

AN ACT

relating to food allergen awareness in food service establishments,  
food handler and food manager certifications, and food service  
training or education programs.

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

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

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

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

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

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

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

(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

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

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 812 passed the Senate on April 6, 2023, by the following vote: Yeas 26, Nays 5.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 812 passed the House on May 24, 2023, by the following vote: Yeas 95, Nays 49, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor