CHAPTER 652

H.B. No. 939

AN ACT
relating to the transfer of certain amounts from the employment and training investment holding fund and the training stabilization fund.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. TRANSFER. On the effective date of this Act:

(1) 15 percent of the amount in the employment and training investment holding fund under Section 204.122, Labor Code, and 15 percent of the amount in the training stabilization fund under Section 302.101, Labor Code, shall be transferred to the Texas Workforce Commission to be used for one-time expenses related to workforce development or the administration of Subtitle A, Title 4, Labor Code; and

(2) the Texas Workforce Commission shall transfer 15 percent of the total amount received by the commission under Subdivision (1) of this section to the Texas Veterans Commission to be used to fund employment programs for veterans.

SECTION 2. EFFECTIVE DATE. This Act takes effect September 1, 2013.

Passed by the House on May 1, 2013: Yeas 143, Nays 0, 1 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 653

H.B. No. 970

AN ACT
relating to regulation of cottage food products and cottage food production operations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 437.001, Health and Safety Code, is amended by amending Subdivisions (2-a) and (2-b) and adding Subdivision (3-b) to read as follows:

(2-a) “Baked good” includes cookies, cakes, breads, Danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven. [A baked good does not include a potentially hazardous food item as defined by department rule.]

(2-b) “Cottage food production operation” means an individual, operating out of the individual’s home, who:

(A) produces at the individual’s home, subject to Section 437.0196:

(i) a baked good that is not a potentially hazardous food, as defined by Section 437.0196;

(ii) candy;

(iii) coated and uncoated nuts;

(iv) unroasted nut butters;
(v) fruit butters;
(vi) a canned jam or jelly;
(vii) a fruit pie;
(viii) dehydrated fruit or vegetables, including dried beans;
(ix) popcorn and popcorn snacks;
(x) cereal, including granola;
(xi) dry mix;
(xii) vinegar;
(xiii) pickles;
(xiv) mustard;
(xv) roasted coffee or dry tea;[1] or
(xvi) a dried herb or dried herb mix [for sale at the person's home];

(B) has an annual gross income of $50,000 or less from the sale of food described by Paragraph (A); [and]
(C) sells the foods produced under Paragraph (A) only directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event; and
(D) delivers products to the consumer at the point of sale or another location designated by the consumer.

(3-b) "Farm stand" means a premises owned and operated by a producer of agricultural food products at which the producer or other persons may offer for sale produce or foods described by Subdivision (2-b)(A).

SECTION 2. Section 437.0191, Health and Safety Code, is amended to read as follows:

Sec. 437.0191. EXEMPTION FOR COTTAGE FOOD PRODUCTION OPERATIONS.
(a) A cottage food production operation is not a food service establishment for purposes of this chapter.
(b) The exemption provided by Subsection (a) does not affect the application of Sections 431.045, 431.0495, and 431.247 authorizing the department or other local health authority to act to prevent an immediate and serious threat to human life or health.

SECTION 3. The heading to Section 437.0192, Health and Safety Code, is amended to read as follows:
Sec. 437.0192. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS BY LOCAL GOVERNMENT AUTHORITIES [HEALTH DEPARTMENT] PROHIBITED; COMPLAINTS.

SECTION 4. Section 437.0192(a), Health and Safety Code, is amended to read as follows:
(a) A local government authority, including a local health department, may not regulate the production of food at a cottage food production operation.

SECTION 5. Sections 437.0193 and 437.0194, Health and Safety Code, are amended to read as follows:
Sec. 437.0193. PACKAGING AND LABELING REQUIREMENTS FOR COTTAGE FOOD PRODUCTION OPERATIONS. (a) Food described by Section 437.001(2-b)(A) sold by a cottage food production operation must be packaged in a manner that prevents product contamination, except that a food item is not required to be packaged if it is too large or bulky for conventional packaging.
(b) The executive commissioner shall adopt rules requiring a cottage food production operation to label all of the foods described in Section 437.001(2-b)(A) that the operation sells to consumers. The label must include:
(1) the name and address of the cottage food production operation; and
(2) a statement that the food is not inspected by the department or a local health department.
(c) For foods not required to be packaged under Subsection (a), the information required to be included on the label under Subsection (b) must be provided to the consumer on an invoice or receipt.

