

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;

- 1 (5) Section 1.005, Labor Code;
- 2 (6) Section 229.901, Local Government Code;
- 3 (7) Section 1.003, Natural Resources Code;
- 4 (8) Section 1.004, Occupations Code; or
- 5 (9) Section 1.004, Property Code.

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

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

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

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

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

24 Sec. 437.0045. LOCAL PERMIT REQUIREMENT LIMITATION.
25 Notwithstanding any other law, a county, municipality, or public
26 health district, including an authorized agent, employee, or
27 department, may only require a permit, license, certification, or

1 other form of authority if the permit, license, certification, or
2 other form of authority would be required of the food service
3 establishment, retail food store, mobile food unit, roadside food
4 vendor, or temporary food service establishment or an employee of
5 any of those entities if the entity or person was located within the
6 department's jurisdiction.

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

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

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

19 Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE
20 PERMIT OR LICENSE. Notwithstanding any other law, a [A] county, [or
21 a] municipality, or public health district, including an authorized
22 agent, employee, or department, [with a public health district that
23 charges a fee for issuance or renewal of a permit under Section
24 437.012 or 437.0123 for a premises located in the county or
25 municipality and permitted or licensed by the Texas Alcoholic
26 Beverage Commission] may not ~~also~~ charge a fee under Section
27 11.38 or 61.36, Alcoholic Beverage Code, for issuance of an

1 alcoholic beverage permit or license for the premises if the
2 premises is a food service establishment, retail food store, mobile
3 food unit, roadside food vendor, or temporary food service
4 establishment that has already paid a fee to operate to any county,
5 municipality, or public health district.

6 SECTION 8. Section [437.0124](#), Health and Safety Code, is
7 amended to read as follows:

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

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

16 SECTION 9. Chapter [437](#), Health and Safety Code, is amended
17 by adding Sections [437.0126](#), [437.0127](#), and [437.029](#) to read as
18 follows:

19 Sec. 437.0126. LOCAL FEE LIMITATION. Notwithstanding any
20 other law, a county, municipality, or public health district,
21 including an authorized agent, employee, or department, may not
22 charge a food service establishment, retail food store, mobile food
23 unit, roadside food vendor, or temporary food service establishment
24 a fee, including any processing fees or added costs, that exceeds
25 the fee the food service establishment, retail food store, mobile
26 food unit, roadside food vendor, or temporary food service
27 establishment would pay to the department if it were located within

1 the department's jurisdiction.

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

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

11 Sec. 437.029. SOUND REGULATIONS. (a) Notwithstanding any
12 other law, the department, a county, a municipality, or a public
13 health district may not require a food service establishment to
14 obtain a sound regulation permit, charge a sound regulation fee to
15 an establishment, or otherwise prohibit sound-related activity at
16 an establishment:

17 (1) for sound arising from the delivery of food,
18 nonalcoholic beverages, food service supplies, or ice to the
19 establishment if the establishment accepts delivery of those items
20 for one hour or less between 10 p.m. and 5 a.m., provided the sound
21 level from the deliveries does not exceed 75 dBA when measured from
22 the residential property closest in proximity to the establishment,
23 excluding traffic and other background noise that can be reasonably
24 excluded; or

25 (2) for amplified sound if the establishment is a
26 restaurant, as defined by Section 1.04, Alcoholic Beverage Code,
27 that limits the use of amplified sound for playing music or

1 amplifying human speech within the establishment's indoor or
2 outside property boundaries to ensure:

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

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

9 (b) Subsection (a)(2) does not apply to a food service
10 establishment on property that is located within 300 feet of a
11 residence that was occupied before the food service establishment
12 was located on the property.

13 (c) This section does not restrict the authority of a
14 municipality or county to enforce the limitations described by
15 Subsection (a) or an ordinance or order the municipality or county
16 adopts, to the extent the ordinance or order does not conflict with
17 that subsection.

18 SECTION 10. Section 438.1055, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER
21 CARD OR LOCAL FEE. Notwithstanding any other law, a [A] local
22 health jurisdiction may not require a food manager who holds a food
23 manager certificate issued under this subchapter to hold a local
24 food manager card, license, permit, or certification or any other
25 credential or paperwork or charge a fee for issuance of the
26 certificate under this subchapter.

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

1 repealed.

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