



**TEXAS DEPARTMENT OF STATE HEALTH SERVICES  
DIVISION FOR REGULATORY SERVICES  
ENVIRONMENTAL AND CONSUMER SAFETY SECTION  
POLICY, STANDARDS, AND QUALITY ASSURANCE UNIT  
PUBLIC SANITATION AND RETAIL FOOD SAFETY GROUP**

**PUBLIC SANITATION AND RETAIL FOOD SAFETY GROUP  
REGULATORY CLARIFICATIONS**

**January 6, 2016**

**PSRFSGRC – No. 17**

**SUBJECT: Children’s Beverage Stands**

**Applicable Texas Food Establishment Rules (TFER) Sections:**  
§228.222 (a)

**Question:**

Do children’s neighborhood beverage stands, including lemonade stands, have to be permitted?

**Response:**

The Department of State Health Services (DSHS) does not believe that children’s beverage stands pose a significant public health risk. Therefore, in areas served by DSHS regional offices, permits will not be required for children’s neighborhood beverage stands. DSHS encourages local public health authorities to consider the overall risks to public health before requiring children’s neighborhood beverage stands to be permitted as Temporary Food Establishments.

**Background:**

Children's beverage stands, specifically lemonade stands, have come to the forefront with the recent closing of a lemonade stand because the children did not have a temporary food establishment permit.

When an operator sets up a temporary booth and performs open handling of food or drink with the intent to sell to the public, it is considered a temporary retail food establishment (TFE), which generally requires a permit. Children’s beverage stands do meet the definition of a TFE because they perform open handling of food, equipment, and utensils and require a potable water source for preparation of the product prior to sale. However, the types and volumes of beverages typically sold by children, including lemonade, present a minimal risk to the public as long as good hygiene practices are observed and the food is protected from contamination, such as: dirt, dust, insects, and other sources of contamination. For this reason, DSHS has determined that children’s beverage stands in areas served by DSHS regional offices, will not be required to have a permit.

Local public health departments have the ability to waive or modify requirements of the rules regulating TFEs including, but not limited to, the permitting of temporary food establishments. DSHS encourages local public health authorities to consider the overall risks to public health before requiring children's neighborhood beverage stands to be permitted as TFEs.

**Support:** §228.222 (a) states 'The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all time/temperature controlled for safety (TCS) foods, and when no health hazard will result, such as children's neighborhood beverage stands, may waive or modify requirements of these rules.'

Agree to form and substance:



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