



TEHA 2025 Legislative Recap

The 89th Session of the Texas Legislature recently concluded, and was undoubtedly one of the most challenging sessions for environmental health in recent memory. Conservatives in the legislature have had municipalities in their crosshairs in recent sessions, and local public health departments have undoubtedly taken collateral damage in that broader fight between state pre-emption of municipal ordinances and local control.

There were some positives to take from the session, as TEHA helped defeat several pieces of legislation that would have negatively impacted environmental health. Additionally, TEHA was the lead group involved in helping modify and negotiate a significant bill related to restaurant regulation that was much-improved in its final form. Here are some of the more significant bills that were introduced during the 89th Session that impacted TEHA members:

Legislation Impacting Environmental Health that Passed

Cottage Food Expansion

Senate Bill 541 by Sen. Lois Kolkhorst expands the state's cottage food program in several ways, including by changing the definition of a cottage food to provide what *may not* be considered a cottage food instead of what *may* be a cottage food. Among the key changes:

- Specifies what may not be a cottage food, including meat, seafood, ice or ice products, low-acid canned goods, products containing THC, raw milk or raw milk products;
- Raises the annual revenue exemption to be considered a cottage food producer from \$50,000 to \$150,000, and indexes that amount for inflation going forward;
- Allows the sale of cottage foods to a "cottage food vendor" in addition to directly to consumers as currently allowed;
- Specifies that cottage food vendors may sell cottage foods to consumers except those that are time and temperature control for safety foods;
- Allows non-profit organizations, including their directors and officers, to sell cottage foods or receive cottage foods in donation;
- Allows cottage food labels to not include the address of the operation if the cottage food operator registers with DSHS and uses other identifiable information to allow the production source to be identified;
- Provides DSHS with broad rulemaking authority to implement the chapter.

Ultimately, TEHA successfully advocated to prevent time-and-temperature control for safety foods to be sold at wholesale, but there are still considerable provisions that are of concern in the law. In particular, the cottage food vendor concept is quite ambiguous in statute, which will likely require much of the framework to be established during the rulemaking process, with which TEHA intends to be very involved.

The law takes effect September 1, 2025.

Statewide Food Regulation Standards

Senate Bill 1008 by Sen. Mayes Middleton is the follow-up to SB 577 from the 2023 legislative session, which established a municipal food ordinance database at DSHS and attempted to prohibit certain fees, such as duplicative fees charged related to restaurants that serve alcoholic beverage.

Senate Bill 1008 cleans up a few provisions from the previous bill, such as closing a loophole that some cities believed authorized duplicative fees, such as when different jurisdictions charge fees for essentially the same purpose to the same entity, such as a public health district charging a licensure fee and a municipality charging an alcoholic beverage fee. TEHA worked with the Texas Restaurant Association to make considerable changes to improve the bill, which contains the following key provisions:

- Allows individuals to bring suit against local governments for violations of state food laws in Chapters 437, 437A, or 438, Health and Safety Code;
- Authorizes local jurisdictions, including counties, municipalities, and public health districts, to only require a permit, license, certification, or other form of authority of a food service establishment, mobile food unit, or temporary food establishment if such a permit would be required in a DSHS-regulated jurisdiction;
- Limits permit fees for all regulated food establishments on an annual basis to no more than what would be charged by DSHS for a similar permit on a biennial basis – in basic terms, an annual restaurant permit may not exceed \$773, since DSHS' maximum permit is \$773 for a two-year permit;
- Allows counties with a population of 2 million or more or municipalities with a population of 950,000 or more, or a public health district that regulates either entity, to establish permit fees at 120% of the otherwise maximum amount;
- Requires local jurisdictions to submit its permit fee schedules to DSHS within 60 days after it takes effect;
- Authorizes local jurisdictions to assess a re-inspection fee if necessary to protect public health, for not more than the lesser of the cost of the inspection or \$200;
- Requires local jurisdictions to allow for stakeholders to sign up for e-mail updates, and requires notice to be given to stakeholders via e-mail at least 60 days prior to changes in fees, permits, or inspection protocols;
- Limits local jurisdictions from requiring license holders to receive found permits or fees in most circumstances;
- Clarifies that local jurisdictions may not require a food manager who holds a valid certificate from also having any local food manager license or paperwork.

