

BILL ANALYSIS

C.S.H.B. 1410
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Approximately 185,000 children in Texas have food allergies. Schools rely on their individual districts to promote policies on how to deal with severe food allergies, but sometimes teachers, teacher's aides, and substitute teachers are unaware of children in their school who have potentially deadly food allergies. Most food allergies are not life threatening, but some can require immediate medical attention. A simple sign posted in the classroom of a child with severe food allergies lets school employees know to be careful when handing out snacks and could save lives across Texas. This bill seeks to provide an added layer of security for students who have severe food allergies.

C.S.H.B. 1410 requires an elementary school to post a clearly visible sign in each classroom with a child who has a severe food allergy. The bill requires a school district to request that the parent or guardian of a student with a severe food allergy disclose the allergy to the district in the interest of the student's safety.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1410 amends the Education Code to require a school district to request, by providing a form or otherwise, upon enrollment of a child in a public school, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy diagnosed by a physician, specify the food to which the child is allergic and the nature of the allergic reaction, and provide documentation from a physician regarding the allergy, including a physician's order to administer medication relating to the allergy, if applicable. The bill defines "severe food allergy" as a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention. The bill requires a school district to maintain the confidentiality of this information and authorizes the district to disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under provisions relating to access to medical records and permissible under the Family Educational Rights and Privacy Act of 1974. The bill requires information regarding a child's food allergy to be placed in the child's medical records.

C.S.H.B. 1410 requires the commissioner of education to adopt a sign for use in classrooms indicating that a child in the classroom has a severe food allergy and by rule to specify the language of the warning and the size and graphic design of the sign, including font size and type. The bill requires the sign to include the phrase "Severe Food Allergy." The bill requires the school to post the sign adopted by the commissioner in each elementary school classroom in which a child with a severe food allergy is placed if a parent or a person with legal control of a child under a court order indicates to the school district as described above that the child has a

severe food allergy, and prohibits the sign from being modified to identify a child in the classroom with a severe food allergy. The bill makes its provisions applicable beginning with the 2009-2010 school year.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1410 differs from the original by requiring a parental disclosure regarding whether the child has a food allergy or a severe food allergy diagnosed by a physician, rather than a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety, as in the original. The substitute adds a provision not in the original to include in the required parental disclosure documentation from a physician regarding the allergy, including a physician's order to administer medication related to the allergy, if applicable.

C.S.H.B. 1410 omits a specification in the original version of the provision regarding the placement of information regarding a child's food allergy in the child's medical records that information be so placed regardless of how it is received by the school or school district.

C.S.H.B. 1410 adds provisions not in the original requiring the commissioner of education to adopt a sign for use in classrooms indicating that a child in the classroom has a severe food allergy and by rule to specify the language of the warning and the size and graphic design of the sign, including font size and type.

C.S.H.B. 1410 differs from the original by requiring the posting of such a sign if a parent or a person with legal control of a child under a court order indicates to the district that the child has a severe food allergy, whereas the original requires the posting either if a parent or a person with legal control of a child under a court order indicates to the district that the child has a severe food allergy or if a parent, a person with legal control of a child, a caregiver of the child, or the child notifies a school administrator, nurse, or teacher of that fact.

C.S.H.B. 1410 prohibits the adopted sign from being modified to identify a child in the classroom with a severe food allergy, whereas the original prohibits the sign from identifying a child in the classroom with a severe food allergy, the food or foods to which a child is allergic, or the nature of the allergic reaction.