

- SUBJECT:** Requiring food retailers to employ certified food managers
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 8 ayes — Gray, Coleman, Capelo, Glaze, Longoria, Maxey, Uresti, Wohlgemuth
- 0 nays
- 1 absent — Delisi
- WITNESSES:** For — Glen Garey, Texas Restaurant Association; *Registered but did not testify:* Chuck Courtney, Texas Retailers Association; Rick Johnson, Texas Food Industry Association; Doug DuBois, Texas Petroleum Marketers and Convenience Store Association; Scott Joslove, Texas Hotel and Motel Association
- Against — None
- On — Steve McAndrew, Texas Department of Health
- BACKGROUND:** Health and Safety Code, chapter 437 allows counties and public health districts to require restaurants and other food-service establishments, except for nonprofit organizations, to obtain permits. Home-rule cities, under their broad authority in Local Government Code, chapter 9, may require food establishments to employ certified food managers, but current law does not convey that authority to all counties. Under Health and Safety Code, sec. 437.0075, a county with a population of at least 2.8 million (Harris County) may require a food establishment to have a trained food manager on-site. Harris County and 20 home-rule cities in Texas require food establishments to employ certified food managers.
- DIGEST:** CSHB 251 would amend the Health and Safety Code by allowing all counties and public health districts to require permit-holding restaurants and other food-service establishments, whether fixed or mobile, to employ certified food managers. The Texas Board of Health could require food establishments to employ certified food managers in a county with no permit

program. This requirement could not apply to establishments that only sell prepackaged food, and the bill would allow the county, the health district, or the state board to exempt other establishments.

CSHB 251 would require the Board of Health to establish a food-manager certification program that includes an examination. The board would have to determine the requirements for the certificate, the content of the examination, and rules for issuance, renewal, denial, suspension, or revocation of certification. It could prescribe standards for examination sites, administrative expenses, and site audits.

The bill would direct the board to consider the impact of the traveling distance and time required for a food manager to obtain certification, especially with a view to mitigating the impact on food managers in rural areas. The board would have to use the Internet to implement the certification program and could develop a system to use the Internet to administer the examination.

The board could adopt a fee of up to \$35 for issuance or renewal of a certificate and a fee of up to \$10 for the examination.

This bill would take effect September 1, 2001. An examination approved by the Texas Department of Health (TDH) before that date would satisfy the bill's criteria for approval of examinations. The Board of Health or a county or health district could not require employment of a certified food manager under this act before February 1, 2002. The board would have to adopt rules governing the certification program by January 1, 2002.

**SUPPORTERS  
SAY:**

CSHB 251 would allow all counties to take steps needed to improve the safety of food served to the public. The state has many regulations and best-practice guidelines for making the food served at restaurants and other food establishments as safe as possible, and the people preparing food should be aware of them. A 1995 TDH survey of food managers and employees on basic food-safety questions found an average score of 63 percent. A certified food manager on staff would be a source of information for people working in food service and could alert them to practices that are not in compliance with the state's requirements and guidelines.

CSHB 251 would give counties the same authority as home-rule cities. Counties have as great an interest in their residents' health as cities have.

The proposed certification program would ensure that the information on the exam was uniform but would allow candidates flexibility in studying for the exam. Training programs for food managers may vary widely in the type and depth of information provided. The state could require candidates to attend an accredited food-service program, but that would be an onerous requirement for candidates who cannot attend because of geographical or time constraints. The state certification exam would set a standard for knowledge without mandating curriculum.

Restaurants would benefit from having a certified food manager on staff. Outbreaks of infectious diseases in food establishments make the public wary of eating out and hurt restaurant sales. The presence of a certified food manager not only would help prevent the spread of disease but could make the public more likely to return to a restaurant if they knew that it had taken all possible precautions to make the food safe.

OPPONENTS  
SAY:

CSHB 251 is unnecessary because counties already have the authority to ensure the safety of the food served in restaurants. Counties can require restaurants and other food-service establishments to obtain a permit. If a restaurant does not comply with state and local regulations, the county can revoke that permit.

The presence of a certified food manager on staff would not necessarily improve the safety of food served to the public. The permit process requires the restaurant to show compliance with current regulations, and inspections ensure that compliance continues. On a day-to-day basis, managers and employees know how to handle food safely, but they may become lax. Diseases can spread because employees forget to wash their hands, not because they did not know that they should.

Texas does not need a statewide certification program to ensure that food managers across the state receive uniform information. The state already has laws and rules that apply to all restaurants and food establishments.

**OTHER  
OPPONENTS  
SAY:**

CSHB 251 would allow so many exemptions that it would not improve food safety. Counties could choose not to require certified food managers at all, or they could pick and choose which types of establishments must have one on staff. If improving safety is the goal, the state should require all restaurants and food establishments in all counties to have certified food managers.

**NOTES:**

According to the bill's fiscal note, the net cost to general revenue would be \$141,520 the first year because of the need for new employees to implement the certification program. In subsequent years, as fee collections increased, the net impact on revenue would be positive, rising to nearly \$500,000 by the fifth year.

The committee substitute removed from the filed version a requirement that the Board of Health select examination sites and provide for an examination schedule that avoids inconvenience or hardship for food managers. It also removed duplication of examination by the state and county.

A similar bill in the 76th Legislature, HB 2293 by Uresti, was reported favorably as substituted by the House Public Health Committee and was placed on the General State Calendar but was postponed. Another similar bill in the 75th Legislature, HB 2322 by Maxey, was reported favorably as substituted by the Public Health Committee but died in the House Calendars Committee.