

BILL ANALYSIS

Senate Research Center
81R22691 JSC-F

H.B. 3012
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Health & Human Services
5/13/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Food service workers in Texas generally do not consistently wear gloves or use utensils when handling ready-to-eat foods. This opens the door for food preparers to practice improper hygiene when preparing food for the public.

H.B. 3012 seeks to improve sanitary conditions among food handlers and to improve the overall health of Texans. The bill requires that all food establishment employees who handle food complete a brief food handler training course. The bill requires that a person handling food or unsealed food containers not contact with bare hands exposed ready-to-eat food unless documentation is maintained at the food establishment listing the foods and food handling activities that involve bare-hand contact, and the food service establishment uses certain contamination control measures.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to executive commissioner of Health and Human Services Commission in SECTION 1 (Section 437.0057, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 437, Health and Safety Code, by adding Section 437.0057, as follows:

Sec. 437.0057. REGULATION OF FOOD HANDLERS AND OTHER FOOD SERVICE EMPLOYEES BY COUNTIES, PUBLIC HEALTH DISTRICTS, AND THE DEPARTMENT. (a) Authorizes a county, a public health district, or the Texas Department of Health (TDH) to require certification under Subchapter D (Food Service Programs), Chapter 438 (Public Health Measures Relating to Food), for each food handler who is employed by a food service establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county, the public health district, or TDH. Provides that this section applies without regard to whether the food service establishment is at a fixed location or is a mobile food unit.

(b) Prohibits the requirements of certification under this section from being more stringent than the requirements of Subchapter D, Chapter 438.

(c) Prohibits a county, a public health district, or TDH from requiring an establishment that handles only prepackaged food and does not prepare or package food to employ certified food handlers under this section.

(d) Authorizes a county, a public health district, or TDH to exempt a food service establishment from the requirement that the county, public health district, or department has imposed under Subsection (a) if the county, the public health district, or TDH determines that the application of Subsection (a) to that establishment is not necessary to protect public health and safety.

(e) Authorizes a county, a public health district, or TDH to require a food service establishment to post a sign in a place conspicuous to employees, in a form adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner), describing a food service employee's responsibilities to report certain health conditions to the permit holder under rules adopted by the executive commissioner, or require that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions.

SECTION 2. Amends Section 438.034, Health and Safety Code, as follows:

Sec. 438.034. EMPLOYEE CLEANLINESS. (a) Creates this subsection from existing text. Makes conforming and nonsubstantive changes. Deletes existing text requiring a person handling food or unsealed food containers to wash the person's hands and exposed portions of the person's arms with soap and water to avoid cross-contaminating food and avoid bare-hand contact with exposed food by the use of gloves or utensils and wash hands after smoking, eating, and each visit to the toilet.

(b) Prohibits a person handling food or unsealed food containers from having contact with bare hands exposed ready-to-eat food unless documentation is maintained at the food service establishment listing the foods and food handling activities that involve bare-hand contact, and the food service establishment uses two or more of the following contamination control measures:

- (A) requiring employees to perform double hand washing;
- (B) requiring employees to use fingernail brushes while hand washing;
- (C) requiring employees to use a hand sanitizer after hand washing;
- (D) implementing an incentive program that encourages employees not to come to work when ill; and
- (E) any other contamination control measure approved by the regulatory authority.

SECTION 3. (a) Requires the executive commissioner, not later than December 1, 2009, to adopt the form of the sign and the form of the employee agreement under Section 437.0057(e), Health and Safety Code, as added by this Act.

(b) Prohibits a county, a public health district, or the Department of State Health Services from requiring a food service establishment to post the sign or have the food service employees sign an agreement under Section 437.0057(e), Health and Safety Code, as added by this Act, before January 1, 2010.

SECTION 4. Effective date: September 1, 2009.