other approved source.

13           (7) "Public property" means real property owned by a  
14 governmental entity and includes all rights-of-way other than  
15 public sidewalks and rights-of-way in public parks.

16           Sec. 437B.004. CONSTRUCTION. This chapter may not be  
17 construed to require a local authority to enter into a  
18 collaborative agreement with the department to conduct health  
19 inspections, adopt a program regulating mobile food vendors, or  
20 modify a local authority's existing program regulating mobile food  
21 vendors, provided the local authority's regulations do not conflict  
22 with this chapter.

23           Sec. 437B.005. PREEMPTION. This chapter preempts a local  
24 authority's power to prohibit or regulate mobile food vending in a  
25 manner that conflicts with this chapter.

26           Sec. 437B.006. RULES. The executive commissioner may adopt  
27 rules to implement this chapter. The rules must be narrowly

1 tailored to address a demonstrable health or safety risk and may  
2 not:

3 (1) limit the number of mobile food vending licenses  
4 the department may issue;

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

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

9 (4) require a mobile food vendor to:

10 (A) operate a specific distance from the  
11 perimeter of a commercial establishment or restaurant;

12 (B) obtain a license or permit for or perform a  
13 background or criminal history record check on the mobile food  
14 vendor's employees;

15 (C) enter into any agreement with a commercial  
16 establishment or restaurant in order to operate;

17 (D) have a handwashing sink in the vehicle of a  
18 mobile food vendor who sells only prepackaged food;

19 (E) associate with a commissary if the mobile  
20 food vendor's food vending vehicle carries the equipment necessary  
21 to comply with state law;

22 (F) obtain any additional permits from a local  
23 authority, unless the mobile food vendor seeks to operate in a  
24 public park governed by the local authority;

25 (G) provide the vendor's fingerprints as a  
26 condition of holding a mobile food vending license;

27 (H) install a global positioning system tracking

1 device on the mobile food vendor's food vending vehicle;

2 (I) keep the mobile food vendor's food vending  
3 vehicle in constant motion except when serving customers;

4 (J) maintain insurance that names a local  
5 authority as an additional insured unless the mobile food vendor is  
6 attending an event sponsored by the local authority or operating in  
7 a local public park;

8 (K) obtain a bond that names a local authority as  
9 a beneficiary unless the mobile food vendor is attending an event  
10 sponsored by the local authority or operating in a local public  
11 park;

12 (L) submit the vendor's food vending vehicle to  
13 an additional fire inspection if the vendor demonstrates that the  
14 vehicle passed a state or local fire inspection within the  
15 preceding 12 months; or

16 (M) submit to health inspections other than an  
17 inspection conducted by the department or a local authority under a  
18 collaborative agreement unless the department is investigating a  
19 reported foodborne illness.

20 SUBCHAPTER B. LICENSE

21 Sec. 437B.051. LICENSE REQUIRED. (a) A person may not  
22 operate as a mobile food vendor in this state without obtaining a  
23 mobile food vending license from the department. A separate mobile  
24 food vending license is required for each food vending vehicle  
25 operated by a mobile food vendor.

26 (b) A local authority may not prohibit from operating in its  
27 jurisdiction a mobile food vendor that holds a mobile food vending

1 license and complies with all other state and local laws not in  
2 conflict with this chapter.

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

8 Sec. 437B.053. APPLICATION REQUIREMENTS. (a) An applicant  
9 for a license under this subchapter must submit an application to  
10 the department on the form prescribed by the department. The  
11 application must contain:

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

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

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

20 (4) the nature of the food or beverages the applicant  
21 will sell for the purpose of the department establishing the  
22 applicant's food type classification;

23 (5) a statement of whether the applicant has  
24 previously been denied a mobile food vending license or has had a  
25 mobile food vending license suspended or revoked in another state  
26 or local jurisdiction and the reasons for any denial, suspension,  
27 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 licenses or  
7 permits required by this state for commercial vehicles.

8           (b) An applicant must attest under oath the information  
9 submitted 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 that require a license 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 for a license.

