

## **BILL ANALYSIS**

Senate Research Center  
86R7831 TSR-F

S.B. 581  
By: Perry  
Agriculture  
3/8/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

This legislation is necessary to further clarify and strengthen the language of the original bill and to codify the Texas attorney general (attorney general) opinion. The bill provides that a commercial scale is exempt from registration and inspection requirements if it is exclusively used to weigh food sold ready for immediate consumption regardless of whether the food is consumed on the premises where the food is weighed and sold and not exempted from sales and use tax. This language will limit the bill's reach to only those places that sell food ready for immediate consumption and not extended to grocery stores where produce may be sold ready to eat but is exempt from sales tax.

**Q: Who requested the attorney general opinion and how was the opinion favored?**

The Texas Department of Agriculture asked the attorney general for a written opinion, which was issued in April of 2018. The attorney general sided with the authors of H.B. 2029. Paxton wrote, "the language of the statute requires that the vendor sell food that a consumer can eat immediately, but it does not mandate where or when the purchaser will eat that food. Nor does it require that the seller provide a space for the consumer to eat."

**Q: Will grocery stores selling produce be exempt from weights and scales?**

This language will limit the bill's reach to only those places that sell food ready for immediate consumption and not extended to grocery stores where produce may be sold read to eat but is exempt from sales tax.

As proposed, S.B. 581 amends current law relating to the exemption of certain commercial weighing or measuring devices from registration and inspection requirements.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13.1002, Agriculture Code, as follows:

Sec. 13.1002. EXEMPTION OF CERTAIN WEIGHING OR MEASURING DEVICES. Provides that a commercial weighing or measuring device, notwithstanding any other law, is exempt from this subchapter, including the inspection requirements under Section 13.101 (Inspection of Devices) and the registration requirements under Section 13.1011 (Required Registration), if the device is exclusively used to weigh food:

- (1) sold ready for immediate consumption, regardless of whether the food is consumed on the premises where the food is weighed and sold; and
- (2) not exempted from sales and use taxes under Section 151.314 (Food and Food Products), Tax Code.

SECTION 2. Effective date: upon passage or September 1, 2019.