

HOUSE BILL REPORT

HB 1957

*As Reported By House Committee on:
Agriculture & Rural Development*

Title: An act relating to food processing.

Brief Description: Requiring licensing of food processing plants.

Sponsor(s): Representatives Rayburn, Nealey, McLean, Chandler, Roland, Franklin and Rasmussen; by request of Department of Agriculture.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, February 28, 1991, DPS.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *That Substitute House Bill No. 1957 be substituted therefor, and the substitute bill do pass.* Signed by 9 members: Representatives Rayburn, Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

Minority Report: *Do not pass.* Signed by 1 member: Representative Kremen, Vice Chair.

Staff: Kenneth Hirst (786-7105).

Background: The state's Food Processing Act requires establishments which process food for distribution or sale by others to be licensed and regulated by the Department of Agriculture. Establishments in operation prior to June 30, 1967 were "grandfathered" into the licensing program with minimum qualifications. A person's first violation of the act is a misdemeanor; each subsequent violation within a period of five years is a gross misdemeanor.

Summary of Substitute Bill:

Civil Penalties. The director of the Department of Agriculture is empowered to impose civil penalties for violations of the state's Food Processing Act. The maximum civil penalty is \$1,000 per violation per day.

Facilities Which Must Be Licensed. The types of facilities which must be licensed for operation under the state's Food Processing Act are broadened beyond those which process food for distribution or resale by others. They now include: a company's food processing facility that transfers its products to another company location for sale; and one which processes food for retail sale but is not regulated under a permit, license, or inspection of a local health authority. Limitations. If a person desires to process a type of food product other than the type specified in the application supporting a person's current license, the person may have to amend the license accordingly before processing this new type of food product. The amendment is necessary if processing that type of food product would require an addition to or modification of the licensee's facilities or would have a high potential for harm. No person may resell in intrastate commerce any food processed in an unlicensed processing plant once the person has been notified by the director that the plant is unlicensed.

Suspensions. If the director finds that an establishment is operating under conditions which constitute an immediate danger to public health or which allow adulteration of food, the director may summarily suspend the establishment's license and its food processing operations must immediately cease. This suspension authority also applies if the licensee or an employee of the licensee, during an on-site inspection, actively prevents the director or the director's representative from making such a finding. An opportunity for a prompt hearing must be provided to the licensee.

Other. Employees of the department are empowered to take verified statements in enforcing the act. A schedule of dates for renewing food processing licenses is to be provided by rule. Provisions of the act are repealed which "grandfathered" into the licensing program food processing plants which were in operation prior to June 30, 1967.

Substitute Bill Compared to Original Bill: The substitute bill: limits the types of new operations for which a license amendment would have to be secured; reinstates a requirement of current law that a hearing be held before an action against a license, other than an action summarily to suspend a license, can be taken by the department; permit the director summarily to suspend a license if certain inspections are actively prevented; and tie the criminal penalties provided by the current food processing act to those prescribed for misdemeanors and gross misdemeanors in the Criminal Code.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Taken from testimony on the parent bill, HB 1483) (1) The department has found, in its inspections, food pathogens which require immediate action. The bill permits a food processing license to be summarily suspended; currently the department must embargo each day's production from the licensee. (2) Specialty processing of foods by small-scale operations is becoming very popular. The bill will permit the department to issue specialty-specific licenses.

Testimony Against: None.

Witnesses: (Taken from testimony on the parent bill, HB 1483) Mike Schwisow and John Daly, Department of Agriculture.