Sec. 437.0194. CERTAIN SALES BY COTTAGE FOOD PRODUCTION OPERATIONS [THROUGH THE INTERNET] PROHIBITED. A cottage food production operation may not sell any of the foods described in Section 437.001(2-b)(A):

(1) through the Internet;
(2) by mail order, or
(3) at wholesale.

SECTION 6. Chapter 437, Health and Safety Code, is amended by adding Sections 437.0195 and 437.0196 to read as follows:

Sec. 437.0195. PRODUCTION OF COTTAGE FOOD PRODUCTS. (a) An individual who operates a cottage food production operation must have successfully completed a basic food safety education or training program for food handlers accredited under Subchapter D, Chapter 438.

(b) An individual may not process, prepare, package, or handle cottage food products unless the individual:

(1) meets the requirements of Subsection (a);
(2) is directly supervised by an individual described by Subsection (a); or
(3) is a member of the household in which the cottage food products are produced.

Sec. 437.0196. POTENTIALLY HAZARDOUS FOOD; PROHIBITION FOR COTTAGE FOOD PRODUCTION OPERATIONS. (a) In this section, "potentially hazardous food" means a food that requires time and temperature control for safety to limit pathogen growth or toxin production. The term includes a food that must be held under proper temperature controls, such as refrigeration, to prevent the growth of bacteria that may cause human illness. A potentially hazardous food may include a food that contains protein and moisture and is neutral or slightly acidic, such as meat, poultry, fish, and shellfish products, pasteurized and unpasteurized milk and dairy products, raw seed sprouts, baked goods that require refrigeration, including cream or custard pies or cakes, and ice products. The term does not include a food that uses potentially hazardous food as ingredients if the final food product does not require time or temperature control for safety to limit pathogen growth or toxin production.

(b) A cottage food production operation may not sell to customers potentially hazardous foods.

SECTION 7. Chapter 211, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

Sec. 211.031. DEFINITIONS. In this subchapter, "cottage food production operation" and "home" have the meanings assigned by Section 437.001, Health and Safety Code.

Sec. 211.032. CERTAIN ZONING REGULATIONS PROHIBITED. A municipal zoning ordinance may not prohibit the use of a home for cottage food production operations.

Sec. 211.033. ACTION FOR NUISANCE OR OTHER TORT. This subchapter does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual’s use of the individual’s home for cottage food production operations.

SECTION 8. Chapter 231, Local Government Code, is amended by adding Subchapter M to read as follows:
SUBCHAPTER M. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS

Sec. 231.281. DEFINITIONS. In this subchapter, "cottage food production operation" and "home" have the meanings assigned by Section 437.001, Health and Safety Code.

Sec. 231.282. CERTAIN ZONING REGULATIONS PROHIBITED. A county zoning ordinance may not prohibit the use of a home for cottage food production operations.

Sec. 231.283. ACTION FOR NUISANCE OR OTHER TORT. This subchapter does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual's use of the individual's home for cottage food production operations.

SECTION 9. Notwithstanding Section 437.0195, Health and Safety Code, as added by this Act, an individual operating a cottage food production operation is not required to complete a basic food safety education or training program for food handlers before January 1, 2014.

SECTION 10. This Act takes effect September 1, 2013.

Passed by the House on May 6, 2013: Yeas 143, Nays 2, 1 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.

Effective September 1, 2013.

CHAPTER 654

H.B. No. 983

AN ACT relating to the eligibility of temporary election officers for unemployment compensation.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 201.063(a), Labor Code, is amended to read as follows:

(a) In this subtitle, "employment" does not include:

(1) service in the employ of a political subdivision or of an instrumentality of a political subdivision that is wholly owned by one or more political subdivisions:

(A) as an elected official;

(B) as a member of a legislative body;

(C) as a member of the judiciary;

(D) as a temporary employee in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(E) in a position that is designated under law as a major nontenured policy-making or advisory position or a policy-making or advisory position that ordinarily does not require more than eight hours of service each week; or

(F) as an election official or worker if the remuneration received by the individual during the calendar year is less than $1,000;

(2) service in the employ of a foreign government, including service as a consular or other officer or employee or as a nondiplomatic representative;

(3) service in the employ of an instrumentality wholly owned by a foreign government if:

(A) the service is similar to service performed in a foreign country by an employee of the United States government or an instrumentality of that government; and

(B) the United States secretary of state has certified to the United States secretary of the treasury that the foreign government grants an equivalent exemption for similar services performed in the foreign country by an employee of the United States government or an instrumentality of the United States government;