

1-1 By: Coleman (Senate Sponsor - Nelson) H.B. No. 3012  
1-2 (In the Senate - Received from the House May 1, 2009;  
1-3 May 6, 2009, read first time and referred to Committee on Health  
1-4 and Human Services; May 14, 2009, reported favorably by the  
1-5 following vote: Yeas 6, Nays 0; May 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to food handlers and other food service employees.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 437, Health and Safety Code, is amended  
1-11 by adding Section 437.0057 to read as follows:

1-12 Sec. 437.0057. REGULATION OF FOOD HANDLERS AND OTHER FOOD  
1-13 SERVICE EMPLOYEES BY COUNTIES, PUBLIC HEALTH DISTRICTS, AND THE  
1-14 DEPARTMENT. (a) A county, a public health district, or the  
1-15 department may require certification under Subchapter D, Chapter  
1-16 438, for each food handler who is employed by a food service  
1-17 establishment in which food is prepared on-site for sale to the  
1-18 public and which holds a permit issued by the county, the public  
1-19 health district, or the department. This section applies without  
1-20 regard to whether the food service establishment is at a fixed  
1-21 location or is a mobile food unit.

1-22 (b) The requirements of certification under this section  
1-23 may not be more stringent than the requirements of Subchapter D,  
1-24 Chapter 438.

1-25 (c) A county, a public health district, or the department  
1-26 may not require an establishment that handles only prepackaged food  
1-27 and does not prepare or package food to employ certified food  
1-28 handlers under this section.

1-29 (d) A county, a public health district, or the department  
1-30 may exempt a food service establishment from the requirement that  
1-31 the county, public health district, or department has imposed under  
1-32 Subsection (a) if the county, the public health district, or the  
1-33 department determines that the application of Subsection (a) to  
1-34 that establishment is not necessary to protect public health and  
1-35 safety.

1-36 (e) A county, a public health district, or the department  
1-37 may require a food service establishment to:

1-38 (1) post a sign in a place conspicuous to employees, in  
1-39 a form adopted by the executive commissioner of the Health and Human  
1-40 Services Commission, describing a food service employee's  
1-41 responsibilities to report certain health conditions to the permit  
1-42 holder under rules adopted by the executive commissioner; or

1-43 (2) require that each food service employee sign a  
1-44 written agreement in a form adopted by the executive commissioner  
1-45 to report those health conditions.

1-46 SECTION 2. Section 438.034, Health and Safety Code, is  
1-47 amended to read as follows:

1-48 Sec. 438.034. EMPLOYEE CLEANLINESS. (a) A person  
1-49 handling food or unsealed food containers shall:

- 1-50 (1) maintain personal cleanliness;  
1-51 (2) wear clean outer garments;  
1-52 (3) keep the person's hands clean; and  
1-53 (4) ~~either:~~

1-54 ~~[(A)]~~ wash the person's hands and exposed  
1-55 portions of the person's arms with soap and water:

1-56 (A) before starting work;

1-57 (B) ~~[ ]~~ during work as often as necessary to  
1-58 avoid cross-contaminating food; and

1-59 (C) to maintain cleanliness, after smoking,  
1-60 eating, and each visit to the toilet ~~[ ] or~~

1-61 ~~[(B)] avoid bare-hand contact with exposed food by~~  
1-62 ~~the use of gloves or utensils and wash hands after smoking, eating,~~  
1-63 ~~and each visit to the toilet].~~

1-64 (b) A person handling food or unsealed food containers may

2-1 not contact with bare hands exposed ready-to-eat food unless:  
 2-2 (1) documentation is maintained at the food service  
 2-3 establishment listing the foods and food handling activities that  
 2-4 involve bare-hand contact; and  
 2-5 (2) the food service establishment uses two or more of  
 2-6 the following contamination control measures:  
 2-7 (A) requiring employees to perform double hand  
 2-8 washing;  
 2-9 (B) requiring employees to use fingernail  
 2-10 brushes while hand washing;  
 2-11 (C) requiring employees to use a hand sanitizer  
 2-12 after hand washing;  
 2-13 (D) implementing an incentive program that  
 2-14 encourages employees not to come to work when ill; and  
 2-15 (E) any other contamination control measure  
 2-16 approved by the regulatory authority.

2-17 SECTION 3. (a) Not later than December 1, 2009, the  
 2-18 executive commissioner of the Health and Human Services Commission  
 2-19 shall adopt the form of the sign and the form of the employee  
 2-20 agreement under Section 437.0057(e), Health and Safety Code, as  
 2-21 added by this Act.

2-22 (b) A county, a public health district, or the Department of  
 2-23 State Health Services may not require a food service establishment  
 2-24 to post the sign or have the food service employees sign an  
 2-25 agreement under Section 437.0057(e), Health and Safety Code, as  
 2-26 added by this Act, before January 1, 2010.

2-27 SECTION 4. This Act takes effect September 1, 2009.

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