

CHAPTER 244

H.B. No. 1179

AN ACT

relating to fees collected by the Texas Department of Health for milk, milk products, and frozen desserts.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 2(b) and (e), Chapter 172, Acts of the 45th Legislature, Regular Session, 1937 (Article 165-3, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) No political subdivision or agency of this State other than the Texas Department of Health may impose a fee on any milk or milk product or on any person for the movement, distribution, or sale of any milk or milk product. The Texas Department of Health shall impose the following fees for the movement, distribution, or sale of milk or milk products:

- (1) a permit fee of \$50 a year for a producer dairy farm;
- (2) a permit fee of \$200 a year for a processing or bottling plant;
- (3) a permit fee of \$200 a year for a receiving and transfer station;
- (4) a permit fee of \$100 a year for a milk transport tanker;

(5) a [monthly] fee for a processing or bottling plant located in Texas in the amount of one cent per 100 pounds of milk *or milk products* processed *and* [or] distributed in Texas by the processing or bottling plant;

(6) a [monthly] fee for a processing or bottling plant not located in Texas in the amount of [~~\$100 or~~] one cent per 100 pounds of milk *or milk products* sold in Texas and processed by the plant[~~, whichever is greater~~]; and

(7) a fee for the actual cost of analyzing samples of milk or milk products for a processing or bottling plant not located in Texas [~~that qualifies for the minimum monthly fee required under Subdivision (6) of this subsection~~].

(e) The Texas Department of Health may not impose a fee for the movement, distribution, or sale of milk or milk products except as authorized by this section. *The Texas Department of Health shall adopt rules to collect fees imposed under Subsection (b)(5), (6), or (7) of this section monthly, quarterly, semiannually, or annually based on amounts due by the processing or bottling plant.*

SECTION 2. Sections 8(e) and (g), Frozen Dessert Manufacturer Licensing Act (Article 4476-2a, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) The department shall also assess the following fees:

(1) a ~~monthly~~ fee for a frozen dessert manufacturer located in Texas in the amount of one cent per 100 pounds of manufactured or processed frozen dessert manufactured or processed *and distributed in Texas* by that manufacturer;

(2) a ~~monthly~~ fee for a frozen dessert manufacturer not located in Texas in the amount of ~~[\$100 or]~~ one cent per 100 pounds of frozen desserts manufactured or processed by the manufacturer in another state and imported for sale in Texas[, ~~whichever is greater~~]; and

(3) a fee for the actual cost of analyzing samples of frozen desserts for a frozen dessert manufacturer not located in Texas ~~[that qualifies for the minimum monthly fee required under Subdivision (2) of this subsection]~~.

(g) The board shall adopt rules establishing minimum standards for recordkeeping by persons required to pay fees under this Act, and the records shall be made available to the department on request. *The board shall adopt rules to collect fees imposed under this section monthly, quarterly, semiannually, or annually based on amounts due by the frozen dessert manufacturer.*

SECTION 3. A fee imposed monthly under Section 2(b), Chapter 172, Acts of the 45th Legislature, Regular Session, 1937 (Article 165-3, Vernon's Texas Civil Statutes), or Section 8(e), Frozen Dessert Manufacturer Licensing Act (Article 4476-2a, Vernon's Texas Civil Statutes), remains a monthly fee as provided by those laws until the Texas Board of Health adopts rules, as provided by this Act, governing the collection of those fees.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 2, 1987, by a non-record vote. Passed by the Senate on May 14, 1987, by a viva-voce vote.

Approved May 28, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.