

## **BILL ANALYSIS**

Senate Research Center  
86R25846 KKR-F

H.B. 644  
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Health & Human Services  
5/11/2019  
Engrossed

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

In 2014, the Department of State Health Services defined in administrative code the definition of "pickle" to only mean a cucumber. This rule was used to interpret the word pickle in Chapter 437, Health and Safety Code. Additionally, since the passage of the cottage food law in 2011, S.B. 81 (Nelson, 82R), additional reforms and updates to the statute are needed.

H.B. 644 expands access for cottage food producers by amending the current list of allowed cottage foods to include pickled and canned goods, and amends current law relating to the regulation of cottage food production operations.

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### **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 Section 437.001, Health and Safety Code, by adding Subdivision (1) and amending Subdivision (2-b), as follows:

(1) Defines "acidified canned goods."

(2-b) Redefines "cottage food production operation" to mean an individual, operating out of the individual's home, who:

(A) produces at the individual's home, subject to Section 437.0196 (Potentially Hazardous Food; Prohibited For Cottage Food Production Operations):

(i)–(xii) makes no changes to these subparagraphs;

(xiii) pickled fruit or vegetables, including beets and carrots, that are preserved in vinegar, brine, or a similar solution at an equilibrium pH value of 4.6 or less, rather than pickles;

(xiv) makes no changes to this subparagraph;

(xv) makes a nonsubstantive change to this subparagraph;

(xvii) acidified canned goods; or

(xviii) any other food that is not a potentially hazardous food, as defined by Section 437.0196;

(B) makes no changes to this paragraph;

(C) sells the foods produced under Paragraph (A) only directly to consumers, rather than 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) makes no changes to this paragraph.

SECTION 2. Amends Chapter 437, Health and Safety Code, by adding Section 437.01951, as follows:

Sec. 437.01951. REQUIREMENTS FOR SALE OF ACIDIFIED CANNED GOODS. (a) Requires a cottage food production operation that sells to consumers acidified canned goods to:

(1) use a recipe that:

(A) is from a source approved by the Department of State Health Services (DSHS) ;

(B) has been tested by an appropriately certified laboratory that confirmed the finished canned good has an equilibrium pH value of 4.6 or less; or

(C) is approved by a qualified process authority; or

(2) if the operation does not use a recipe described by Subdivision (1), test each batch of the recipe with a calibrated pH meter to confirm the finished canned good has an equilibrium pH value of 4.6 or less.

(b) Requires DSHS to:

(1) approve sources for recipes that a cottage food production operation may use to produce acidified canned goods; and

(2) annually post on the DSHS Internet website a list of the approved sources for recipes, appropriately certified laboratories, and qualified process authorities.

(c) Defines "process authority" for the purposes of this section.

SECTION 3. Provides that, as soon as practicable after the effective date of this Act:

(1) the executive commissioner of the Health and Human Services Commission is required to adopt rules as necessary to implement the changes made by this Act; and

(2) DSHS is required to approve sources for recipes for acidified canned goods and post a list of sources, appropriately certified laboratories, and qualified process authorities on DSHS's Internet website as required by Section 437.01951, Health and Safety Code, as added by this Act.

SECTION 4. Effective date: September 1, 2019.