

1-1 By: Zaffirini, Blanco S.B. No. 812
 1-2 (In the Senate - Filed February 9, 2023; March 1, 2023, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 3, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 1; April 3, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 812 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to food allergen awareness in food service establishments,
 1-22 food handler and food manager certifications, and food service
 1-23 training or education programs.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. This Act may be cited as the Sergio Lopez Food
 1-26 Allergy Awareness Act.

1-27 SECTION 2. Chapter 437, Health and Safety Code, is amended
 1-28 by adding Section 437.027 to read as follows:

1-29 Sec. 437.027. FOOD ALLERGEN AWARENESS POSTER. (a) A food
 1-30 service establishment shall display a poster relating to food
 1-31 allergen awareness in an area of the establishment regularly
 1-32 accessible to the establishment's food service employees. The
 1-33 department shall:

1-34 (1) collaborate with individuals with expertise and
 1-35 knowledge regarding food allergies to determine the form and
 1-36 content of the poster;

1-37 (2) post a sample poster on the department's Internet
 1-38 website; and

1-39 (3) update the poster as necessary to ensure the
 1-40 poster contains current information about food allergens and
 1-41 remains consistent with standards promulgated by the United States
 1-42 Food and Drug Administration.

1-43 (b) The poster must include information regarding:

1-44 (1) the risk of an allergic reaction to a food
 1-45 allergen;

1-46 (2) symptoms of an allergic reaction;

1-47 (3) the major food allergens, as determined by federal
 1-48 law and regulations of the United States Food and Drug
 1-49 Administration;

1-50 (4) the procedures for preventing an allergic
 1-51 reaction; and

1-52 (5) appropriate responses for assisting an individual
 1-53 who is having an allergic reaction.

1-54 (c) The executive commissioner shall adopt rules necessary
 1-55 to implement this section.

1-56 (d) This section does not create a private cause of action
 1-57 or change any common law or statutory duty.

1-58 (e) Notwithstanding any other law, a county, municipality,
 1-59 or public health district may not adopt or enforce an order,
 1-60 ordinance, rule, or other measure related to food allergens that is

2-1 inconsistent with or exceeds the requirements of this section or
2-2 Chapter 438.

2-3 SECTION 3. Section 438.043(a), Health and Safety Code, is
2-4 amended to read as follows:

2-5 (a) The department may not accredit an education or training
2-6 program unless the program includes:

2-7 (1) four hours of training on the subject of food,
2-8 including:

2-9 (A) a description of food-borne disease and its
2-10 cause and prevention; ~~and~~

2-11 (B) protection of food in location, receipt,
2-12 storage, preparation, service, and transportation; and

2-13 (C) the food allergen awareness information
2-14 described by Section 437.027(b);

2-15 (2) four hours of training on the subject of food
2-16 service facilities, including:

2-17 (A) waste disposal and sanitary plumbing and
2-18 water;

2-19 (B) cleaning and sanitization of dishes and
2-20 utensils;

2-21 (C) storage of equipment and utensils;
2-22 (D) housekeeping procedures and schedules;

2-23 (E) proper handling of nonfood supplies,
2-24 including single service items, linens, and toxic materials; and

2-25 (F) cleanliness of the physical plant, including
2-26 building construction, ventilation, lighting, pest control, and
2-27 general safety of the environment;

2-28 (3) two hours of training on the subject of sanitary
2-29 habits for food handlers, including:

2-30 (A) personal hygiene, including proper dress,
2-31 handwashing, personal habits, and illness;

2-32 (B) food handling practices, including minimum
2-33 handling and proper use of food service utensils; and

2-34 (C) operational problems, including
2-35 identification and correction of commonly occurring deficiencies;
2-36 and

2-37 (4) four hours of training on the subject of
2-38 management in the food service industry, including:

2-39 (A) self-inspection promotion and techniques;
2-40 (B) motivation, including safety, the economics
2-41 of safe food handling, and planning to meet sanitation guidelines;
2-42 and

2-43 (C) personnel training, including management
2-44 responsibility, resources, and methods.

2-45 SECTION 4. Section 438.0431(b), Health and Safety Code, is
2-46 amended to read as follows:

2-47 (b) The executive commissioner shall by rule define the
2-48 basic food safety training or education required to be included in a
2-49 course curriculum. The course curriculum must include the food
2-50 allergen awareness information described by Section 437.027(b).
2-51 The course length may not exceed two hours.

2-52 SECTION 5. Section 438.103, Health and Safety Code, is
2-53 amended to read as follows:

2-54 Sec. 438.103. CERTIFICATION AND RENEWAL OF
2-55 CERTIFICATION; EXAMINATION REQUIRED. (a) A person who satisfies
2-56 the requirements of this subchapter may receive and renew a food
2-57 manager certificate by passing a state-approved examination.

2-58 (b) A state-approved examination for issuance or renewal of
2-59 a food manager certificate must test an applicant on the food
2-60 allergen awareness information described by Section 437.027(b).

2-61 SECTION 6. Chapter 438, Health and Safety Code, is amended
2-62 by adding Subchapter I to read as follows:

2-63 SUBCHAPTER I. MISCELLANEOUS PROVISIONS

2-64 Sec. 438.201. NO PRIVATE CAUSE OF ACTION. The provisions of
2-65 this chapter related to food allergens do not create a private cause
2-66 of action or change any common law or statutory duty.

2-67 Sec. 438.202. CERTAIN REGULATIONS PROHIBITED.
2-68 Notwithstanding any other law, a county, municipality, or public
2-69 health district may not adopt or enforce an order, ordinance, rule,

3-1 or other measure related to food allergens that is inconsistent
3-2 with or exceeds the requirements of this chapter or Section
3-3 437.027.

3-4 SECTION 7. Not later than December 1, 2023:

3-5 (1) the Department of State Health Services shall
3-6 determine the form and content of the poster and post the sample
3-7 poster on the department's Internet website as required by Section
3-8 437.027, Health and Safety Code, as added by this Act;

3-9 (2) the Department of State Health Services shall
3-10 update the education or training program accreditation
3-11 requirements and course curriculum as required by Sections 438.043
3-12 and 438.0431, Health and Safety Code, as amended by this Act; and

3-13 (3) the executive commissioner of the Health and Human
3-14 Services Commission shall adopt any rules necessary to implement
3-15 the changes in law made by this Act.

3-16 SECTION 8. The changes in law made by this Act apply only to
3-17 a food manager or food handler certificate issued or renewed on or
3-18 after September 1, 2024. A certificate issued before that date is
3-19 covered by the law in effect when the certificate was issued, and
3-20 the former law is continued in effect for that purpose.

3-21 SECTION 9. Notwithstanding Section 437.027, Health and
3-22 Safety Code, as added by this Act, a food service establishment is
3-23 not required to comply with that section before September 1, 2024.

3-24 SECTION 10. This Act takes effect September 1, 2023.

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