

BILL ANALYSIS

C.S.H.B. 681
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Mercury is a neurotoxin known to threaten human health and child development. In adults mercury can damage the brain and cardiovascular system, and it can reduce fertility. In infants and young children mercury may cause irreversible damage to their intelligence, learning capabilities, vision, and hearing. The U.S. Environmental Protection Agency (EPA) estimates that in the United States more than 300,000 newborns each year may have increased risk of learning disabilities associated with in utero exposure to mercury.

When mercury is released into the soil, lakes, and streams, it accumulates inside fish, some species retaining higher amounts than others. Certain fish and shellfish are known to consistently contain levels of mercury far in excess of acceptable EPA guidelines, including shark, swordfish, king mackerel, and tilefish.

Currently, there are no laws governing how mercury-contaminated fish are sold at retail. Consumers cannot be expected to know the mercury level of fish they are purchasing. It is important to offer information to consumers so that they can make responsible decisions for themselves and for their families.

C.S.H.B. 681 requires retail fish dealers to post warning signs where fresh and frozen fish are usually sold to inform consumers of the health risks of fish containing high levels of mercury.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 681 amends the Health and Safety Code to require a retail fish dealer to post a warning sign in a conspicuous location where it is readily visible by persons purchasing fresh or previously frozen fish. The bill requires the Department of State Health Services to specify the size and graphic design of the sign by rule. The bill specifies its required wording, which addresses women who are considering becoming pregnant, pregnant women, nursing mothers, and parents of young children and alerts them to the high levels of mercury in certain fish and

shellfish and warns that high levels of mercury may harm the developing nervous system of a child. The bill requires the sign to include the toll-free telephone number of the Department of State Health Services' food information line, which has more information about the risks of mercury in fish and shellfish.

C.S.H.B. 681 requires the department to adopt rules to administer these provisions.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 681 amends Chapter 437, Health and Safety Code, rather than Chapter 12, Agriculture Code, as in the original, and in doing so assigns the rulemaking authority to the commissioner of the Health and Human Services Commission, rather than to the commissioner of agriculture, as in the original. The substitute differs from the original by requiring the sign to contain the state toll-free telephone number of the Department of State Health Service's food information line on the warning sign, whereas the original requires the sign to contain the federal toll-free telephone number of the U.S. Food and Drug Administration's food information line.