

## **BILL ANALYSIS**

C.S.H.B. 3012  
By: Coleman  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law permits food service employees to have bare-hand contact with ready-to-eat foods. As a result, food service workers in Texas generally do not consistently wear gloves or use utensils when handling ready-to-eat foods. This opens the door for food preparers to practice improper hygiene when preparing food for the public. According to the Centers for Disease Control and Prevention, improper hygiene can cause foodborne illnesses such as hepatitis A, salmonella, shigella, and E. coli.

Current law prohibits food service employees from handling food if they, or anyone in their household, are infected with certain diseases or infections that are transmissible through food handling. The Texas food establishment rules state that the person in charge of a food establishment is responsible for requiring the person's food service workers to report certain diseases or medical conditions to public health authorities. By reporting these conditions, health authorities are alerted to possible health risks and can take appropriate measures as outlined in the Texas food establishment rules, such as excluding or restricting ill food service workers from food handling. However, it is rare for food service workers to report illnesses to their employer.

Current law requires food establishments in Texas to have at least one trained manager on duty during all hours of operation. The trained managers are expected to educate and supervise food handlers in proper food handling and sanitation practices. However, the expectation that managers will train employees in these concepts is often unrealized, leaving many employees unsupervised and unaware of proper food handling techniques.

In early 2007, Harris County Public Health and Environmental Services developed a voluntary food handler training curriculum that covers basic food handling and sanitation practices. The 80th Legislature, Regular Session, 2007, enacted S.B. 552, granting the Department of State Health Services (DSHS) authority to accredit food handler certification programs such as the one developed by Harris County Public Health and Environmental Services.

Transitioning from a voluntary to a mandatory food handler certification program will help to ensure a basic level of knowledge regarding safe food handling and sanitation practices. Currently, there are approximately 65 jurisdictions in Texas that require training for food handlers, including the cities of Dallas, Fort Worth, El Paso, Brownsville, and Corpus Christi.

C.S.H.B. 3012 authorizes a county, a public health district, or DSHS to require certification for each food handler who is employed by a food service establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county, the public health district, or DSHS. The bill authorizes a county, public health district, or DSHS to require a sign to be posted in a place conspicuous to employees describing a food service employee's responsibilities to report certain health conditions to the permit holder under rules adopted by the executive commissioner of the Health and Human Services Commission or that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions. The bill removes the food handler's option of wearing gloves or using utensils or washing their hands by requiring the food handler to wear gloves or use utensils

at all times when preparing food.

### **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**

C.S.H.B. 3012 amends the Health and Safety Code to authorize a county, a public health district, or the Department of State Health Services (DSHS) to require food handling certification for each food handler who is employed by a food service establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county, the public health district, or DSHS. The bill prohibits the requirements of certification from being more stringent than the requirements for a food service education or training program accredited by DSHS. The bill prohibits a county, a public health district, or DSHS from requiring an establishment that handles only prepackaged food and does not prepare or package food to employ certified food handlers. The bill authorizes a county, a public health district, or DSHS to exempt a food service establishment from the requirement that the county, public health district, or DSHS has imposed if the county, the public health district, or DSHS determines that the application of the requirement to that establishment is not necessary to protect public health and safety. The bill authorizes a county, a public health district, or DSHS to post a sign in a place conspicuous to employees, in a form adopted by the executive commissioner of the Health and Human Services Commission, describing a food service employee's responsibilities to report certain health conditions to the permit holder under rules adopted by the executive commissioner or to require that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions. The bill makes the above provisions applicable to both a food service establishment that is at a fixed location and a mobile food unit.

C.S.H.B. 3012 removes a person's option of either washing the person's hands and exposed portions of the person's arms with soap and water before starting work, during work as often as necessary to avoid cross-contaminating food, and to maintain cleanliness after smoking, eating, and each visit to the toilet; or using gloves or utensils and washing the person's hands after smoking, eating, and each visit to the toilet.

C.S.H.B. 3012 prohibits a person handling food or unsealed food containers from contacting with bare hands exposed ready-to-eat food unless documentation is maintained at the food service establishment listing the foods and food handling activities that involve bare-hand contact and the food service establishment uses two or more of the following contamination control measures: requiring employees to perform double hand washing, requiring employees to use fingernail brushes while hand washing, requiring employees to use a hand sanitizer after hand washing, implementing an incentive program that encourages employees not to come to work when ill, and any other contamination control measure approved by the regulatory authority.

C.S.H.B. 3012 requires the executive commissioner, not later than December 1, 2009, to adopt the form of the sign required to be posted and the form of the employee agreement. The bill prohibits a county, public health district, and DSHS from requiring a person, firm, corporation, or other organization to post the required sign before January 1, 2010.

### **EFFECTIVE DATE**

September 1, 2009.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3012 differs from the original by authorizing a county, a public health district, or DSHS to require a food service establishment to post a sign describing a food service employee's responsibilities to report certain health conditions to the permit holder or to require that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions, whereas the original requires certain entities to post a sign describing a food service employee's responsibilities to report certain health conditions to the permit holder.

C.S.H.B. 3012 differs from the original by prohibiting a person handling food or unsealed food containers from contacting with bare hands exposed ready-to-eat food unless documentation is maintained at the food service establishment listing the foods and food handling activities that involve bare-hand contact and the food service establishment uses two or more specified contamination control measures, whereas the original requires a person handling food or unsealed food containers to avoid bare-hand contact with exposed food by the use of gloves or utensils.