

AN ACT

relating to food handlers and other food service employees.

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

SECTION 1. Chapter 437, Health and Safety Code, is amended by adding Section 437.0057 to read as follows:

Sec. 437.0057. REGULATION OF FOOD HANDLERS AND OTHER FOOD SERVICE EMPLOYEES BY COUNTIES, PUBLIC HEALTH DISTRICTS, AND THE DEPARTMENT. (a) A county, a public health district, or the department may require certification under Subchapter D, Chapter 438, 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 the department. This section applies without regard to whether the food service establishment is at a fixed location or is a mobile food unit.

(b) The requirements of certification under this section may not be more stringent than the requirements of Subchapter D, Chapter 438.

(c) A county, a public health district, or the department may not require an establishment that handles only prepackaged food and does not prepare or package food to employ certified food handlers under this section.

(d) A county, a public health district, or the department may exempt a food service establishment from the requirement that

1 the county, public health district, or department has imposed under
2 Subsection (a) if the county, the public health district, or the
3 department determines that the application of Subsection (a) to
4 that establishment is not necessary to protect public health and
5 safety.

6 (e) A county, a public health district, or the department
7 may require a food service establishment to:

8 (1) post a sign in a place conspicuous to employees, in
9 a form adopted by the executive commissioner of the Health and Human
10 Services Commission, describing a food service employee's
11 responsibilities to report certain health conditions to the permit
12 holder under rules adopted by the executive commissioner; or

13 (2) require that each food service employee sign a
14 written agreement in a form adopted by the executive commissioner
15 to report those health conditions.

16 SECTION 2. Section 438.034, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 438.034. EMPLOYEE CLEANLINESS. (a) A person
19 handling food or unsealed food containers shall:

20 (1) maintain personal cleanliness;

21 (2) wear clean outer garments;

22 (3) keep the person's hands clean; and

23 (4) ~~either:~~

24 ~~[(A)]~~ wash the person's hands and exposed
25 portions of the person's arms with soap and water:

26 (A) before starting work;

27 (B) [7] during work as often as necessary to

1 avoid cross-contaminating food; and

2 (C) to maintain cleanliness, after smoking,
3 eating, and each visit to the toilet[~~; or~~

4 [~~(B) avoid bare-hand contact with exposed food by~~
5 ~~the use of gloves or utensils and wash hands after smoking, eating,~~
6 ~~and each visit to the toilet].~~

7 (b) A person handling food or unsealed food containers may
8 not contact with bare hands exposed ready-to-eat food unless:

9 (1) documentation is maintained at the food service
10 establishment listing the foods and food handling activities that
11 involve bare-hand contact; and

12 (2) the food service establishment uses two or more of
13 the following contamination control measures:

14 (A) requiring employees to perform double hand
15 washing;

16 (B) requiring employees to use fingernail
17 brushes while hand washing;

18 (C) requiring employees to use a hand sanitizer
19 after hand washing;

20 (D) implementing an incentive program that
21 encourages employees not to come to work when ill; and

22 (E) any other contamination control measure
23 approved by the regulatory authority.

24 SECTION 3. (a) Not later than December 1, 2009, the
25 executive commissioner of the Health and Human Services Commission
26 shall adopt the form of the sign and the form of the employee
27 agreement under Section 437.0057(e), Health and Safety Code, as

1 added by this Act.

2 (b) A county, a public health district, or the Department of
3 State Health Services may not require a food service establishment
4 to post the sign or have the food service employees sign an
5 agreement under Section 437.0057(e), Health and Safety Code, as
6 added by this Act, before January 1, 2010.

7 SECTION 4. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3012 was passed by the House on April 30, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3012 was passed by the Senate on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor