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S.B. No. 812

A BILL TO BE ENTITLED

1 AN ACT
2 relating to food allergen awareness in food service establishments,
3 food handler and food manager certifications, and food service
4 training or education programs.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Sergio Lopez Food
7 Allergy Awareness Act.

8 SECTION 2. Chapter 437, Health and Safety Code, is amended
9 by adding Section 437.027 to read as follows:

10 Sec. 437.027. FOOD ALLERGEN AWARENESS POSTER. (a) A food
11 service establishment shall display a poster relating to food
12 allergen awareness in an area of the establishment regularly
13 accessible to the establishment's food service employees. The
14 department shall:

15 (1) collaborate with individuals with expertise and
16 knowledge regarding food allergies to determine the form and
17 content of the poster;

18 (2) post a sample poster on the department's Internet
19 website; and

20 (3) update the poster as necessary to ensure the
21 poster contains current information about food allergens and
22 remains consistent with standards promulgated by the United States
23 Food and Drug Administration.

24 (b) The poster must include information regarding:

1 (1) the risk of an allergic reaction to a food
2 allergen;

3 (2) symptoms of an allergic reaction;

4 (3) the major food allergens, as determined by federal
5 law and regulations of the United States Food and Drug
6 Administration;

7 (4) the procedures for preventing an allergic
8 reaction; and

9 (5) appropriate responses for assisting an individual
10 who is having an allergic reaction.

11 (c) The executive commissioner shall adopt rules necessary
12 to implement this section.

13 (d) This section does not create a private cause of action
14 or change any common law or statutory duty.

15 (e) Notwithstanding any other law, a county, municipality,
16 or public health district may not adopt or enforce an order,
17 ordinance, rule, or other measure related to food allergens that is
18 inconsistent with or exceeds the requirements of this section or
19 Chapter 438.

20 SECTION 3. Section 438.043(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) The department may not accredit an education or training
23 program unless the program includes:

24 (1) four hours of training on the subject of food,
25 including:

26 (A) a description of food-borne disease and its
27 cause and prevention; [~~and~~]

1 (B) protection of food in location, receipt,
2 storage, preparation, service, and transportation; and

3 (C) the food allergen awareness information
4 described by Section 437.027(b);

5 (2) four hours of training on the subject of food
6 service facilities, including:

7 (A) waste disposal and sanitary plumbing and
8 water;

9 (B) cleaning and sanitization of dishes and
10 utensils;

11 (C) storage of equipment and utensils;

12 (D) housekeeping procedures and schedules;

13 (E) proper handling of nonfood supplies,
14 including single service items, linens, and toxic materials; and

15 (F) cleanliness of the physical plant, including
16 building construction, ventilation, lighting, pest control, and
17 general safety of the environment;

18 (3) two hours of training on the subject of sanitary
19 habits for food handlers, including:

20 (A) personal hygiene, including proper dress,
21 handwashing, personal habits, and illness;

22 (B) food handling practices, including minimum
23 handling and proper use of food service utensils; and

24 (C) operational problems, including
25 identification and correction of commonly occurring deficiencies;
26 and

27 (4) four hours of training on the subject of

1 management in the food service industry, including:

2 (A) self-inspection promotion and techniques;

3 (B) motivation, including safety, the economics
4 of safe food handling, and planning to meet sanitation guidelines;
5 and

6 (C) personnel training, including management
7 responsibility, resources, and methods.

8 SECTION 4. Section 438.0431(b), Health and Safety Code, is
9 amended to read as follows:

10 (b) The executive commissioner shall by rule define the
11 basic food safety training or education required to be included in a
12 course curriculum. The course curriculum must include the food
13 allergen awareness information described by Section 437.027(b).
14 The course length may not exceed two hours.

15 SECTION 5. Section 438.103, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 438.103. CERTIFICATION AND RENEWAL OF
18 CERTIFICATION; EXAMINATION REQUIRED. (a) A person who satisfies
19 the requirements of this subchapter may receive and renew a food
20 manager certificate by passing a state-approved examination.

21 (b) A state-approved examination for issuance or renewal of
22 a food manager certificate must test an applicant on the food
23 allergen awareness information described by Section 437.027(b).

24 SECTION 6. Chapter 438, Health and Safety Code, is amended
25 by adding Subchapter I to read as follows:

26 SUBCHAPTER I. MISCELLANEOUS PROVISIONS

27 Sec. 438.201. NO PRIVATE CAUSE OF ACTION. The provisions of

1 this chapter related to food allergens do not create a private cause
2 of action or change any common law or statutory duty.

3 Sec. 438.202. CERTAIN REGULATIONS PROHIBITED.
4 Notwithstanding any other law, a county, municipality, or public
5 health district may not adopt or enforce an order, ordinance, rule,
6 or other measure related to food allergens that is inconsistent
7 with or exceeds the requirements of this chapter or Section
8 437.027.

9 SECTION 7. Not later than December 1, 2023:

10 (1) the Department of State Health Services shall
11 determine the form and content of the poster and post the sample
12 poster on the department's Internet website as required by Section
13 437.027, Health and Safety Code, as added by this Act;

14 (2) the Department of State Health Services shall
15 update the education or training program accreditation
16 requirements and course curriculum as required by Sections 438.043
17 and 438.0431, Health and Safety Code, as amended by this Act; and

18 (3) the executive commissioner of the Health and Human
19 Services Commission shall adopt any rules necessary to implement
20 the changes in law made by this Act.

21 SECTION 8. The changes in law made by this Act apply only to
22 a food manager or food handler certificate issued or renewed on or
23 after September 1, 2024. A certificate issued before that date is
24 covered by the law in effect when the certificate was issued, and
25 the former law is continued in effect for that purpose.

26 SECTION 9. Notwithstanding Section 437.027, Health and
27 Safety Code, as added by this Act, a food service establishment is

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1 not required to comply with that section before September 1, 2024.

2 SECTION 10. This Act takes effect September 1, 2023.