

By: Blanco
(Turner of Dallas)

S.B. No. 437

Substitute the following for S.B. No. 437:

By: Klick

C.S.S.B. No. 437

A BILL TO BE ENTITLED

1 AN ACT
2 relating to personal protective equipment management and the
3 establishment of a personal protective equipment advisory
4 committee.

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

6 SECTION 1. Chapter 81, Health and Safety Code, is amended by
7 adding Subchapter K to read as follows:

8 SUBCHAPTER K. PERSONAL PROTECTIVE EQUIPMENT

9 Sec. 81.451. DEFINITIONS. In this subchapter:

10 (1) "Advisory committee" means the Personal
11 Protective Equipment Advisory Committee established under Section
12 81.453. This subdivision expires September 1, 2023.

13 (2) "Division" means the Texas Division of Emergency
14 Management.

15 (3) "Essential personnel" means:

16 (A) government employees or personnel at a
17 primary or secondary school, a child-care facility defined by
18 Section 42.002, Human Resources Code, or a corrections facility
19 defined by Section 89.101, who are expected to continue working
20 through a public health disaster or other public health emergency;

21 (B) electric and gas utility employees; or

22 (C) personnel the division considers vital to
23 public health and safety or economic and national security.

24 (4) "Health care worker" means any individual who

1 provides health care services to patients or provides support
2 services to those health care providers, including physicians,
3 pharmacists, dentists, clinicians, nurses, aides, home hospice
4 care providers, technicians, janitorial and housekeeping staff,
5 food service workers, and nonmanagerial administrative staff.

6 (5) "Personal protective equipment" means specialized
7 clothing or equipment, including masks, gloves, and gowns, worn for
8 protection against infectious materials.

9 Sec. 81.452. PERSONAL PROTECTIVE EQUIPMENT STANDARDS. (a)
10 The division by rule shall establish guidelines for the
11 procurement, storage, and distribution of personal protective
12 equipment.

13 (b) At a minimum, the division, when adopting rules under
14 this section, must consider:

15 (1) the types of personal protective equipment that
16 may be required during a public health disaster or other public
17 health emergency;

18 (2) the length of time each type of personal
19 protective equipment remains usable and the procedures for
20 restocking a portion of each type of equipment;

21 (3) the amount of each type of personal protective
22 equipment required to supply all health care workers and essential
23 personnel in this state with the equipment for 60 days during a
24 public health disaster or other public health emergency;

25 (4) successes and failures during previous public
26 health disasters and other public health emergencies in this state,
27 including successes and failures regarding procurement, storage,

1 or distribution of personal protective equipment;

2 (5) guidance on defining essential personnel based on
3 different potential hazards;

4 (6) geographical distribution of personal protective
5 equipment;

6 (7) guidance on establishing policies and standards to
7 ensure health care workers and essential personnel have access to
8 an adequate supply of personal protective equipment during a public
9 health disaster or other public health emergency; and

10 (8) the distribution prioritization when the supply of
11 personal protective equipment is insufficient to meet the needs of
12 health care workers and essential personnel requesting equipment,
13 including considering whether the requestor is:

14 (A) located in an area with a high density of
15 low-income residents;

16 (B) located in or disproportionately serves a
17 medically underserved area as designated by the United States
18 Department of Health and Human Services; and

19 (C) located in a county with a high infection
20 rate or high hospitalization rate related to a public health
21 disaster or public health emergency.

22 (b-1) In adopting rules under this section, the division
23 shall consider the recommendations of the advisory committee. This
24 subsection expires September 1, 2023.

25 (c) The guidelines for personal protective equipment
26 standards adopted under this section may not be less protective or
27 stringent than federal, state, or local guidelines on personal

1 protective equipment.

2 Sec. 81.453. PERSONAL PROTECTIVE EQUIPMENT ADVISORY
3 COMMITTEE. (a) The division shall establish the Personal
4 Protective Equipment Advisory Committee composed of the following
5 members appointed by the division:

6 (1) one representative of an association representing
7 different types of hospitals and health systems;

8 (2) one representative of an association representing
9 nursing facilities;

10 (3) one representative of an association representing
11 primary care clinics;

12 (4) one representative of an association representing
13 nurses;

14 (5) one representative of an association representing
15 home hospice care providers;

16 (6) one representative of a statewide association
17 representing physicians;

18 (7) two representatives of labor organizations that
19 represent essential personnel;

20 (8) one representative from the personal protective
21 equipment manufacturing industry;

22 (9) one consumer representative;

23 (10) one representative from an association
24 representing counties;

25 (11) one representative from the department;

26 (12) one representative from the division; and

27 (13) one representative from the commission.

1 (b) The advisory committee shall make recommendations to
2 the division as necessary on adopting rules under Section 81.452.

3 (c) This section expires and the advisory committee is
4 abolished September 1, 2023.

5 SECTION 2. (a) The Texas Division of Emergency Management
6 shall adopt rules necessary to implement Section 81.452, Health and
7 Safety Code, as added by this Act, not later than September 1, 2022.

8 (b) As soon as practicable after the effective date of this
9 Act, the Texas Division of Emergency Management shall appoint
10 members to the Personal Protective Equipment Advisory Committee
11 established under Section 81.453, Health and Safety Code, as added
12 by this Act.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2021.