

By: Farrar

H.B. No. 679

A BILL TO BE ENTITLED

AN ACT

relating to testing and warnings related to mercury levels in certain fish.

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

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.019 to read as follows:

Sec. 12.019. TESTING AND WARNING RELATED TO MERCURY LEVELS IN CERTAIN FISH. (a) The department shall obtain and test samples of fish as provided by this section. The methods for selecting fish samples must be:

(1) reasonably calculated to ensure a fair representation of fresh or previously frozen fish available at a retail fish dealer; and

(2) primarily designed to sample types of fish determined by the United States Environmental Protection Agency or the Department of State Health Services to have acceptable levels of mercury for women considering becoming pregnant, pregnant women, nursing mothers, and young children.

(b) The department shall:

(1) enter during ordinary business hours a retail place of business where fresh or previously frozen fish are offered for sale to the ultimate consumer;

(2) take for inspection representative samples of fish, as determined under Subsection (a);

1           (3) compensate the place of business for the actual  
2 cost of fish taken as samples; and

3           (4) immediately forward the samples to the Texas  
4 Commission on Environmental Quality or an independent testing  
5 laboratory to determine the mercury levels of the samples.

6           (c) If a fish sample obtained and tested under Subsection  
7 (b) exceeds acceptable levels of mercury for women considering  
8 becoming pregnant, pregnant women, nursing mothers, or young  
9 children, as determined using standards adopted by the United  
10 States Environmental Protection Agency or the Department of State  
11 Health Services, the Department of Agriculture shall post a warning  
12 sign as provided by Subsection (d).

13           (d) The department shall return to each retail fish dealer  
14 from which a fish sample exceeded acceptable levels of mercury  
15 under Subsection (c) and post a warning sign in a conspicuous  
16 location where it is readily visible by persons purchasing fresh or  
17 previously frozen fish. The department by rule shall specify the  
18 size and graphic design of the sign. The sign must contain the  
19 following wording:

20           ATTENTION WOMEN CONSIDERING BECOMING PREGNANT, PREGNANT  
21 WOMEN, NURSING MOTHERS, AND PARENTS OF YOUNG CHILDREN

22           Some fish and shellfish, especially large fish such as shark,  
23 swordfish, king mackerel, and tilefish, contain high levels of  
24 mercury that may harm the developing nervous system of a child.

25           The Texas Department of Agriculture has determined that the  
26 following types of fish at this store contain high levels of mercury  
27 that may be dangerous for children: (insert types of fish).

1       For more information about the risks of mercury in fish and  
2 shellfish call the U.S. Food and Drug Administration's food  
3 information line toll-free at (insert toll-free telephone number).

4       (e) The department shall adopt rules to administer this  
5 section, including provisions for the removal of a sign posted  
6 under Subsection (d).

7       SECTION 2. This Act takes effect September 1, 2009.