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

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

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 mobile food vendor shall submit a renewal  
15 application before the date the license expires.

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

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

23          (b) The sale of one food vending vehicle identified in a  
24 license application, when replaced by another food vending vehicle,  
25 does not invalidate the original license or require a new license.  
26 A license holder who replaces a food vending vehicle with another  
27 vehicle must provide to the department for the food vending vehicle

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

6 (c) The recipient of transferred mobile food vending  
7 business assets must apply for and obtain a new mobile food vending  
8 license before operating as a mobile food vendor.

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

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

20 (c) At the time the department issues or renews a mobile  
21 food vending license, the department shall charge a fee for a health  
22 inspection required under Subchapter D. The department shall set  
23 the fee in an amount that is based on the average cost of conducting  
24 a health inspection multiplied by the number of annual health  
25 inspections required during the next year for the mobile food  
26 vendor classification type as described by Section 437B.151.

27 Sec. 437B.059. APPLICATION GUIDE. (a) The department



1 shall develop a guide on the mobile food vending licensing  
2 procedures. The guide must include:

3 (1) instructions for obtaining, maintaining, and  
4 renewing a mobile food vending license; and

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

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

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

12 (1) names of mobile food vendors who hold licenses  
13 under this chapter;

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

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

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

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

23 SUBCHAPTER C. MOBILE FOOD VENDING OPERATIONS

24 Sec. 437B.101. COMPLIANCE WITH STATE AND LOCAL LAW. A  
25 mobile food vendor shall comply with all state and local laws in the  
26 jurisdiction in which the mobile food vendor operates, including  
27 all fire codes and zoning codes, that do not conflict with this

1 chapter.

2 Sec. 437B.102. LOCATION OF OPERATION. (a) A mobile food  
3 vendor may operate on public property if the food vending vehicle is  
4 parked at least 20 feet away from a street intersection. A mobile  
5 food vendor may operate on any legal parking space, including a  
6 metered space located on a public right-of-way, if the mobile food  
7 vendor pays the required fees for parking in the space. When  
8 operating on public property, a mobile food vendor is subject to the  
9 same parking rules and restrictions as a commercial vehicle.

10 (b) A mobile food vendor may operate on private property if  
11 the property is:

12 (1) located in an area in which food service  
13 establishments may operate and the mobile food vendor has  
14 permission from the property owner or the property owner's designee  
15 to operate on the property; or

16 (2) located in a residential area and the mobile food  
17 vendor is invited by a resident to operate on the resident's  
18 property for the purpose of serving food to the resident or the  
19 resident's guests.

20 (c) A mobile food vendor may not obstruct the passage of  
21 pedestrians or vehicles along any street, sidewalk, or parkway.

22 Sec. 437B.103. FOOD VENDING VEHICLE DRIVER REQUIREMENTS. A  
23 person who drives a food vending vehicle must hold a current  
24 commercial driver's license issued under Chapter 522,  
25 Transportation Code.

26 Sec. 437B.104. OPERATIONAL STANDARDS. (a) A mobile food  
27 vendor shall:

1           (1) maintain in good operating order each food vending  
2 vehicle the mobile food vendor uses;

3           (2) when operating on public property, position a food  
4 vending vehicle in such a manner as to face the service window  
5 toward the sidewalk or away from the street;

6           (3) provide a waste receptacle for customers that is  
7 clearly marked and request customers use the waste receptacle;

8           (4) collect, remove, and dispose of all refuse within  
9 25 feet of the mobile food vendor's operating area at the conclusion  
10 of service;

11           (5) submit to and pass any required health inspection  
12 conducted under Subchapter D; and

13           (6) display the mobile food vendor's mobile food  
14 vending license and health inspection certificate in a conspicuous  
15 location for public view.

16           (b) A mobile food vendor operating at a temporary mass  
17 gathering that occurs over multiple days may operate in a  
18 stationary manner for the duration of the temporary mass gathering,  
19 not to exceed three consecutive days, without moving or changing  
20 location, if the mobile food vendor maintains sanitary conditions.

