



Support HB 1694/ SB 789

Restore the Intent of the Farmers' Market Sampling Law

Prior to 2013, farmers who wished to provide samples at farmers' markets were subjected to the same regulations as those prepared in large brick-and-mortar grocery stores. The extensive requirements were both impractical and unnecessary for outdoor settings where the farmer is selling directly to consumers for a very short time period once or twice a week.

In 2013, the Texas Legislature passed HB 1382 (House vote 137-0, Senate vote 30-1), establishing common-sense sanitary standards for providing samples at a farmers' market. The intent was that producers who met those standards could provide samples at their booths, with no further requirements.

Unfortunately, while some local health departments have complied with the language and intention of HB 1382, others have not. These health departments have pointed to a different section of the law (§437.0201(e)), which waives fees for cooking demonstrations and samples from such demonstrations when done for educational purposes. They have used the ambiguity created by that section to claim authority to require permits and fees for sampling not connected with cooking demonstrations.

This is a statewide problem. Farmers' markets in Frisco, Longview, Austin, Harris County, McKinney, and others have all reported being required to have a separate permit for sampling and, in some cases, having additional regulatory burdens placed on them.

Yet many other jurisdictions have functioned without sampling permits and fees, as intended by HB 1382, with no reported problems.

Sampling permits and fees impose a significant burden on farmers' market vendors. Sampling is an important way to draw customers to a farmers' market booth and introduce them to a new type of food, or demonstrate how delicious a piece of fruit is despite outer appearances. But farmers' market vendors' profit margins are very slim, and the fees – some as high as \$80 every two weeks – can effectively prohibit this activity.

HB 1694 by Representative Stan Lambert and SB 789 by Senator Nathan Johnson reduce the burdens imposed on small farmers and food businesses selling at farmers' markets, without changing any public health standards or protections. The bills clarify that a farmers' market vendor need only comply with the sanitation standards set out in Section 437.020 of the Health & Safety Code, and explicitly prevents DSHS or local health departments from requiring a permit or imposing fees or additional requirements on the farmers' market vendor for the simple act of sampling their foods.

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