



Texas Farmers' Market Bill & DSHS Better Communications Bill

In the 2013 Texas legislative session, the Farm and Ranch Freedom Alliance worked to pass several bills to help small farmers and local food producers. The cottage foods law is covered in a separate handout. This handout covers the Farmers' Market Bill (HB 1382) and the DSHS Better Communications Bill (HB 1392). Both go into effect on September 1, 2013.

Farmers' Market Bill (HB 1382)

The Farmers' Market Bill has two sections: (1) sampling at farmers' markets and farm stands, and (2) cooking demonstrations at farmers' markets.

Sampling

The provisions on sampling cover both farm stands and farmers' markets. A farmers' market is defined as "a designated location used primarily for the distribution and sale directly to consumers of food by farmers or other producers."

If you are providing samples of food at a location **other than** a farm or a farmers' market, then you will have to comply with the regulations from the Department of State Health Services or your local health department.

To provide samples of food at a farm or farmers' market, you must:

1. Distribute the samples in a sanitary manner (for example, by providing toothpicks for individual servings);
2. Have potable water available (for example, by having a jug of drinking water);
3. Wash any produce intended for sampling with potable water to remove any visible dirt or contamination;
4. When preparing the samples, **either** wear clean, disposable plastic gloves **or** observe proper hand washing techniques immediately before preparation;
5. Use smooth, nonabsorbent, and easily cleaned (i.e. metal or plastic) utensils and cutting surfaces for cutting samples, or use disposable utensils and cutting surfaces;
6. Keep samples of cut produce or other potentially hazardous foods at a temperature of 41 degrees or colder, **or** dispose of the samples within two hours after cutting or preparation.

Meat or poultry products must come from animals processed in compliance with the regulations for livestock processing (Texas Health & Safety Code Chapter 433).

You do not need to obtain a permit to provide samples at a farm or farmers' market. As long as you meet the standards set out above, you may provide samples.

This law does not affect whatever permits you would normally be required to obtain to sell a food item. For example, if your local health department requires you to have a mobile food

vending permit to sell cheese, you will still need to obtain that permit. But you will **not** need to obtain a separate permit to provide samples of your cheese.

Cooking Demonstrations at Farmers' Markets

For a farmers' market to hold a cooking demonstration, it must:

- 1) Have someone with a food manager's license supervising the demonstration; and
- 2) Comply with the requirements for a temporary food establishment (TFE) permit.

If the market wishes to distribute samples as part of the cooking demonstration:

- 1) They can provide samples only, not full servings (i.e. you can't serve a meal and call it a cooking demonstration);
- 2) The samples must be disposed of within 2 hours of the beginning of the demonstration.

If the cooking demonstration is conducted by a farmers' market for a "bona fide educational purpose," it is exempted from the usual fees for a TFE permit.

DSHS Better Communications Bill (HB 1392)

The Department of State Health Services (DSHS) has primary jurisdiction in areas where there is no local health department. In addition, many local health departments enforce the DSHS regulations, rather than adopting specific local regulations.

The DSHS Better Communications Bill, in essence, requires that DSHS tell farmers and food producers what they are legally required to do, in a timely manner. In order to qualify for this requirement, you must submit a **written** request to DSHS asking for the information.

Your request can be for general information (such as "where can I find the requirements for on-farm poultry processing?") or for how the legal requirements apply to your specific circumstances (such as "Will it meet the regulatory requirements if I use gravel for the flooring in the slaughter area?").

DSHS is required to respond to your written request within 30 days.

If you comply with DSHS's response, an inspector **cannot** issue or citation or fine you for violating that regulation.

Thank You's

Thank you to Representative David Simpson and Senator Bob Deuell for sponsoring HB 1382, and to Representative Susan King and Senator Jane Nelson for sponsoring HB 1392. Thank you also to the hundreds of people who attended the committee hearings and FARFA's lobbying days, or who wrote or called their legislators to help pass these important bills.

For more information, visit www.FarmAndRanchFreedom.org or call 254-697-2661