

1-1 By: Middleton, Hagenbuch S.B. No. 1008
1-2 (In the Senate - Filed January 29, 2025; February 24, 2025,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 March 27, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; March 27, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Blanco	X			
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson	X			
1-15	Kolkhorst	X			
1-16	Menéndez	X			
1-17	Middleton	X			
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1008 By: Middleton

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to state and local authority to regulate the food service
1-24 industry.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Chapter 102A, Civil Practice and Remedies Code,
1-27 is amended by adding Section 102A.0015 to read as follows:

1-28 Sec. 102A.0015. APPLICABILITY. In this chapter, a
1-29 reference to a municipality or county includes a public health
1-30 district created by one or more municipalities or counties.

1-31 SECTION 2. Section 102A.002, Civil Practice and Remedies
1-32 Code, is amended to read as follows:

1-33 Sec. 102A.002. LIABILITY FOR CERTAIN REGULATION. Any
1-34 person who has sustained an injury in fact, actual or threatened,
1-35 from a municipal or county ordinance, order, or rule adopted or
1-36 enforced by a municipality or county in violation of any of the
1-37 following provisions or a trade association representing the person
1-38 has standing to bring and may bring an action against the
1-39 municipality or county:

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| 1-40 | (1) | Section 1.004, Agriculture Code; |
| 1-41 | (2) | Section 1.109, Business & Commerce Code; |
| 1-42 | (3) | Section 1.004, Finance Code; |
| 1-43 | (3-a) | Chapter 437, 437A, or 438, Health and Safety |
| 1-44 | | <u>Code;</u> |
| 1-45 | (4) | Section 30.005, Insurance Code; |
| 1-46 | (5) | Section 1.005, Labor Code; |
| 1-47 | (6) | Section 229.901, Local Government Code; |
| 1-48 | (7) | Section 1.003, Natural Resources Code; |
| 1-49 | (8) | Section 1.004, Occupations Code; or |
| 1-50 | (9) | Section 1.004, Property Code. |

1-51 SECTION 3. Section 437.003, Health and Safety Code, is
1-52 amended to read as follows:

1-53 Sec. 437.003. COUNTY AUTHORITY TO REQUIRE PERMIT. Subject
1-54 to Section 437.0045, to [To] enforce state law and rules adopted
1-55 under state law, the commissioners court of a county by order may
1-56 require food service establishments, retail food stores, mobile
1-57 food units, and roadside food vendors in unincorporated areas of
1-58 the county, including areas in the extraterritorial jurisdiction of
1-59 a municipality, to obtain a permit from the county.

1-60 SECTION 4. Sections 437.004(a), (c), and (d), Health and

2-1 Safety Code, are amended to read as follows:

2-2 (a) Subject to Section 437.0045, a [A] public health
 2-3 district that is established by at least one county and one or more
 2-4 municipalities in the county by order may require food service
 2-5 establishments, retail food stores, mobile food units, and roadside
 2-6 food vendors in the district to obtain a permit from the district.

2-7 (c) If the district does not have an administrative board,
 2-8 the governing body of each member of the district must adopt the
 2-9 order. Subject to Section 437.009(b), the [The] order is effective
 2-10 throughout the public health district on the 30th day after the
 2-11 first date on which the governing bodies of all members have adopted
 2-12 the order.

2-13 (d) This chapter does not restrict the authority of a
 2-14 municipality that is a member of a public health district to adopt
 2-15 ordinances or administer a permit system concerning food service
 2-16 establishments, retail food stores, mobile food units, and roadside
 2-17 food vendors, to the extent those ordinances or that system does not
 2-18 conflict with a provision of state law.

2-19 SECTION 5. Chapter 437, Health and Safety Code, is amended
 2-20 by adding Section 437.0045 to read as follows:

2-21 Sec. 437.0045. LOCAL PERMIT REQUIREMENT LIMITATION.
 2-22 Notwithstanding any other law, a county, municipality, or public
 2-23 health district, including an authorized agent, employee, or
 2-24 department, may only require a permit, license, certification, or
 2-25 other form of authority if the permit, license, certification, or
 2-26 other form of authority would be required of the food service
 2-27 establishment, retail food store, mobile food unit, roadside food
 2-28 vendor, or temporary food service establishment or an employee of
 2-29 any of those entities if the entity or person was located within the
 2-30 department's jurisdiction.

