

1-1 By: Kolkhorst S.B. No. 829  
 1-2 (In the Senate - Filed February 10, 2023; March 1, 2023,  
 1-3 read first time and referred to Committee on Health & Human  
 1-4 Services; April 3, 2023, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 April 3, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 829 By: Miles

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to cottage food production operations.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section [437.001](#), Health and Safety Code, is  
 1-24 amended by amending Subdivision (2-b) and adding Subdivisions (3)  
 1-25 and (5-a) to read as follows:  
 1-26 (2-b) "Cottage food production operation" means an  
 1-27 individual, operating out of the individual's home, who or a  
 1-28 nonprofit organization that:  
 1-29 (A) produces at the individual's home or the home  
 1-30 of an individual who is a director or officer of the nonprofit  
 1-31 organization, as applicable, subject to Section [437.0196](#):  
 1-32 (i) a baked good [~~that is not a time and~~  
 1-33 ~~temperature control for safety food, as defined by Section~~  
 1-34 ~~[437.0196](#)];~~  
 1-35 (ii) candy;  
 1-36 (iii) coated and uncoated nuts;  
 1-37 (iv) unroasted nut butters;  
 1-38 (v) fruit butters;  
 1-39 (vi) a canned jam or jelly;  
 1-40 (vii) a fruit pie;  
 1-41 (viii) dehydrated fruit or vegetables,  
 1-42 including dried beans;  
 1-43 (ix) popcorn and popcorn snacks;  
 1-44 (x) cereal, including granola;  
 1-45 (xi) dry mix;  
 1-46 (xii) vinegar;  
 1-47 (xiii) pickled fruit or vegetables,  
 1-48 including beets and carrots, that are preserved in vinegar, brine,  
 1-49 or a similar solution at an equilibrium pH value of 4.6 or less;  
 1-50 (xiv) mustard;  
 1-51 (xv) roasted coffee or dry tea;  
 1-52 (xvi) a dried herb or dried herb mix;  
 1-53 (xvii) plant-based acidified canned goods;  
 1-54 (xviii) fermented vegetable products,  
 1-55 including products that are refrigerated to preserve quality;  
 1-56 (xix) frozen raw and uncut fruit or  
 1-57 vegetables; or  
 1-58 (xx) any other food that is not a time and  
 1-59 temperature control for safety food, as defined by Section  
 1-60 [437.0196](#);

2-1 (B) has an annual gross income of \$100,000  
2-2 [~~\$50,000~~] or less from the sale of food described by Paragraph (A);  
2-3 (C) sells the foods produced under Paragraph (A)  
2-4 [~~only~~] directly to consumers or to a cottage food vendor; and  
2-5 (D) delivers products to the consumer or cottage  
2-6 food vendor at the point of sale or another location designated by  
2-7 the consumer or cottage food vendor.

2-8 (3) "Cottage food vendor" means a person who:  
2-9 (A) has a contractual relationship with a cottage  
2-10 food production operation; and  
2-11 (B) sells food described by Subdivision (2-b)(A)  
2-12 on behalf of the cottage food production operation directly to  
2-13 consumers.

2-14 (5-a) "Nonprofit organization" means an organization  
2-15 exempt from federal income tax under Section 501(a), Internal  
2-16 Revenue Code of 1986, as an organization described by Section  
2-17 501(c)(3) of that code.

2-18 SECTION 2. Section 437.0192, Health and Safety Code, is  
2-19 amended by amending Subsection (a) and adding Subsection (c) to  
2-20 read as follows:

2-21 (a) A local government authority, including a local health  
2-22 department, may not:

2-23 (1) regulate the production of food at a cottage food  
2-24 production operation; or

2-25 (2) require a cottage food production operation to  
2-26 obtain any type of license or permit or pay any fee to sell food  
2-27 described by Section 437.001(2-b)(A) directly to a consumer or  
2-28 cottage food vendor.

2-29 (c) A local government authority, including a local health  
2-30 department, may not employ or continue to employ a person who  
2-31 knowingly requires or attempts to require a cottage food production  
2-32 operation to obtain a license or permit in violation of Subsection  
2-33 (a)(2).

2-34 SECTION 3. Section 437.0193, Health and Safety Code, is  
2-35 amended by amending Subsection (b) and adding Subsections (b-1) and  
2-36 (e) to read as follows:

2-37 (b) The executive commissioner shall adopt rules requiring  
2-38 a cottage food production operation to label all of the foods  
2-39 described in Section 437.001(2-b)(A) that the operation sells to  
2-40 consumers. The label must include:

2-41 (1) the name and address of the cottage food  
2-42 production operation; ~~and~~

2-43 (2) at least one of the following for the cottage food  
2-44 production operation:

- 2-45 (A) the phone number;
- 2-46 (B) the e-mail address; or
- 2-47 (C) the mailing address; and

2-48 (3) the following disclosure:  
2-49 "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT  
2-50 SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION. THIS PRODUCT MAY  
2-51 CONTAIN ALLERGENS." [~~a statement that the food is not inspected by~~  
2-52 ~~the department or a local health department.~~]

2-53 (b-1) Notwithstanding Subsection (b)(1), a cottage food  
2-54 production operation is not required to include on a food label the  
2-55 address of the operation if the operation registers with the  
2-56 department in the form and manner prescribed by the department. The  
2-57 executive commissioner may adopt rules to implement this  
2-58 subsection.

