

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1805
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Grading eggs involves weighing and measuring each egg and sorting them by size, a function which requires producers to obtain a license from the Texas Department of Agriculture (TDA). TDA licensure includes both an annual fee and fees based on egg quantities sold. According to advocates, grading is entirely a marketing issue (size and weight) and provides no significant benefits from a health or food safety perspective.

Section 132.002, Agriculture Code, states that "a person selling only eggs produced by that person's own flock, and for which the person does not claim a grade, do not need to be graded." Section 132.021 then states that "the licensing requirements do not apply to restaurants serving eggs to consumers or retailers selling eggs to the ultimate consumer."

Nonetheless, Department of State Health Services regulations prohibit restaurants and retailers from buying ungraded eggs, effectively circumventing the statute and preventing farmers from selling their eggs wholesale. This requirement is a significant barrier for many small farmers because eggs have a very small profit margin and the additional expense and hassle cannot be justified by many farmers.

S.B. 1805 would amend the Agriculture Code to explicitly allow producers to sell eggs, clearly labeled as "ungraded" to restaurants and retailers who, in turn, sell directly to consumers. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1805 amends current law relating to egg grading.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Agriculture in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 132.002, Agriculture Code, as follows:

Sec. 132.002. New heading: SALE OF UNGRADED EGGS BY PRODUCER. (a) Creates this subsection from existing text. Provides that, except as provided by Subsection (b), this chapter (Eggs) does not apply to a person selling only eggs that are produced by the person's own flock and for which the person does not claim a grade, rather than providing that this chapter does not apply to a person selling only eggs that are produced by the person's own flock and for which the person does not claim a grade.

(b) Authorizes a person who produces eggs as described by Subsection (a) to sell the eggs directly to a consumer or at wholesale if the eggs are clearly labeled as "ungraded" followed by "produced by (producer's name)" and the producer's address. Requires the label information to be legible, requires the information to appear on the top panel of the carton, and authorizes the information to be preprinted on the carton, printed on a label attached to the carton, or hand printed on the carton. Prohibits the carton from displaying the name of a retailer or of a producer other than the producer whose flock produced the eggs.

(c) Prohibits a state agency or political subdivision from prohibiting a person described by Section 132.021(b) (relating to a provision that egg resale licensing requirements do not apply to certain sellers) from purchasing, reselling, or using eggs described by Subsection (b).

SECTION 2. Amends Section 132.043(c), Agriculture Code, as follows:

(c) Requires licensees required by this section to collect or pay a special fee to remit the fee, rather than remit the fee monthly, in accordance with rules established by the Texas Department of Agriculture (TDA). Prohibits the rules from requiring a licensee to remit the fee more often than monthly, or annually, if the licensee is required to remit less than \$360 for the year.

SECTION 3. Requires TDA, not later than December 1, 2019, to adopt rules consistent with Section 132.043(c), Agriculture Code, as amended by this Act.

SECTION 4. Effective date: upon passage or September 1, 2019.