

## **BILL ANALYSIS**

Senate Research Center

H.B. 251  
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Business & Commerce  
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Engrossed

### **DIGEST AND PURPOSE**

Currently, food manager certification may be required only by home-rule municipalities. The Texas Department of Health and county and public health districts do not have the statutory authority to require certification. H.B. 251 authorizes the Texas Board of Health and county and public health districts to administer a food manager certification exam and to require retail food establishments to employ at least one food manager certified by the board.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 1 (Section 437.0076, Health and Safety Code) and SECTION 2 (Sections 438.102 and 438.106, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 437, Health and Safety Code, by adding Section 437.0076, as follows:

Sec. 437.0076. CERTIFIED FOOD MANAGER. (a) Authorizes a county or public health district to require each fixed or mobile location retail establishment in which food is prepared on-site for sale to the public that holds a permit issued by the county or public health district to employ a food manager certified under Chapter 438G.

(b) Authorizes the Texas Board of Health (board) to require each fixed or mobile location retail establishment in which food is prepared on-site for sale to the public that is required to be operated under a permit under Section 437.0055 to employ a food manager certified under Chapter 438G.

(c) Provides that an establishment that handles only prepackaged food and does not prepare or package food may not be required to have a certified food manager under this section.

(d) Authorizes the board by rule to exempt establishments other than the establishments described by Subsection (c) from the requirement imposed under this section if the board determines that the application of the requirement to those establishments is not necessary to protect public health and safety.

(e) Authorizes a county or public health district to exempt establishments other than the establishments exempt under Subsections (c) and (d) from the requirement imposed by the county or public health district under this section if the county or public health district determines that the application of the requirement to those establishments is not necessary to protect public health and safety.

(f) Provides that a child-care facility is exempt from the requirements imposed under

this section.

SECTION 2. Amends Chapter 438, Health and Safety Code, by adding Subchapter G, as follows:

**SUBCHAPTER G. CERTIFICATION OF FOOD MANAGERS**

Sec. 438.101. DEFINITIONS. Defines “board,” “food establishment,” and “food manager.”

Sec. 438.102. CERTIFICATION PROGRAM. (a) Requires the board to establish a certification program for food managers in accordance with this subchapter.

(b) Requires the board by rule to prescribe the requirements for issuance and renewal of a food manager certificate under this subchapter.

Sec. 438.103. CERTIFICATION AND RENEWAL OF CERTIFICATION; EXAMINATION REQUIRED. Authorizes a person who satisfies the requirements of this subchapter to receive and renew a food manager certificate by passing a state-approved examination.

Sec. 438.104. APPROVAL OF EXAMINATIONS; SELECTION OF EXAMINATION SITES. (a) Requires the board to adopt criteria to approve examinations.

(b) Requires the board, in administering this subchapter, to consider the impact of the traveling distance and time required for a food manager to obtain certification. Requires the board to give particular consideration to mitigating the impact of this subchapter on food managers in rural areas. Requires the board to use the Internet to implement the certification and authorizes the board to develop a system to permit administration of the examination using the Internet.

Sec. 438.105. CERTIFICATE AS EVIDENCE OF COMPLIANCE WITH OTHER LAW. Requires a food manager certificate, including a renewal certificate, obtained under this subchapter to be accepted as meeting the training and testing requirements under Section 438.046(b).

Sec. 438.106. POWERS AND DUTIES OF BOARD; FEES. (a) Authorizes the board by rule to adopt a fee for issuance or renewal of a food manager certificate under this subchapter in amounts reasonable and necessary to administer this subchapter, but not to exceed \$35.

(b) Authorizes the board by rule to adopt a fee, in an amount not to exceed \$10, for an examination administered by the Texas Department of Health under this subchapter.

(c) Authorizes the board to adopt rules for the denial, suspension, and revocation of a food manager certificate issued under this subchapter.

(d) Authorizes the board by rule to prescribe standards for examination sites, expenses of administration of examinations under this subchapter, and site audits for the administration of this subchapter.

SECTION 3. (a) Effective date: September 1, 2001.

(b) Provides that a food manager examination approved by the Texas Department of Health before September 1, 2001, satisfies the criteria for approval of examinations under Section 438.104, Health and Safety Code, as added by this Act.

(c) Provides that the Texas Board of Health or a county or public health district may not

require employment of a certified food manager under Section 437.0076, Health and Safety Code, as added by this Act, before February 1, 2002.

(d) Requires the Texas Board of Health to adopt rules necessary to implement Subchapter G, Chapter 438, Health and Safety Code, as added by this Act, not later than January 1, 2002.