

1-1 By: Sherman, Sr., Price (Senate Sponsor - Taylor) H.B. No. 928  
1-2 (In the Senate - Received from the House April 19, 2021;  
1-3 May 6, 2021, read first time and referred to Committee on Business  
1-4 & Commerce; May 20, 2021, rereferred to Committee on Water,  
1-5 Agriculture & Rural Affairs; May 21, 2021, reported favorably by  
1-6 the following vote: Yeas 8, Nays 0; May 21, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Perry</u>	X		
1-10	<u>Springer</u>	X		
1-11	<u>Creighton</u>	X		
1-12	<u>Eckhardt</u>	X		
1-13	<u>Gutierrez</u>		X	
1-14	<u>Johnson</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Powell</u>	X		
1-17	<u>Taylor</u>	X		

1-18 A BILL TO BE ENTITLED  
1-19 AN ACT

1-20 relating to the marketing and sale of catfish and similar fish by  
1-21 food service establishments; providing administrative and civil  
1-22 penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 436, Health and Safety Code, is amended  
1-25 by adding Subchapter J to read as follows:

1-26 SUBCHAPTER J. MARKETING AND SALE OF CATFISH AND  
1-27 FISH SIMILAR TO CATFISH

1-28 Sec. 436.121. DEFINITIONS. In this subchapter:

1-29 (1) "Catfish" means any species of the scientific  
1-30 family Ictaluridae. The term does not include any species of the  
1-31 scientific genus Pangasius, family Clariidae or family Siluridae,  
1-32 including Swai fish.

1-33 (2) "Food service establishment" has the meaning  
1-34 assigned by Section 437.001.

1-35 (3) "Menu board" means a posted list or pictorial  
1-36 display of food items offered for sale by a food service  
1-37 establishment.

1-38 Sec. 436.122. REQUIREMENTS FOR FOOD SERVICE  
1-39 ESTABLISHMENTS. (a) A food service establishment that offers a  
1-40 food product for sale may represent and identify the product as  
1-41 catfish only if the product contains catfish and does not contain  
1-42 another fish similar to catfish.

1-43 (b) A food service establishment that offers for sale a food  
1-44 product containing a fish similar to catfish that is not catfish:

1-45 (1) may not represent the product as catfish; and

1-46 (2) shall conspicuously identify the type of fish  
1-47 contained in the product in the description of the product on the  
1-48 establishment's menu or menu board.

1-49 Sec. 436.123. ADMINISTRATIVE PENALTY. (a) The department,  
1-50 or a public health district or county that requires a food service  
1-51 establishment to hold a permit under Chapter 437, may impose an  
1-52 administrative penalty against a food service establishment that  
1-53 violates this subchapter or a rule adopted under this subchapter.

1-54 (b) The penalty for a violation may be in an amount not to  
1-55 exceed:

1-56 (1) \$250 for a food service establishment with gross  
1-57 annual food sales of less than \$50,000;

1-58 (2) \$500 for a food service establishment with gross  
1-59 annual food sales of at least \$50,000 but less than \$145,000; and

1-60 (3) \$750 for a food service establishment with gross  
1-61 annual food sales of at least \$145,000.

2-1 (c) Each day a violation continues or occurs is a separate  
2-2 violation for purposes of imposing a penalty.

2-3 Sec. 436.124. CIVIL PENALTY. (a) A food service  
2-4 establishment that violates this subchapter or a rule adopted under  
2-5 this subchapter is liable to this state, or a public health district  
2-6 or county that requires the food service establishment to hold a  
2-7 permit under Chapter 437, for a civil penalty in an amount not to  
2-8 exceed:

2-9 (1) \$250 for a food service establishment with gross  
2-10 annual food sales of less than \$50,000;

2-11 (2) \$500 for a food service establishment with gross  
2-12 annual food sales of at least \$50,000 but less than \$145,000; and

2-13 (3) \$750 for a food service establishment with gross  
2-14 annual food sales of at least \$145,000.

2-15 (b) Each day a violation continues or occurs is a separate  
2-16 violation for purposes of imposing a penalty.

2-17 (c) The attorney general, the district or county attorney  
2-18 for the county, or the municipal attorney of the municipality in  
2-19 which the violation is alleged to have occurred may bring an action  
2-20 to recover a civil penalty under this section.

2-21 SECTION 2. This Act takes effect September 1, 2021.

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