21           Sec. 437B.105. FOOD SAFETY. (a) A mobile food vendor shall  
22 comply with all laws and rules regarding food safety.

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

26                           SUBCHAPTER D. HEALTH INSPECTIONS

27           Sec. 437B.151. MOBILE FOOD VENDOR CLASSIFICATIONS. (a)

1 The executive commissioner by rule shall establish classifications  
2 of mobile food vendors for purposes of conducting health  
3 inspections as follows:

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

8 (2) mobile food type II vendor for a mobile food vendor  
9 who dispenses food that requires limited handling and preparation;  
10 and

11 (3) mobile food type III vendor for a mobile food  
12 vendor who prepares, cooks, holds, and serves food from a food  
13 vending vehicle.

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

17 Sec. 437B.152. CHANGING CLASSIFICATIONS. A mobile food  
18 vendor who seeks to serve food or beverages that may require the  
19 vendor's reclassification shall notify the department of the nature  
20 of the food or beverages to be sold. The department, or a local  
21 authority in a collaborative agreement with the department under  
22 Section 437B.153, may conduct a health inspection and reclassify  
23 the mobile food vendor in accordance with the rules adopted under  
24 Section 437B.151.

25 Sec. 437B.153. INSPECTIONS; COLLABORATIVE AGREEMENT WITH  
26 LOCAL AUTHORITY. (a) To protect public health and safety, the  
27 department shall ensure that a mobile food vendor is inspected on an

1 ongoing, randomized basis based on the mobile food vendor's  
2 classification and health inspection grade.

3 (b) On request by a local authority, the department may  
4 enter into a collaborative agreement with the local authority for  
5 conducting health inspections. The department shall reimburse the  
6 local authority acting under a collaborative agreement for the cost  
7 of conducting a health inspection using money collected for health  
8 inspection fees under Section 437B.058(c).

9 Sec. 437B.154. INSPECTION CRITERIA AND GRADING. (a) The  
10 executive commissioner by rule shall establish statewide objective  
11 criteria and a score-based grading system to be used by the  
12 department or a local authority acting under a collaborative  
13 agreement for conducting health inspections of mobile food vendors.

14 (b) The health inspection criteria established under  
15 Subsection (a) shall provide a letter-grade format for rating a  
16 mobile food vendor. The format shall rate a mobile food vendor with  
17 a grade of "A," "B," "C," or "F" based on the score received during a  
18 health inspection.

19 (c) The department shall provide a certificate of  
20 excellence to a mobile food vendor who receives two consecutive  
21 grades of "A." The department shall suspend the license of a mobile  
22 food vendor who receives a grade of "F" until the vendor:

23 (1) corrects all violations discovered during the  
24 health inspection; and

25 (2) is reinspected by the department or local  
26 authority and receives a grade of "A," "B," or "C" for the health  
27 inspection.

1       Sec. 437B.155. INSPECTION CERTIFICATE. (a) On completion  
2 of a health inspection of a mobile food vendor, the department, or  
3 local authority operating under a collaborative agreement, shall  
4 issue a certificate to the mobile food vendor displaying the  
5 vendor's letter grade and any applicable achievement of excellence  
6 and record the grade in the department's database.

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

10       Sec. 437B.156. FREQUENCY OF INSPECTIONS. The department,  
11 or local authority operating under a collaborative agreement, shall  
12 conduct randomized health inspections of mobile food vendors based  
13 on the mobile food vendor's classification as follows:

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

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

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

27                   (B) the mobile food vendor holds a certificate of

1 excellence and receives a score lower than an "A" on a health  
2 inspection, then the certificate of excellence is voided and the  
3 mobile food vendor shall subsequently be inspected once each  
4 calendar year; and

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

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

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

16 Sec. 437B.157. NOTICE OF LOCATION FOR INSPECTIONS. A  
17 mobile food vendor shall make available to the department a list of  
18 all locations at which the mobile food vendor operates. A mobile  
19 food vendor may provide the list of locations through the mobile  
20 food vendor's social media or on the mobile food vendor's Internet  
21 website. If the mobile food vendor does not provide the list of  
22 operating locations on social media or the mobile food vendor's  
23 Internet website, the mobile food vendor shall submit to the  
24 department in the form and manner prescribed by the department a  
25 list of the locations at which the mobile food vendor operates.

