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AN ACT

relating to food manufacturer and food wholesaler licensing requirements under the Texas Food, Drug, and Cosmetic Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 431.221, Health and Safety Code, is amended by amending Subdivisions (2) and (3) and adding Subdivision (6) to read as follows:

(2) "Food manufacturer" means a person who combines, purifies, processes, or packages food for sale through a wholesale outlet. The term also includes a retail outlet that packages or labels food before sale and a person that represents itself as responsible for the purity and proper labeling of an article of food by labeling the food with the person's name and address. The term does not include a restaurant that provides food for immediate human consumption to a political subdivision or to a licensed nonprofit organization if the restaurant would not otherwise be considered a food manufacturer under this subdivision.

(3) "Food wholesaler" means a person who distributes food for resale, either through a retail outlet owned by that person or through sales to another person. The term "food wholesaler" shall not include:

(A) a commissary which distributes food primarily intended for immediate consumption on the premises of a retail outlet under common ownership; [ex]

1 (B) an establishment engaged solely in the  
2 distribution of nonalcoholic beverages in sealed containers; or

3 (C) a restaurant that provides food for immediate  
4 human consumption to a political subdivision or to a licensed  
5 nonprofit organization if the restaurant would not otherwise be  
6 considered a food wholesaler under this subdivision.

7 (6) "Licensed nonprofit organization" means an  
8 organization that is licensed under any statutory authority of the  
9 State of Texas and is exempt from federal income taxation under  
10 Section 501(a), Internal Revenue Code of 1986, and its subsequent  
11 amendments, as an organization described in Section 501(c)(3) of  
12 that code.

13 SECTION 2. Subsection (a), Section 431.2211, Health and  
14 Safety Code, is amended to read as follows:

15 (a) A person is not required to hold a license under this  
16 subchapter if the person is:

17 (1) a person, firm, or corporation that only harvests,  
18 packages, washes, or ships raw fruits or vegetables;

19 (2) an individual who only sells prepackaged  
20 nonperishable foods, including dietary supplements, from a private  
21 home as a direct seller; ~~[or]~~

22 (3) a person who holds a license under Chapter 432 and  
23 who only engages in conduct within the scope of that license; or

24 (4) a restaurant that provides food for immediate  
25 human consumption to a political subdivision or to a licensed  
26 nonprofit organization if the restaurant would not otherwise be  
27 required to hold a license under this subchapter.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2003.

David Newhall  
President of the Senate

Jim Cusick  
Speaker of the House

I hereby certify that S.B. No. 381 passed the Senate on April 23, 2003, by a viva-voce vote; and that the Senate concurred in House amendment on May 30, 2003, by the following vote: Yeas 31, Nays 0.

Patricia Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 381 passed the House, with amendment, on May 23, 2003, by the following vote: Yeas 145, Nays 0, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

18 JUNE '03  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 pm O'CLOCK

Jeep Shea  
Secretary of State