

BILL ANALYSIS

Senate Research Center
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H.B. 1585
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A public health district is an entity jointly created by cities and counties to permit and inspect food service establishments. Administrative penalties are commonly issued by the state and municipalities for violations of food safety regulations. Counties and public health districts, however, do not have the authority to issue administrative penalties for food safety violations.

H.B. 1585 authorizes the director of a public health district or the commissioners court of a county to issue certain administrative penalties on a person who is required by the district or county to hold a permit for food service establishments, retail food stores, mobile food units, and roadside food vendors for certain statutory violations.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 437, Health and Safety Code, by adding Sections 437.0185 and 437.0186, as follows:

Sec. 437.0185. ADMINISTRATIVE PENALTY BY PUBLIC HEALTH DISTRICT OR COUNTY. (a) Authorizes the director of a public health district or the commissioners court of a county to impose an administrative penalty on a person the district or county requires to hold a permit under Section 437.003 or 437.004 if the person violates this chapter or a rule or order adopted under this chapter.

(b) Prohibits the amount of the penalty from exceeding \$500 per day, and provides that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. Requires the amount to be based on certain factors set forth in this subsection.

(c) Authorizes the enforcement of the penalty to be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court. Authorizes a person who cannot afford to pay the penalty to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs.

(d) Authorizes a person, not later than the 20th day after the date the person receives notice of the penalty, to accept in writing the determination and pay the recommended penalty of the director or commissioners court or make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(e) Requires the justice of the peace for the justice precinct in which the retail food store or food establishment is located or the mobile food establishment or roadside food vendor is based to hold a hearing requested under Subsection (d).

(f) Authorizes a court, if the court sustains the finding that a violation occurred, to uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(g) Requires a court to order that a penalty is not owed if the court does not sustain the finding that a violation occurred.

(h) Requires a court to order, when the court's judgment becomes final, that the appropriate amount be remitted to the person if the person paid the penalty to the clerk of the court and if the amount of the penalty is reduced or the penalty is not upheld by the court.

Sec. 437.0186. ASSESSMENT OF ADMINISTRATIVE PENALTY. Authorizes an administrative penalty to be imposed for a violation of this chapter or a rule or order under this chapter by the state under Section 437.018 or by the director of a public health district or commissioners court of a county under Section 437.0185, but not both.

SECTION 2. Makes application of Section 437.0185, Health and Safety Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2007.