26 Sec. 437B.158. REIMBURSEMENT OF INSPECTION FEE. On request  
27 of a mobile food vendor, the department shall reimburse the mobile

1 food vendor the portion of the fee charged for each health  
2 inspection required under this subchapter that was not conducted by  
3 the department or local authority under a collaborative agreement  
4 during the time the mobile food vendor's license was valid. The  
5 department shall reimburse the mobile food vendor not later than  
6 the 30th day after the date the department receives the mobile food  
7 vendor's request.

8 SUBCHAPTER E. REGULATION BY LOCAL AUTHORITY

9 Sec. 437B.201. REGULATION BY LOCAL AUTHORITY. (a) A local  
10 authority may regulate a license holder in accordance with this  
11 subchapter. A local authority may:

12 (1) restrict the mobile food vendor from using a  
13 noisemaking device that produces sound of more than 75 decibels  
14 measured 23 feet from the device during specific times of day;

15 (2) restrict a mobile food vendor from operating in a  
16 public park or require a special permit and payment of fees to  
17 operate in a public park;

18 (3) prohibit a mobile food vendor from restricting or  
19 blocking ingress to or egress from private property;

20 (4) develop a mobile food vendor metered parking pass  
21 for a fee that authorizes a mobile food vendor to operate from  
22 metered parking spaces for longer than otherwise allowed for  
23 vehicles parking in the spaces;

24 (5) investigate reports of foodborne illnesses;

25 (6) report a mobile food vendor's suspected violation  
26 of this chapter to the department and recommend the department  
27 suspend or revoke the vendor's mobile food vending license; and



1           (7) cite mobile food vendors and issue penalties for  
2 violations of local law not in conflict with this chapter.

3           (b) A local authority may not:

4                 (1) prohibit or restrict a mobile food vendor from  
5 operating in a lawful manner;

6                 (2) address the hours of operation for a mobile food  
7 vendor;

8                 (3) unless the mobile food vendor seeks to operate in a  
9 local public park, require a mobile food vendor to obtain a special  
10 permit from the local authority in addition to a mobile food vending  
11 license or a permit to operate as a commercial vehicle;

12                (4) require a mobile food vendor to pay an additional  
13 fee to the local authority to operate on private property or require  
14 a private property owner to submit a zoning plan to the local  
15 authority as a condition of allowing vending on the owner's  
16 property;

17                (5) require a mobile food vendor to obtain licenses,  
18 permits, or background or criminal history record checks for the  
19 mobile food vendor's employees;

20                (6) require a mobile food vendor's food vending  
21 vehicle to submit to a fire inspection if the vendor demonstrates  
22 that the vehicle passed a state or local fire inspection in the  
23 preceding 12 months;

24                (7) restrict the time a mobile food vendor may operate  
25 on private property in zoning districts where food service  
26 establishments operate;

27                (8) require a mobile food vendor to operate a specific

- 1 distance from a commercial establishment or restaurant;  
2 (9) require a mobile food vendor to enter into any  
3 agreement with a commercial establishment or restaurant;  
4 (10) regulate the equipment requirements for a food  
5 vending vehicle;  
6 (11) restrict a mobile food vendor's propane capacity  
7 below the capacity state law allows for commercial vehicles;  
8 (12) require a mobile food vendor to associate with a  
9 commissary;  
10 (13) require a mobile food vendor to provide the  
11 vendor's fingerprints;  
12 (14) require a mobile food vendor to install a global  
13 positioning system tracking device on its vehicle;  
14 (15) require a mobile food vendor to stay in constant  
15 motion except when serving customers;  
16 (16) require a mobile food vendor to maintain an  
17 insurance policy that names the local authority as an additional  
18 insured unless the mobile food vendor is attending an event  
19 sponsored by the local authority or operating in a local public  
20 park;  
21 (17) require a mobile food vendor to obtain a bond that  
22 names the local authority as a beneficiary unless the mobile food  
23 vendor is attending an event sponsored by the local authority or  
24 operating in a local public park; or  
25 (18) require a mobile food vendor to submit to health  
26 inspections other than those required by the department unless the  
27 local authority is investigating a reported foodborne illness.

