

BILL ANALYSIS

C.S.H.B. 91
By: Flynn
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that there are unnecessary barriers to the sale of raw milk and raw milk products, prohibiting consumers from obtaining a product that many consider wholesome and nutritious. C.S.H.B. 91 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 91 amends the Health and Safety Code to authorize a person who holds a permit authorizing the person to sell raw milk or raw milk products at retail to sell raw milk or raw milk products directly to a consumer in Texas at the permit holder's place of business, the consumer's residence, or a farmers' market, unless prohibited by municipal ordinance. The bill clarifies that such authorization does not authorize the sale of raw milk or raw milk products to or on the premises of a grocery store, supermarket, or similar retail market; raw milk or raw milk products that are a blend of raw milk purchased from more than one permit holder; or raw milk or raw milk products by a person other than the permit holder.

C.S.H.B. 91 requires a person who sells raw milk or raw milk products under the bill's provisions to affix to individual raw milk or raw milk product containers a label that includes the name of the permit holder, the permit holder's permit number, the calendar date the raw milk or raw milk product was packaged in the container, and a health advisory regarding food-borne illnesses. The bill requires the Department of State Health Services (DSHS), on request, to provide a record of test results from an inspection of raw milk or raw milk products by DSHS or another authorized entity.

C.S.H.B. 91 requires the executive commissioner of the Health and Human Services Commission to adopt rules for the safe storing, handling, and transporting of raw milk and raw milk products produced for sale under the bill's provisions. The bill requires raw milk and raw milk products produced for retail sale to be placed in a sterile or single-use container and sold not later than the fifth day after the date the container was filled. The bill requires raw milk and raw milk products being transported for delivery to be maintained in air temperatures at or below 45 degrees Fahrenheit at all times except during transfer from one storage area or transportation vehicle to another and to be protected from exposure to direct sunlight.

C.S.H.B. 91 prohibits DSHS or a local health authority from mandating the specific method for complying with a temperature requirement. The bill authorizes a producer to contract with another person to transport and deliver raw milk and raw milk products in accordance with the bill's provisions and specifies that the producer is jointly and severally liable for transport and delivery of raw milk and raw milk products not conducted in accordance with the bill's provisions and DSHS rules.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 91 differs from the original in minor or nonsubstantive ways to conform to changes made by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, which became effective April 2, 2015, and by amending the caption.