

By: Gattis

H.B. No. 3282

A BILL TO BE ENTITLED

AN ACT

relating to cottage food production operations.

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

SECTION 1. Section 437.001, Health and Safety Code, is amended by adding Subdivisions (2-a), (3-a), (5), and (6) to read as follows:

(2-a) "Cottage food production operation" means an individual, operating out of the individual's home, who produces a food product for sale.

(3-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Home" means a primary residence that is occupied by the individual who operates a cottage food production operation and that contains a kitchen and appliances designed for common residential usage.

(6) "Potentially hazardous food" has the meaning assigned by rules adopted by the executive commissioner under this chapter.

SECTION 2. Chapter 437, Health and Safety Code, is amended by adding Sections 437.022, 437.023, and 437.024 to read as follows:

Sec. 437.022. REGISTRATION OF COTTAGE FOOD PRODUCTION OPERATIONS. (a) A cottage food production operation that is registered under this section is not a food service establishment

1 for purposes of this chapter. A cottage food production operation  
2 is not eligible for registration under this section if the  
3 operation produces potentially hazardous food.

4 (b) The executive commissioner shall adopt rules for  
5 regulation of a cottage food production operation that does not  
6 produce potentially hazardous food to protect the public health and  
7 ensure a safe food supply. Rules adopted under this section must  
8 provide for:

9 (1) the registration of cottage food production  
10 operations under this section; and

11 (2) the labeling of products from a cottage food  
12 production operation as "Home Produced."

13 (c) Rules adopted under Subsection (b) may require that a  
14 registered cottage food production operation comply with  
15 provisions of this chapter that the executive commissioner  
16 determines are appropriate and consistent with this section.

17 (d) The executive commissioner by rule may require an  
18 inspection of a cottage food production operation:

19 (1) before issuing a registration for the cottage food  
20 production operation; or

21 (2) if the department has reason to believe that the  
22 cottage food production operation is operating:

23 (A) in violation of this section or a rule  
24 adopted under this section; or

25 (B) in an unsanitary manner.

26 (e) The executive commissioner may not require as a  
27 condition of registration under this section:

- 1           (1) the use of commercial grade surfaces;  
2           (2) the use of commercial grade appliances;  
3           (3) a separate kitchen for conducting the cottage food  
4 production operation; or  
5           (4) the submission of plans and specifications before  
6 the construction or remodel of a cottage food production operation.

7           (f) Before beginning operations as a cottage food  
8 production operation that does not produce potentially hazardous  
9 food, the operator of a cottage food production operation must:

- 10           (1) register with the department as a cottage food  
11 production operation; and  
12           (2) successfully complete a food manager's  
13 certification course accredited by the department.

14           (g) The department shall issue a registration to an  
15 applicant for a cottage food production operation if the applicant:

- 16           (1) passes any inspection required under Subsection  
17 (d)(1);  
18           (2) pays registration fees required by the department;  
19 and  
20           (3) meets the other requirements of this section.

21           (h) A local health department:

- 22           (1) may not regulate the production of food at a  
23 cottage food production operation conducting business in  
24 compliance with this section that does not offer products to the  
25 public for consumption on the premises of the operation; and

- 26           (2) may investigate a cottage food production  
27 operation as a part of an investigation into the source of a

1 food-borne illness outbreak.

2 Sec. 437.023. PERMIT REQUIRED FOR COTTAGE FOOD PRODUCTION  
3 OPERATION. (a) Subject to this section, a cottage food production  
4 operation that sells potentially hazardous food must hold a permit  
5 issued by a county, a public health district, or the department as  
6 described by this chapter.

7 (b) The executive commissioner shall by rule exempt a  
8 cottage food production operation from the application of a  
9 requirement applicable to a food service establishment under this  
10 chapter, department rule, or the requirements of counties and  
11 public health districts that are onerous or inapplicable to a  
12 cottage food production operation and are not necessary to ensure a  
13 safe public food supply. The rules must address the labeling of  
14 potentially hazardous food products sold by a cottage food  
15 production operation.

16 Sec. 437.024. USE OF PRODUCT OF COTTAGE FOOD PRODUCTION  
17 OPERATION. A food service establishment, other than a cottage food  
18 production operation, may not use a product produced in the cottage  
19 food production operation as an ingredient in any food that is  
20 prepared by the food service establishment and offered by the  
21 establishment to the public for consumption.

22 SECTION 3. This Act takes effect September 1, 2009.