

BILL ANALYSIS

Senate Research Center
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S.B. 572
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2014, the Department of State Health Services (DSHS) defined in administrative code the definition of "pickle" to only mean a cucumber. This rule was used to interpret the word pickle in Chapter 437, Health and Safety Code. Additionally, since the passage of the cottage food law in 2011, SB 81 (Nelson, 82R), additional reforms and updates to the statute is needed.

S.B. 572 requires a review and expands access for cottage food producers by amending the current list of allowed cottage foods to include pickled vegetables, fermented products, and canned good.

Additionally, the bill requires that cottage food producers of fermented products and canned goods submit the recipe to DSHS and obtain approval before sale.

As proposed, S.B. 572 amends current law relating to foods produced by a cottage food production operation and a cottage food industry study.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 437.001(2-b), Health and Safety Code, as follows:

(2-b) Redefines "cottage food production operation" to include an individual, operating out of the individual's home, who produces at the individual's home, subject to Section 437.0196 (Potentially Hazardous Food; Prohibition for Cottage Food Production Operations), pickled vegetables, including pickled beets and carrots, rather than pickles, or, subject to Section 437.01951, fermented products or canned goods that are acidified or low acid.

SECTION 2. Amends Chapter 437, Health and Safety Code, by adding Sections 437.01951 and 437.01952, as follows:

Sec. 437.01951. APPROVAL REQUIRED FOR CERTAIN COTTAGE FOOD PRODUCTS. (a) Requires a cottage food production operation producing a fermented product or a canned good that is acidified or low acid, before making the product or good available for sale, to submit to the Department of State Health Services (DSHS) the recipe and a description of the process used to produce the product or good and to obtain DSHS approval to sell the product or good.

(b) Provides that a recipe submitted to DSHS under this section is a trade secret for purposes of Section 552.110 (Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information), Government Code, and is exempt from disclosure under Chapter 552 (Public Information), Government Code.

Sec. 437.01952. STUDY ON COMPETITIVENESS OF STATE'S COTTAGE FOOD INDUSTRY. (a) Requires DSHS, using existing resources, to study the competitiveness of this state's cottage food industry. Requires the study to compare this state's cottage food industry laws to the industry-related laws enacted by each state of the United States and determine the specific areas in which this state's cottage food industry laws are more or less restrictive than other states' laws and the effect of this state's laws on the competitiveness of this state's cottage food industry.

(b) Requires DSHS, not later than December 1, 2020, to submit to the legislature a report that includes the findings of the study conducted under this section and DSHS's recommendations for increasing the competitiveness of this state's cottage food industry.

(c) Provides that this section expires September 1, 2021.

SECTION 3. Requires the executive commissioner of the Health and Human Services Commission, not later than January 1, 2020, to adopt rules to implement Section 437.01951, Health and Safety Code, as added by this Act.

SECTION 4. Effective date: September 1, 2019.