

By: Middleton, et al.

S.B. No. 1008

A BILL TO BE ENTITLED

1

AN ACT

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

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

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

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

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

12 Sec. 102A.002. LIABILITY FOR CERTAIN REGULATION. Any
13 person who has sustained an injury in fact, actual or threatened,
14 from a municipal or county ordinance, order, or rule adopted or
15 enforced by a municipality or county in violation of any of the
16 following provisions or a trade association representing the person
17 has standing to bring and may bring an action against the
18 municipality or county:

19 (1) Section 1.004, Agriculture Code;

20 (2) Section 1.109, Business & Commerce Code;

21 (3) Section 1.004, Finance Code;

22 (3-a) Chapter 437, 437A, or 438, Health and Safety
23 Code;

24 (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 [~~Te~~] 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. Sections 437.004(a), (c), and (d), Health and
16 Safety Code, are 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 (c) If the district does not have an administrative board,
23 the governing body of each member of the district must adopt the
24 order. Subject to Section 437.009(b), the [~~The~~] order is effective
25 throughout the public health district on the 30th day after the
26 first date on which the governing bodies of all members have adopted
27 the order.

1 (d) This chapter does not restrict the authority of a
2 municipality that is a member of a public health district to adopt
3 ordinances or administer a permit system concerning food service
4 establishments, retail food stores, mobile food units, and roadside
5 food vendors, to the extent those ordinances or that system does not
6 conflict with a provision of state law.

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

9 Sec. 437.0045. LOCAL PERMIT REQUIREMENT LIMITATION.
10 Notwithstanding any other law, a county, municipality, or public
11 health district, including an authorized agent, employee, or
12 department, may only require a permit, license, certification, or
13 other form of authority if the permit, license, certification, or
14 other form of authority would be required of the food service
15 establishment, retail food store, mobile food unit, roadside food
16 vendor, or temporary food service establishment or an employee of
17 any of those entities if the entity or person was located within the
18 department's jurisdiction.

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

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

1 fee schedule.

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

4 Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE
5 PERMIT OR LICENSE. Notwithstanding any other law, a [A] county, [~~or~~
6 a] municipality, or public health district, including an authorized
7 agent, employee, or department, [with a public health district that
8 charges a fee for issuance or renewal of a permit under Section
9 437.012 or 437.0123 for a premises located in the county or
10 municipality and permitted or licensed by the Texas Alcoholic
11 Beverage Commission] may not [also] charge a fee under Section
12 11.38 or 61.36, Alcoholic Beverage Code, if the premises is a food
13 service establishment, retail food store, mobile food unit,
14 roadside food vendor, or temporary food service establishment that
15 has already paid a fee to operate to the department or to any
16 county, municipality, or public health district [for issuance of an
17 alcoholic beverage permit or license for the premises].

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

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

25 (b) A county, municipality, or public health district shall
26 submit a copy of the fee schedule to the department for inclusion in
27 the registry established under Section 437.0091 not later than the

1 60th day before the date the fee schedule goes into effect.

2 SECTION 9. Chapter 437, Health and Safety Code, is amended
3 by adding Sections 437.0126, 437.0127, 437.029, and 437.030 to read
4 as follows:

5 Sec. 437.0126. LOCAL FEE LIMITATION. (a) Notwithstanding
6 any other law and except as provided by Subsections (c) and (d), a
7 county, municipality, or public health district, including an
8 authorized agent, employee, or department, may not charge a food
9 service establishment, retail food store, mobile food unit,
10 roadside food vendor, or temporary food service establishment or an
11 employee of any of those entities a fee, including any processing
12 fees or added costs, that exceeds the maximum fee a food service
13 establishment, retail food store, mobile food unit, roadside food
14 vendor, temporary food service establishment, or employee would pay
15 to the department if the entity or employee were located within the
16 department's jurisdiction.

17 (a-1) For purposes of Subsection (a), the maximum fee a
18 county, municipality, or public health district may charge annually
19 may not exceed the maximum fee that would be charged by the
20 department biennially.

21 (b) A county, municipality, or public health district,
22 including an authorized agent, employee, or department, may
23 calculate and assess fees in accordance with Subsection (a):

24 (1) on an annual or biennial basis; and

25 (2) using a risk-based assessment.

26 (c) A county, municipality, or public health district,
27 including an authorized agent, employee, or department, may assess

1 a reinspection fee if:

2 (1) the reinspection is necessary to cure a violation
3 that presents a direct and significant risk to public health;

4 (2) the reinspection fee does not exceed the lesser of
5 the cost of an initial inspection or \$200; and

6 (3) not more than one reinspection fee is charged
7 within 60 days of the previous inspection, unless the entity on
8 which the fee is imposed failed to make reasonable efforts to
9 correct the violation.

