

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 1276  
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Health & Human Services  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In the spring of 2020, Governor Abbott issued an emergency directive allowing restaurants to sell bulk products like uncooked produce, meat, and dry goods directly to consumers under guidance issued by the Texas Department of State Health Services (DSHS). This directive provided Texans with another source of food, which was critical as grocery stores became overrun. Because restaurants and grocery stores rely on separate and distinct supply chains, Texans were often able to find specific products in their local restaurant, even if they could not find the same product in a nearby grocery store.

In addition to helping Texas consumers, the bulk food sales directive also provided a crucial revenue stream for restaurants suffering a drastic decrease in sales due to the COVID-19 pandemic. Restaurants took advantage of the emergency directive to serve customers in new, innovative ways, creating family meal kits and even cooking class boxes. Many restaurants are eager to incorporate these innovative strategies into their long-term business plans to rebuild from the pandemic.

H.B. 1276 would increase Texans' access to food and generate additional revenue for food service establishments by allowing food service establishments to sell directly to an individual certain consumer food products.

H.B. 1276 amends current law relating to the sale of certain food by food service establishments.

### **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 Chapter 437, Health and Safety Code, by adding Section 437.026, as follows:

Sec. 437.026. SALE OF CERTAIN FOOD BY FOOD SERVICE ESTABLISHMENT.

(a) Authorizes a food service establishment that holds a permit under Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors), except as provided by Subsection (b), to sell directly to an individual consumer food, other than prepared food, that:

(1) is labeled, which may include a handwritten label, with any information required by the Department of State Health Service's (DSHS) food service establishment rules;

(2) for a meat product or poultry product, is obtained from a source that is appropriately inspected and bears an official mark of inspection from DSHS or the United States Department of Agriculture; and

(3) for food requiring refrigeration other than whole, uncut produce, is:

(A) maintained at or below 41 degrees Fahrenheit until the establishment sells or donates the food; and

(B) protected from contamination.

(b) Prohibits a food service establishment described by Subsection (a) from selling directly to an individual consumer food that is:

(1) in a package exhibiting damage; or

(2) distressed because the food:

(A) has been subjected to fire, flooding, excessive heat, smoke, radiation, or another environmental contamination;

(B) is not held at the correct temperature for the food type; or

(C) is not in good condition.

(c) Prohibits a municipality or public health district from requiring a food service establishment that sells food directly to an individual consumer under this section to obtain a food manufacturer license or permit if the establishment:

(1) complies with this section; and

(2) is not required to hold a food manufacturer license or permit under other state law.

SECTION 2. Amends Section 431.2211(a), Health and Safety Code, as follows:

(a) Provides that a person is not required to hold a license under Subchapter A (Food and Drug Health Regulations) if the person is a restaurant that sells food directly to an individual consumer if the restaurant holds a permit as a food service establishment under Chapter 437, complies with Section 437.026, and is not otherwise required to hold a license under Subchapter A.

SECTION 3. Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the effective date of this Act, to adopt rules to implement the changes in law made by this Act.

SECTION 4. Makes application of this Act prospective as regards the sale of food.

SECTION 5. Provides that Section 431.2211(a), Health and Safety Code, as amended by this Act, applies only to a license issued or renewed on or after the effective date of this Act.

SECTION 6. Effective date: upon passage or September 1, 2021.