1           SUBCHAPTER F. INVESTIGATION; ENFORCEMENT

2           Sec. 437B.251. INVESTIGATION. (a) The department or a  
3 local authority may investigate a mobile food vendor on reasonable  
4 suspicion the mobile food vendor is violating the law or on receipt  
5 of a health or safety complaint. The department must record a  
6 complaint in the state's mobile food vending database. The local  
7 authority shall report suspected violations of state law to the  
8 department and may recommend the department suspend or revoke a  
9 mobile food vending license.

10           (b) The mobile food vendor shall cooperate with the  
11 department or local authority during an investigation. Failure to  
12 cooperate with the department or local authority may result in  
13 suspension or revocation of a license.

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

17           Sec. 437B.252. LICENSE DENIAL, SUSPENSION, OR REVOCATION.  
18 The department may deny, suspend, or revoke a license issued under  
19 this chapter only if:

20                   (1) the applicant or license holder:

21                           (A) violates this chapter, a rule adopted under  
22 this chapter, or an order of the department;

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

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

1           (D) is cited three or more times during a  
2 12-month period for a violation of this chapter or rules adopted  
3 under this chapter; or

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

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

11           Sec. 437B.253. NOTICE AND HEARING. (a) The department  
12 shall provide written notice to an applicant or license holder that  
13 the applicant's mobile food vending application has been denied or  
14 that the license may be suspended or revoked. Not later than 14  
15 calendar days after the date an applicant or license holder  
16 receives notice from the department of a denial, suspension, or  
17 revocation of a license, the applicant or license holder may  
18 request a hearing in the form and manner prescribed by the  
19 department.

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

25           (c) The department may not suspend or revoke a license until  
26 the department issues an order under Subsection (b) unless the  
27 department determines that the license holder's mobile food vendor

1 operations pose an imminent threat to the public's health and  
2 safety.

3 (d) The department shall immediately provide notice to a  
4 license holder of a suspension or revocation of a license based on  
5 an imminent threat to the public's health and safety. Not later  
6 than 14 calendar days after the date a license holder receives  
7 notice from the department of a license suspension or revocation  
8 under Subsection (c), the license holder may request a hearing in  
9 the form and manner prescribed by the department.

10 (e) The department shall hold a hearing not later than seven  
11 calendar days after the date the department receives a license  
12 holder's request for hearing under Subsection (d). The department  
13 shall give priority to a hearing under this subsection over all  
14 other license denial, suspension, or revocation proceedings.  
15 Following a hearing, the department shall promptly issue an order  
16 that includes findings of fact and conclusions of law.

17 Sec. 437B.254. RIGHT TO APPEAL. Except as otherwise  
18 provided by this section, the suspension or revocation of a license  
19 by the department and the appeal from that action are governed by  
20 the procedures for a contested case hearing under Chapter 2001,  
21 Government Code.

22 Sec. 437B.255. ADMINISTRATIVE PENALTY. A license holder  
23 who continues to operate after the department suspends or revokes  
24 the license holder's license is subject to an administrative  
25 penalty in an amount to be determined by the department.

26 SECTION 2. The heading to Chapter 437, Health and Safety  
27 Code, is amended to read as follows:

1 CHAPTER 437. REGULATION OF FOOD SERVICE ESTABLISHMENTS, RETAIL  
2 FOOD STORES, [~~MOBILE FOOD UNITS,~~] AND ROADSIDE FOOD VENDORS

3 SECTION 3. Section 437.001(4), Health and Safety Code, is  
4 amended to read as follows:

5 (4) "Food," "food service establishment," "retail food  
6 store," [~~"mobile food unit,"~~] "roadside food vendor," and  
7 "temporary food service establishment" have the meanings assigned  
8 to those terms by rules adopted under this chapter.