2-31 SECTION 6. Section 437.0091, Health and Safety Code, is
 2-32 amended to read as follows:

2-33 Sec. 437.0091. LOCAL [MUNICIPAL] ORDINANCE AND FEE SCHEDULE
 2-34 REGISTRY. The department shall establish and maintain on the
 2-35 department's Internet website a registry for municipal ordinances
 2-36 submitted under Section 437.009(b) and fee schedules submitted
 2-37 under Section 437.0124(b). The department shall [and] post in the
 2-38 registry each submitted ordinance or fee schedule not later than
 2-39 the 10th day after the date the department receives the ordinance or
 2-40 fee schedule.

2-41 SECTION 7. Section 437.01235, Health and Safety Code, is
 2-42 amended to read as follows:

2-43 Sec. 437.01235. FEES FOR PREMISES WITH ALCOHOLIC BEVERAGE
 2-44 PERMIT OR LICENSE. Notwithstanding any other law, a [A] county, [or
 2-45 a] municipality, or public health district, including an authorized
 2-46 agent, employee, or department, [with a public health district that
 2-47 charges a fee for issuance or renewal of a permit under Section
 2-48 437.012 or 437.0123 for a premises located in the county or
 2-49 municipality and permitted or licensed by the Texas Alcoholic
 2-50 Beverage Commission] may not [also] charge a fee under Section
 2-51 11.38 or 61.36, Alcoholic Beverage Code, if the premises is a food
 2-52 service establishment, retail food store, mobile food unit,
 2-53 roadside food vendor, or temporary food service establishment that
 2-54 has already paid a fee to operate to the department or to any
 2-55 county, municipality, or public health district [for issuance of an
 2-56 alcoholic beverage permit or license for the premises].

2-57 SECTION 8. Section 437.0124, Health and Safety Code, is
 2-58 amended to read as follows:

2-59 Sec. 437.0124. COUNTY, MUNICIPALITY, AND PUBLIC HEALTH
 2-60 DISTRICT FEE SCHEDULE. (a) A county, municipality, or public
 2-61 health district shall establish a fee schedule for any fees
 2-62 collected under this chapter and revise the fee schedule as
 2-63 necessary.

2-64 (b) A county, municipality, or public health district shall
 2-65 submit a copy of the fee schedule to the department for inclusion in
 2-66 the registry established under Section 437.0091 not later than the
 2-67 60th day before the date the fee schedule goes into effect.

2-68 SECTION 9. Chapter 437, Health and Safety Code, is amended
 2-69 by adding Sections 437.0126, 437.0127, 437.029, and 437.030 to read

as follows:

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

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

(1) on an annual or biennial basis; and

(2) using a risk-based assessment.

(c) A county, municipality, or public health district, including an authorized agent, employee, or department, may assess a reinspection fee if:

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

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

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

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

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

(2) a municipality with a population of 950,000 or more; or

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

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

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

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

Sec. 437.029. SOUND REGULATIONS. (a) Notwithstanding any other law, the department, a county, a municipality, or a public health district, including an authorized agent, employee, or

department, may not require a food service establishment to obtain a sound regulation permit, charge a sound regulation fee to an establishment, or otherwise prohibit sound-related activity at an establishment if the establishment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 438.1055. PROHIBITED REQUIREMENT OF LOCAL FOOD MANAGER CARD OR LOCAL FEE. Notwithstanding any other law, a [A] local health jurisdiction may not require a food manager who holds a food manager certificate issued under this subchapter to pay a fee for or to hold a local food manager card, license, permit, or

5-1 certification or any other credential or paperwork ~~[or charge a fee~~
5-2 ~~for issuance of the certificate under this subchapter]~~.

5-3 SECTION 11. This Act takes effect September 1, 2025.

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