

By: Blanco

S.B. No. 437

A BILL TO BE ENTITLED

AN ACT

relating to the state reserve of personal protective equipment for health care workers and essential personnel.

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

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

SUBCHAPTER K. PERSONAL PROTECTIVE EQUIPMENT RESERVE

Sec. 81.451. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the Personal Protective Equipment Reserve Advisory Committee established under Section 81.454. This subdivision expires September 1, 2023.

(2) "Essential personnel" means:

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

(B) personnel the executive commissioner considers vital to public health and safety or economic and national security.

(3) "Health care worker" means any individual who provides health care services to patients or provides support services to those health care providers, including physicians,

1 pharmacists, dentists, clinicians, nurses, aides, technicians,  
2 janitorial and housekeeping staff, food service workers, and  
3 nonmanagerial administrative staff.

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

7 (5) "Reserve" means the personal protective equipment  
8 reserve established and maintained under this subchapter.

9 Sec. 81.452. ESTABLISHMENT AND MAINTENANCE OF RESERVE. The  
10 department, in coordination with other relevant state agencies,  
11 shall establish and maintain a reserve of personal protective  
12 equipment for use by health care workers and essential personnel  
13 during a public health disaster or other public health emergency.  
14 The reserve must maintain at least a 90-day supply of the equipment.

15 Sec. 81.453. MANAGEMENT OF RESERVE. (a) The executive  
16 commissioner by rule shall establish guidelines for the  
17 procurement, storage, and distribution of the reserve's personal  
18 protective equipment.

19 (b) At a minimum, the executive commissioner, when adopting  
20 rules under this section, must consider:

21 (1) the types of personal protective equipment that  
22 may be required during a public health disaster or other public  
23 health emergency;

24 (2) the length of time each type of personal  
25 protective equipment in the reserve remains usable and the  
26 procedures for restocking a portion of each type of equipment to  
27 ensure the reserve includes only unexpired equipment;

1           (3) the amount of each type of personal protective  
2 equipment required to supply all health care workers and essential  
3 personnel in this state with the equipment for 90 days during a  
4 public health disaster or other public health emergency;

5           (4) successes and failures during previous public  
6 health disasters and other public health emergencies in this state,  
7 including successes and failures regarding procurement, storage,  
8 or distribution of personal protective equipment;

9           (5) guidance on defining essential personnel based on  
10 different potential hazards;

11           (6) geographical distribution of personal protective  
12 equipment;

13           (7) guidance on establishing policies and standards  
14 regarding the reserve's surge capacity to ensure health care  
15 workers and essential personnel have access to an adequate supply  
16 of personal protective equipment during a public health disaster or  
17 other public health emergency;

18           (8) the policies and funding required for this state  
19 to establish a reserve; and

20           (9) the distribution prioritization if the supply of  
21 personal protective equipment is insufficient to meet the needs of  
22 health care workers and essential personnel requesting equipment  
23 from the reserve, including considering whether the requestor is:

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

26                   (B) located in or disproportionately serves a  
27 medically underserved area as designated by the United States

1 Department of Health and Human Services; and

2 (C) located in a county with a high infection  
3 rate or high hospitalization rate related to a public health  
4 disaster or public health emergency.

5 (b-1) In adopting rules under this section, the executive  
6 commissioner shall consider the recommendations of the advisory  
7 committee. This subsection expires September 1, 2023.

8 (c) The guidelines for personal protective equipment  
9 standards adopted under this section may not be less protective or  
10 stringent than federal, state, or local guidelines on personal  
11 protective equipment.

12 Sec. 81.454. ADVISORY COMMITTEE. (a) The department shall  
13 establish the Personal Protective Equipment Reserve Advisory  
14 Committee composed of the following members appointed by the  
15 executive commissioner:

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

18 (2) one representative of an association representing  
19 nursing facilities;

20 (3) one representative of an association representing  
21 primary care clinics;

22 (4) one representative of a statewide association  
23 representing physicians;

24 (5) two representatives of labor organizations that  
25 represent health care workers;

26 (6) two representatives of labor organizations that  
27 represent essential personnel;

1           (7) one representative from the personal protective  
2 equipment manufacturing industry;

3           (8) one consumer representative;

4           (9) one representative from an association  
5 representing counties;

6           (10) one representative from the department;

7           (11) one representative from the Texas Division of  
8 Emergency Management; and

9           (12) one representative from the commission.

10          (b) The advisory committee shall make recommendations to  
11 the executive commissioner as necessary to develop the rules  
12 required under Section 81.453.

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

15          SECTION 2. (a) The Department of State Health Services  
16 shall establish the personal protective equipment reserve as  
17 required by Section 81.452, Health and Safety Code, as added by this  
18 Act, not later than September 1, 2022.

19          (b) The executive commissioner of the Health and Human  
20 Services Commission shall adopt rules necessary to implement  
21 Section 81.453, Health and Safety Code, as added by this Act, not  
22 later than September 1, 2022.

23          (c) As soon as practicable after the effective date of this  
24 Act, the executive commissioner of the Health and Human Services  
25 Commission shall appoint members to the Personal Protective  
26 Equipment Reserve Advisory Committee established under Section  
27 81.454, Health and Safety Code, as added by this Act.

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