BILL ANALYSIS

Senate Research Center   H.B. 1362
                                                                                                             By: Giddings (Nelson)
                                                                                                                       State Affairs
                                                                                                                             5-6-97
                                                                                                                          Engrossed

DIGEST

Section 431.221, Health and Safety Code, allows the Texas Department of Health (TDH) to protect public health from adulterated, contaminated, and misbranded foods. An amendment enacted by the 74th Texas Legislature, Regular Session, added an exemption to the licensure requirements for certain wholesale food distributors. The amendment exempted "...an individual who sells prepackaged nonperishable foods, including dietary supplements, from a private residence." Since enactment of the amendment, the Licensure Program for the Bureau of Food and Drug Safety has received several calls from individuals wishing to operate a wholesale food distributorship from their residence.

The exempting language in Chapter 431 was not intended to permit such operations from a private residence unless such facilities were licensed by TDH and in compliance with the good warehousing practices rules found in Sec. 431.221. Without appropriate amendments, TDH can no longer exclude individuals from operating wholesale food distribution facilities from their home. Current good manufacturing practices rules for food manufacturers, and the rules on food service establishments, specifically exclude those types of establishments from compliance and licensure.

PURPOSE

As proposed, H.B. 1362 defines "direct seller," clarifying that only "direct sellers" are exempt from regulation as a food manufacturer or wholesaler.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 431.221, Health and Safety Code, by adding Subdivision (5), to define "direct seller."

SECTION 2. Amends Section 431.2211(2), Health and Safety Code, to provide that this subchapter does not apply to an individual who sells certain foods from a private home as a direct seller.

SECTION 3. Emergency clause.
                   Effective date: 90 days after adjournment.