9 SECTION 4. Section 437.002, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 437.002. ENFORCEMENT OF STATE LAW BY COUNTY OR PUBLIC  
12 HEALTH DISTRICT. (a) A county or public health district may  
13 enforce state law and rules adopted under state law concerning food  
14 service establishments, retail food stores, [~~mobile food units,~~]  
15 and roadside food vendors.

16 (b) This chapter does not authorize a county or public  
17 health district to adopt orders establishing standards for the  
18 operation of food service establishments, retail food stores,  
19 [~~mobile food units,~~] or roadside food vendors.

20 SECTION 5. Section 437.003, Health and Safety Code, is  
21 amended to read as follows:

22 Sec. 437.003. COUNTY AUTHORITY TO REQUIRE PERMIT. To  
23 enforce state law and rules adopted under state law, the  
24 commissioners court of a county by order may require food service  
25 establishments, retail food stores, [~~mobile food units,~~] and  
26 roadside food vendors in unincorporated areas of the county,  
27 including areas in the extraterritorial jurisdiction of a

1 municipality, to obtain a permit from the county.

2 SECTION 6. Sections 437.004(a) and (d), Health and Safety  
3 Code, are amended to read as follows:

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

9 (d) This chapter does not restrict the authority of a  
10 municipality that is a member of a public health district to adopt  
11 ordinances or administer a permit system concerning food service  
12 establishments, retail food stores, [~~mobile food units,~~] and  
13 roadside food vendors.

14 SECTION 7. Section 437.0055(a), Health and Safety Code, is  
15 amended to read as follows:

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

22 SECTION 8. Section 437.0057(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) A county, a public health district, or the department  
25 may require certification under Subchapter D, Chapter 438, for each  
26 food handler who is employed by a food service establishment in  
27 which food is prepared on-site for sale to the public and which

1 holds a permit issued by the county, the public health district, or  
2 the department. This section does not apply [~~applies without~~  
3 ~~regard~~] to a mobile food vendor who is licensed under Chapter 437B  
4 [~~whether the food service establishment is at a fixed location or is~~  
5 ~~a mobile food unit~~].

6 SECTION 9. Sections 437.0076(a) and (b), Health and Safety  
7 Code, are amended to read as follows:

8 (a) A county or public health district may require each  
9 fixed [~~or mobile~~] location retail establishment in which food is  
10 prepared on-site for sale to the public that holds a permit issued  
11 by the county or public health district to employ a food manager  
12 certified under Subchapter G, Chapter 438.

13 (b) The executive commissioner may require each fixed [~~or~~  
14 ~~mobile~~] location retail establishment in which food is prepared  
15 on-site for sale to the public that is required to be operated under  
16 a permit under Section 437.0055 to employ a food manager certified  
17 under Subchapter G, Chapter 438.

18 SECTION 10. Section 437.009, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 437.009. INSPECTIONS. Authorized agents or employees  
21 of the department, a county, or a public health district may enter  
22 the premises of a food service establishment, retail food store,  
23 [~~mobile food unit,~~] roadside food vendor, or temporary food service  
24 establishment under the department's, county's, or district's  
25 jurisdiction during normal operating hours to conduct inspections  
26 to determine compliance with:

27 (1) state law, including a requirement to hold and



1 display written authorization under Section 437.021;

2 (2) rules adopted under state law; and

3 (3) orders adopted by the department, county, or  
4 district.

5 SECTION 11. Section 437.0095, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 437.0095. DETENTION. The commissioner or an  
8 authorized agent may detain an article of food that is located on  
9 the premises of a food service establishment, retail food store,  
10 [~~mobile food unit,~~] roadside food vendor, or temporary food service  
11 establishment and is adulterated or misbranded under Chapter 431.

