

BILL ANALYSIS

Senate Research Center
76R15045 MCK-D

C.S.S.B. 1891
By: Gallegos
Health Services
5/9/1999
Committee Report (Substituted)

DIGEST

Currently, some ice cream pushcart vendors are required to hold a license issued by the municipality in which they operate to sell their products to the public. This bill would require an ice cream push cart vendor to obtain a certificate issued by the Texas Department of Health to sell ice cream to the public.

PURPOSE

As proposed, C.S.S.B. 1891 establishes procedures for the regulation of ice cream pushcart vendors and provides a criminal penalty for violations of this Act.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Health in SECTION 1 (Section 441.003, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6A, Health and Safety Code, by adding Chapter 441, as follows:

CHAPTER 441. ICE CREAM PUSH CART VENDORS

Sec. 441.001. DEFINITION. Defines "department."

Sec. 441.002. APPLICATION OF LAW. Provides that this chapter only applies to an ice cream pushcart operated in an unincorporated area or in a municipality that does not have an ordinance that regulates the operation of ice cream pushcarts and is identical to or exceeds the minimum standards adopted under this chapter.

Sec. 441.003. CERTIFICATION OF ICE CREAM PUSH CART VENDORS. Prohibits an ice cream pushcart vendor (vendor) from furnishing ice cream to the public without a certificate issued under this chapter, which authorizes the vendor to operate multiple ice cream pushcarts (pushcart). Requires the certificate or a copy of the certificate to be displayed on each pushcart. Requires the vendor to submit a signed certificate application to the Texas Department of Health (department) on a prescribed form, pay the department certain fees, and comply with any rules adopted by the department, to obtain or renew a certificate.

Sec. 441.004. RULES. Requires the department to adopt rules that are necessary to implement this chapter, which may include rules relating to inspections, certificate suspension, revocation, other disciplinary action, or renewal. Authorizes a municipality with a population of 100,000 or more to recommend rules to the department.

Sec. 441.005. MUNICIPAL REGULATION. Prohibits a municipality from prohibiting the operation of pushcarts in the municipality. Prohibits a municipality from adopting an ordinance that conflicts with this chapter.

Sec. 441.006. CRIMINAL PENALTY. Provides that a person commits a Class C misdemeanor if the person operates a pushcart without a certificate, and each day on which a violation occurs constitutes a separate offense.

SECTION 2. Effective date: September 1, 1999, with the exception of Sections 441.003(a) and (b) and

441.006, Health and Safety Code, as added by this Act, which take effect January 1, 2000, except that in a municipality in which Chapter 441, Health and Safety Code, as added by this Act, applies, Sections 441.003(a) and (b) and 441.006, Health and Safety Code, take effect September 1, 2001.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 441.002, Health and Safety Code, to insert text regarding the application of law to this Act and moves proposed text regarding the certification of vendors to subsequent sections.

Amends Section 441.005, Health and Safety Code, to prohibit a municipality from prohibiting the operation of pushcarts in the municipality or from adopting an ordinance that conflicts with this chapter.

SECTION 2.

Provides that Sections 441.003(a) and (b) and 441.006, Health and Safety Code, take effect September 1, 2001, in a municipality in which Chapter 441, Health and Safety Code, as added by this Act, applies. Makes conforming changes.