

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1329
By: Nelson
Health & Human Services
4/8/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Two nationwide salmonella outbreaks in the last year have involved Texas food manufacturing or distributing companies. Each year 36,000 lab-confirmed cases of salmonella infection in this country are attributed to contaminated produce. There is a loophole in the Texas Food, Drug, and Cosmetic Act that exempts fresh produce wholesalers from the Department of State Health Services (DSHS) authority since they are not technically licensed through DSHS.

C.S.S.B. 1329 authorizes the executive commissioner of the Health and Human Services Commission to require a food manufacturer or food wholesaler to test products specified by DSHS rule for pathogenic microorganisms or toxins injurious to human health.

[**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 the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 431.085, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 431, Health and Safety Code, by adding Section 431.085, as follows:

Sec. 431.085. **REPORTABLE PATHOGENS AND REQUIRED TESTING.** (a) Defines "food manufacturer," "food wholesaler," and "public health disaster."

(b) Authorizes the executive commissioner of the Health and Human Services Commission, by rule, to require a food manufacturer or food wholesaler to test products specified by Texas Department of Health (TDH) for pathogenic microorganisms or toxins injurious to human health.

(c) Requires a food manufacturer or food wholesaler in this state to report test results of products that test positive for pathogenic microorganisms or toxins injurious to human health as provided by TDH rule.

(d) Requires TDH to maintain and revise as necessary the list of reportable food-borne pathogenic microorganisms or toxins. Requires that the list include salmonella.

(e) Authorizes the commissioner of public health (commissioner), in a public health disaster, to require testing for or reports of food-borne pathogenic microorganisms or toxins from providers without a TDH rule or other action. Requires the commissioner to issue appropriate instructions relating to complying with the testing and reporting requirements of this section.

SECTION 2. Amends Section 431.2211(a), Health and Safety Code, to provide that a person is not required to hold a license under this subchapter if the person is a person, firm, or corporation

that only harvests, packages, or washes raw fruits or vegetables for shipment at the location of harvest, rather than a person, firm, or corporation that only harvests, packages, washes, or ships raw fruits or vegetables.

SECTION 3. Provides that a person is not required to perform tests or report the results of tests performed under Section 431.085, Health and Safety Code, as added by this Act, before January 1, 2010.

SECTION 4. (a) Effective date, except as provided by Subsection (b): September 1, 2009.

(b) Effective date, Section 2: September 1, 2010.