2-59 (e) A cottage food production operation that sells time and  
2-60 temperature control for safety baked goods must include on the  
2-61 label of the food or on an invoice or receipt provided with the food  
2-62 when sold the following statement in at least 12-point font: "SAFE  
2-63 HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this  
2-64 food refrigerated or frozen until the food is prepared for  
2-65 consumption."

2-66 SECTION 4. Section 437.0194, Health and Safety Code, is  
2-67 amended by amending Subsections (a) and (c) and adding Subsection  
2-68 (a-1) to read as follows:

2-69 (a) Except as provided by Subsection (a-1), a [~~A~~] cottage

3-1 food production operation may not sell any of the foods described in  
3-2 Section 437.001(2-b)(A) at wholesale.

3-3 (a-1) A cottage food production operation may sell food  
3-4 described by Section 437.001(2-b)(A) to a cottage food vendor at  
3-5 wholesale.

3-6 (c) The operator of a cottage food production operation that  
3-7 sells a food described by Section 437.001(2-b)(A) in this state in  
3-8 the manner described by Subsection (b):

3-9 (1) is not required to include the information  
3-10 required under Section 437.0193(b)(2) for [address of] the  
3-11 operation in the labeling information required under Subsection  
3-12 (b)(2) before the operator accepts payment for the food; and

3-13 (2) shall provide the information required under  
3-14 Section 437.0193(b)(2) for [address of] the operation on the label  
3-15 of the food in the manner required by that subdivision [Section  
3-16 437.0193(b)] after the operator accepts payment for the food.

3-17 SECTION 5. Chapter 437, Health and Safety Code, is amended  
3-18 by adding Section 437.01953 to read as follows:

3-19 Sec. 437.01953. REQUIREMENTS FOR SALE OF CERTAIN BAKED  
3-20 GOODS. A cottage food production operation that sells to consumers  
3-21 time and temperature control for safety baked goods shall:

3-22 (1) store and deliver the food at the air temperature  
3-23 necessary to prevent the growth of bacteria that may cause human  
3-24 illness; and

3-25 (2) label the food in accordance with Section  
3-26 437.0193(e).

3-27 SECTION 6. Section 437.0196(a), Health and Safety Code, is  
3-28 amended to read as follows:

3-29 (a) In this section, "time and temperature control for  
3-30 safety food" means a food that requires time and temperature  
3-31 control for safety to limit pathogen growth or toxin production.  
3-32 The term includes a food that must be held under proper temperature  
3-33 controls, such as refrigeration, to prevent the growth of bacteria  
3-34 that may cause human illness. A time and temperature control for  
3-35 safety food may include a food that contains protein and moisture  
3-36 and is neutral or slightly acidic, such as meat, poultry, fish, and  
3-37 shellfish products, pasteurized and unpasteurized milk and dairy  
3-38 products, raw seed sprouts, ~~[baked goods that require~~  
3-39 ~~refrigeration, including cream or custard pies or cakes,]~~ and ice  
3-40 products. The term does not include:

3-41 (1) a food that uses time and temperature control for  
3-42 safety food as ingredients if the final food product does not  
3-43 require time or temperature control for safety to limit pathogen  
3-44 growth or toxin production; or

3-45 (2) a baked good, including a baked good that:  
3-46 (A) contains pasteurized and unpasteurized milk  
3-47 and dairy products; or  
3-48 (B) requires refrigeration.

3-49 SECTION 7. Chapter 437, Health and Safety Code, is amended  
3-50 by adding Section 437.01965 to read as follows:

3-51 Sec. 437.01965. COTTAGE FOOD VENDOR. (a) A cottage food  
3-52 vendor may sell food described by Section 437.001(2-b)(A) directly  
3-53 to consumers at a farmers' market, farm stand, food service  
3-54 establishment, or retail food store.

3-55 (b) A cottage food vendor who sells food described by  
3-56 Section 437.001(2-b)(A) must display in a prominent place near the  
3-57 location where the food is offered for sale a sign with the  
3-58 following disclosure:

3-59 "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT  
3-60 SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION. THIS PRODUCT MAY  
3-61 CONTAIN ALLERGENS."

3-62 (c) A cottage food vendor that purchases food from a cottage  
3-63 food production operation at wholesale shall register with the  
3-64 department in the form and manner prescribed by the department. The  
3-65 executive commissioner may adopt rules to implement this  
3-66 subsection.

3-67 SECTION 8. This Act takes effect September 1, 2023.

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