10 (d) A county, municipality, or public health district may
11 charge a food service establishment, retail food store, mobile food
12 unit, roadside food vendor, or temporary food service establishment
13 up to 120 percent of the total fees authorized under Subsection (a)
14 if the county, municipality, or public health district determines
15 that the increased fee is necessary to protect public safety and
16 maintain adequate food safety staffing levels in the county,
17 municipality, or district. Before imposing the increased fees
18 under this subsection, a county, municipality, or public health
19 district shall hold at least one annual public meeting or hearing to
20 demonstrate compliance with this subsection. This subsection
21 applies only to:

22 (1) a county with a population of 2.5 million or more;

23 (2) a county with a population of more than 2 million
24 within which are located two municipalities, each of which has a
25 population of at least 350,000;

26 (3) a municipality with a population of 950,000 or
27 more; or

1 (4) a public health district that regulates a county
2 or municipality described by Subdivision (1), (2), or (3).

3 (e) This section does not prohibit a county, municipality,
4 or public health district, including an authorized agent, employee,
5 or department, from charging a fee that is necessary for the county,
6 municipality, or public health district to comply with an active,
7 legally binding federal consent decree, enforcement order, or
8 administrative agreement mandating food service compliance
9 inspections. Before imposing a fee under this subsection, a county,
10 municipality, or public health district shall hold at least one
11 annual public meeting or hearing to demonstrate that the fee is
12 limited to the amount necessary to comply with a decree, order, or
13 agreement.

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

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

23 Sec. 437.029. SOUND REGULATIONS. (a) Notwithstanding any
24 other law, the department, a county, a municipality, or a public
25 health district, including an authorized agent, employee, or
26 department, may not require a food service establishment to obtain
27 a sound regulation permit, charge a sound regulation fee to an

1 establishment, or otherwise prohibit sound-related activity at an
2 establishment if the establishment:

3 (1) accepts delivery of supplies or other items,
4 provided that if the delivery occurs between 10 p.m. and 5 a.m.,
5 then:

6 (A) the delivery lasts for one hour or less;

7 (B) the delivery is only for food, nonalcoholic
8 beverages, food service supplies, or ice; and

9 (C) the delivery sound level when measured from
10 the residential property closest in proximity to the establishment
11 does not exceed 65 dBA, excluding traffic and other background
12 noise that can be reasonably excluded; or

13 (2) is a restaurant, as defined by Section 1.04,
14 Alcoholic Beverage Code, that limits the use of amplified sound for
15 playing music or amplifying human speech within the establishment's
16 indoor or outside property boundaries to ensure:

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

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

23 (b) Subsection (a)(2) does not apply to a food service
24 establishment on property that is located within 300 feet of a
25 residence that was occupied before any food service establishment
26 was located on the property.

27 (c) This section does not restrict the authority of a

1 municipality or county to enforce the limitations described by
2 Subsection (a) or an ordinance or order the municipality or county
3 adopts, to the extent the ordinance or order does not conflict with
4 that subsection.

5 Sec. 437.030. TRANSPORTING, DELIVERING, AND SERVING FOOD AT
6 WORKPLACE BY FOOD SERVICE ESTABLISHMENT OR MOBILE FOOD UNIT. (a)
7 This section applies only to a permitted food service establishment
8 or permitted mobile food unit transporting and delivering to the
9 premises of a workplace food to be served by an employee or
10 contractor of the establishment or unit.

11 (b) Notwithstanding any other law, a county, a
12 municipality, a public health district, or the department may not
13 require a permitted food service establishment or permitted mobile
14 food unit or an employee or contractor of an establishment or unit
15 to obtain an additional permit or certification to transport,
16 deliver, and serve food at the premises of a workplace if:

17 (1) in the event that the food is assembled at the
18 workplace, the employees or contractors of the establishment or
19 unit comply with applicable food handler and food manager
20 certification requirements;

21 (2) an employee or contractor of the establishment or
22 unit serves the prepared food at the workplace premises;

23 (3) the prepared food is sold to employees or guests of
24 the workplace;

25 (4) the food is prepared, transported, delivered, and
26 served in accordance with local catering food safety rules,
27 including time and temperature requirements;

1 (5) adequate bathrooms and handwashing stations,
2 whether plumbed or portable, are available on the workplace
3 premises; and

4 (6) the establishment or unit transports, delivers,
5 and serves food to the workplace premises not more than three days
6 in a seven-day period.

7 (c) Notwithstanding any other law, a county, a
8 municipality, a public health district, or the department may not
9 require an owner or operator of a workplace to which food is
10 transported, delivered, or served under Subsection (b) to obtain a
11 permit or certification.

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

14 Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER
15 CARD OR LOCAL FEE. Notwithstanding any other law, a [A] local
16 health jurisdiction may not require a food manager who holds a food
17 manager certificate issued under this subchapter to pay a fee for or
18 to hold a local food manager card, license, permit, or
19 certification or any other credential or paperwork [~~or charge a fee~~
20 ~~for issuance of the certificate under this subchapter~~].

21 SECTION 11. This Act takes effect September 1, 2025.