TEHA worked with advocates for the bill to ensure that the limitation on fees would essentially be double what was originally proposed, as the original language likely limited local jurisdictions to charging what DSHS would charge every two years. Also, clarifying language was included to allow local jurisdictions to establish their own licensure structure, such as one based upon risk,

number of employees, or restaurant size, as long as the fee does not exceed the DSHS maximum. The original bill was tied to the DSHS three-tier permit fee based solely upon annual revenue. Finally, TEHA worked to ensure larger jurisdictions with higher costs could charge 120% of the DSHS fee.

Senate Bill 1008 received considerable attention from the TEHA governing council during the session, and what became clear is that there were some definite outliers in fee prices that resulted in the bill receiving such traction. For example, one jurisdiction cited in a hearing currently charges over \$1,200 for a single mobile food establishment permit. Given the political tides at the capitol, we believe the end result of SB 1008 represents a significant improvement from what was under consideration. The new law takes effect September 1, 2025.

Statewide Permits of Mobile Food Establishments

House Bill 2844 passed both the House and Senate on or near legislative deadlines, and establishes a statewide mobile food establishment permit administered by DSHS. Early on during the session, TEHA identified two conflicting proposals related to mobile food establishments. The first, House Bill 1449, expanded the law passed in 2023 that allowed county-wide mobile food establishment permits in Dallas and Tarrant counties to all counties with a population over 1,000,000.

The second, House Bill 2844, contained 31 pages of new mobile food establishment laws that would be administered by DSHS and essentially pre-empted a mobile food truck from any local municipal ordinance or regulation. As long as it is a legal parking place, a mobile food establishment could operate virtually anywhere. Even more confusing was that the two bills were sent to two completely different committees, which circumvented the normal process where committees work out any differences between competing bills. TEHA supported House Bill 1449, which seemed like a more measured approach and the one that would likely prevail. It testified strongly against House Bill 2844, which seemed problematic in many ways but was supported by a national conservative advocacy organization who deemed food trucks to be a priority with its \$50 million+ annual budget.

Unfortunately, in the final days of the legislative session, House Bill 2844 passed the legislature while House Bill 1449 inexplicably died. However, there were some improvements made to House Bill 2844, which including removing about half of the text from the law, primarily those that exempted local government regulation at all. TEHA will hold a more detailed webinar in the coming months to go over the bill, but here are the key provisions:

- Requires any “mobile food vendor” to obtain a license from DSHS in order to operate in the state;
- Pre-empts any local ordinance or regulation of mobile food vendors in conflict with the new statute, including any blanket prohibition of mobile food vendors in a jurisdiction;
- Establishes state standards for mobile food vendors, such as insurance, background information, and health inspection standards;

- Requires DSHS to establish a database for use by the department and local authorities with names of mobile food vendors, health inspection reports, complaint information, and itineraries of mobile food vendors;
- Specifies that mobile food vendors must comply with local ordinances and regulations, including all fire codes, location restrictions, and zoning codes;
- Allows for collaborative agreements between DSHS and local jurisdictions that request authority to perform local health inspections, and requires DSHS to reimburse local jurisdictions for the cost of inspections;
- Directs DSHS to establish a fee schedule for permit fees and inspection fees;
- Includes language from an unrelated bill that did not pass that defines “small-scale food businesses” as those with revenue of less than \$1.5 million annually, and prohibits a local jurisdiction from requiring a permit to operate as a food service establishment, retail food establishment, retail food store, or a temporary permit if that entity holds a permit issued by DSHS for that purpose or is a licensed food manufacturer.

TEHA intends to provide more detailed information to members on the impacts of House Bill 2844 and will hold a webinar later this summer to provide information and take questions from members. The bill was dramatically re-written in the final days of session, and there are numerous ambiguities if not provisions that seem in outright conflict, such as a provision that states that any local ordinances inconsistent with the law are pre-empted followed by another provision that states that mobile food vendors must comply with all local ordinances and regulations.

The small-scale food business part of the bill takes effect on September 1, 2025. The rest of the bill takes effect July 1, 2026, and requires DSHS to adopt rules related to the program by May 1, 2026. The law specifies that statewide licenses will not be required prior to July 1, 2026, but what is very unclear at this point is how the transition from local permits to statewide permits will work. For example, if a permit is set to renew on May 1, 2026, just two months prior to the statewide license requirement, it is unclear if the local jurisdiction may require a full permit renewal or a two-month pro-rata fee. We will provide more information and guidance in the coming months, and would urge all members who have an interest in the issue to be involved in the rulemaking process that will likely begin this summer, as well.