12 SECTION 12. Section 437.012(f), Health and Safety Code, is  
13 amended to read as follows:

14 (f) A county or public health district may, by rule or  
15 order, adopt a variable scale to determine the fee charged for a  
16 permit under this section. In adopting a rule or order under this  
17 subsection, the county or public health district may consider:

18 (1) the size of the food service establishment, retail  
19 food store, [~~mobile food unit,~~] or roadside food vendor;

20 (2) the number of people employed at the food service  
21 establishment, retail food store, [~~mobile food unit,~~] or roadside  
22 food vendor; and

23 (3) the gross sales of the food service establishment,  
24 retail food store, [~~mobile food unit,~~] or roadside food vendor.

25 SECTION 13. Sections 437.014(a) and (c), Health and Safety  
26 Code, are amended to read as follows:

27 (a) A county or public health district may refuse to issue a

1 permit or may suspend or revoke a permit if the county or district  
2 finds that the food service establishment, retail food store,  
3 ~~[mobile food unit,~~ or roadside food vendor is not in compliance  
4 with state law, rules adopted under state law, or orders adopted by  
5 the county or district.

6 (c) A county or public health district that requires a  
7 permit to operate a food service establishment, retail food store,  
8 ~~[mobile food unit,~~ or roadside food vendor shall adopt procedures  
9 for denying, suspending, or revoking a permit that afford due  
10 process to the applicant or permit holder.

11 SECTION 14. Section [437.0145](#), Health and Safety Code, is  
12 amended to read as follows:

13 Sec. 437.0145. EMERGENCY SUSPENSION OR CLOSING ORDER. (a)  
14 The department shall suspend the license of a food service  
15 establishment, retail food store, ~~[mobile food unit,~~ roadside food  
16 vendor, or temporary food service establishment or order the  
17 immediate closing of the food service establishment, retail food  
18 store, ~~[mobile food unit,~~ roadside food vendor, or temporary food  
19 service establishment if:

20 (1) the department finds the food service  
21 establishment, retail food store, ~~[mobile food unit,~~ roadside food  
22 vendor, or temporary food service establishment is operating in  
23 violation of the standards prescribed by this chapter; and

24 (2) the violation creates an immediate threat to the  
25 health and safety of the public.

26 (b) An order suspending a license or closing a food service  
27 establishment, retail food store, ~~[mobile food unit,~~ roadside food

1 vendor, or temporary food service establishment under this section  
2 is immediately effective on the date on which the license holder  
3 receives written notice or a later date specified in the order.

4 (c) An order suspending a license or ordering an immediate  
5 closing of a food service establishment, retail food store, [~~mobile~~  
6 ~~food unit,~~] roadside food vendor, or temporary food service  
7 establishment is valid for 10 days after the effective date of the  
8 order.

9 SECTION 15. Section 437.015, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 437.015. INJUNCTION. A city attorney, county  
12 attorney, or district attorney may sue in district court to enjoin a  
13 food service establishment, retail food store, [~~mobile food unit,~~]  
14 or roadside food vendor from operating without a permit if a permit  
15 is required.

16 SECTION 16. Section 437.016(a), Health and Safety Code, is  
17 amended to read as follows:

18 (a) A person commits an offense if the person operates a  
19 food service establishment, retail food store, [~~mobile food unit,~~]  
20 or roadside food vendor without a permit required by the county or  
21 public health district in which the entity is operating.

22 SECTION 17. Section 437.0165(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) A person commits an offense if the person operates a  
25 food service establishment, retail food store, [~~mobile food unit,~~]  
26 or temporary food service establishment without a permit that is  
27 required by the department under Section 437.0055.

1 SECTION 18. Section 437.0185(e), Health and Safety Code, is  
2 amended to read as follows:

3 (e) The justice of the peace for the justice precinct in  
4 which the retail food store or food establishment is located or the  
5 [~~mobile food establishment or~~] roadside food vendor is based shall  
6 hold a hearing requested under Subsection (d).

