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| BILL ANALYSIS |

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| S.B. 812 |
| By: Zaffirini |
| Public Health |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE** Food allergies are a growing health concern in the United States, with the number of Americans living with food allergies having increased significantly in recent years. Currently, food service establishments are not required to train or remind employees about food allergies. However, consequences can be serious and life-threatening when employees are misinformed or lack understanding about food allergies. In 2014, for example, Sergio Alexander Lopez of McAllen, Texas, died after unknowingly ingesting peanut butter at a restaurant despite asking employees whether the food contained peanuts. S.B. 812 seeks to increase food allergen awareness by creating the Sergio Lopez Food Allergy Awareness Act, which requires food service establishments to display a poster developed by the Department of State Health Services containing information about food allergies and responses to allergic reactions. The act additionally provides for the inclusion of food allergen awareness information in education and training programs and as a testable subject of the food manager certification examination. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill. |
| **ANALYSIS** S.B. 812 amends the Health and Safety Code to require a food service establishment to display a poster relating to food allergen awareness in an area of the establishment regularly accessible to the establishment's food service employees. The bill requires the Department of State Health Services (DSHS) to do the following:* collaborate with individuals with expertise and knowledge regarding food allergies to determine the poster's form and content;
* post a sample poster on the DSHS website; and
* update the poster as necessary to ensure that it contains current information about food allergens and remains consistent with standards promulgated by the FDA.

The bill requires DSHS to determine the poster's form and content and post the sample poster not later than December 1, 2023. The poster must include information regarding the following:* the risk of an allergic reaction to a food allergen;
* symptoms of and procedures for preventing an allergic reaction;
* the major food allergens, as determined by federal law and FDA regulations; and
* appropriate responses for assisting an individual who is having an allergic reaction.

The bill requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2023, to adopt rules necessary to implement these provisions.S.B. 812 includes the food allergen awareness information described by the bill as a required component for accreditation as a food service education or training program and as a required component of a course curriculum with respect to an education or training program for basic food safety or food handlers. The bill requires DSHS to update the program accreditation requirements and course curriculum not later than December 1, 2023. The bill requires a state‑approved examination for the issuance or renewal of a food manager certificate to test an applicant on the food allergen awareness information described by the bill. The bill applies only to a food manager or food handler certificate issued or renewed on or after September 1, 2024. A certificate issued before that date is covered by the law in effect when the certificate was issued, and the former law is continued in effect for that purpose. S.B. 812 establishes that a food service establishment is not required to comply with the bill's poster provisions before September 1, 2024. The bill establishes that those provisions and other provisions relating to food allergens expressly do not create a private cause of action or change any common law or statutory duty. The bill prohibits a county, municipality, or public health district from adopting or enforcing an order, ordinance, rule, or other measure related to food allergens that is inconsistent with or exceeds the bill's poster requirements or other requirements of provisions regarding public health measures relating to food.  |
| **EFFECTIVE DATE** September 1, 2023. |