7 SECTION 19. Section 437.021, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 437.021. AUTHORITY TO OPERATE ON CERTAIN PROPERTY. A  
10 person operating a [~~mobile food unit,~~] roadside food vendor[~~,~~] or  
11 temporary food service establishment in a county with a population  
12 of more than 3.3 million shall acquire written authorization from  
13 the owner of the property on which the [~~unit,~~] vendor[~~,~~] or  
14 establishment is operating. The written authorization must:

- 15 (1) be notarized;
- 16 (2) provide that the operator has the property owner's  
17 permission to operate the [~~unit,~~] vendor[~~,~~] or establishment on the  
18 property; and
- 19 (3) be prominently displayed in the [~~unit,~~] vendor[~~,~~]  
20 or establishment in plain view of the public at all times.

21 SECTION 20. Section 121.0035, Health and Safety Code, is  
22 amended to read as follows:

23 Sec. 121.0035. REGULATION OF [~~MOBILE FOOD UNITS AND~~]  
24 ROADSIDE FOOD VENDORS IN CERTAIN POPULOUS AREAS. (a) In this  
25 section, [~~"mobile food unit" and~~] "roadside food vendor" has [~~have~~]  
26 the meaning [~~meanings~~] assigned under Section 437.001.

27 (b) A municipality with a population of 1.5 million or more

1 and a county with a population of 3.4 million or more shall enforce  
2 state law and rules adopted under state law concerning [~~mobile food~~  
3 ~~units and~~] roadside food vendors in the same manner that the county  
4 or municipality enforces other health and safety regulations  
5 relating to food service.

6 SECTION 21. Section 37.01(2), Penal Code, is amended to  
7 read as follows:

8 (2) "Governmental record" means:

9 (A) anything belonging to, received by, or kept  
10 by government for information, including a court record;

11 (B) anything required by law to be kept by others  
12 for information of government;

13 (C) a license, certificate, permit, seal, title,  
14 letter of patent, or similar document issued by government, by  
15 another state, or by the United States;

16 (D) a standard proof of motor vehicle liability  
17 insurance form described by Section 601.081, Transportation Code, a  
18 certificate of an insurance company described by Section 601.083 of  
19 that code, a document purporting to be such a form or certificate  
20 that is not issued by an insurer authorized to write motor vehicle  
21 liability insurance in this state, an electronic submission in a  
22 form described by Section 502.046(i), Transportation Code, or an  
23 evidence of financial responsibility described by Section 601.053  
24 of that code; or

25 (E) an official ballot or other election record[+  
26 ~~or~~

27 [~~(F) the written documentation a mobile food unit~~

1 ~~is required to obtain under Section 437.0074, Health and Safety~~  
2 ~~Code].~~

3 SECTION 22. Section 437A.002, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 437A.002. APPLICABILITY. (a) This chapter applies  
6 only to a county:

7 (1) with a population of more than 2.1 million; and

8 (2) in which is located partly or wholly:

9 (A) an airport operating under Subchapter (D,  
10 Chapter 22, Transportation Code; and

11 (B) an airport owned by the principal  
12 municipality in the county that does not offer commercial air  
13 service.

14 (b) This chapter does not apply to a mobile food vendor  
15 licensed under Chapter 437B. Health and Safety Code.

16 SECTION 23. Sections 437.0073 and 437.0074, Health and  
17 Safety Code, are repealed.

18 SECTION 24. (a) Chapter 437B, Health and Safety Code, as  
19 added by this Act, applies to an ordinance, rule, regulation,  
20 policy, or procedure adopted before, on, or after the effective  
21 date of this Act.

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

26 (c) A mobile food vendor is not required to hold a license  
27 under Chapter 437B, Health and Safety Code, as added by this Act,

1 before July 1, 2026.

2 SECTION 25. (a) Except as provided by Subsection (b) of  
3 this section, this Act takes effect July 1, 2026.

4 (b) Section 437B.006, Health and Safety Code, as added by  
5 this Act, takes effect September 1, 2025.