S.B. No. 812

AN ACT

relating to food allergen awareness in food service establishments, food handler and food manager certifications, and food service training or education programs.

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

SECTION 1.  This Act may be cited as the Sergio Lopez Food Allergy Awareness Act.

SECTION 2.  Chapter 437, Health and Safety Code, is amended by adding Section 437.027 to read as follows:

Sec. 437.027.  FOOD ALLERGEN AWARENESS POSTER. (a) A food service establishment shall display a poster relating to food allergen awareness in an area of the establishment regularly accessible to the establishment's food service employees. The department shall:

(1)  collaborate with individuals with expertise and knowledge regarding food allergies to determine the form and content of the poster;

(2)  post a sample poster on the department's Internet website; and

(3)  update the poster as necessary to ensure the poster contains current information about food allergens and remains consistent with standards promulgated by the United States Food and Drug Administration.

(b)  The poster must include information regarding:

(1)  the risk of an allergic reaction to a food allergen;

(2)  symptoms of an allergic reaction;

(3)  the major food allergens, as determined by federal law and regulations of the United States Food and Drug Administration;

(4)  the procedures for preventing an allergic reaction; and

(5)  appropriate responses for assisting an individual who is having an allergic reaction.

(c)  The executive commissioner shall adopt rules necessary to implement this section.

(d)  This section does not create a private cause of action or change any common law or statutory duty.

(e)  Notwithstanding any other law, a county, municipality, or public health district may not adopt or enforce an order, ordinance, rule, or other measure related to food allergens that is inconsistent with or exceeds the requirements of this section or Chapter 438.

SECTION 3.  Section 438.043(a), Health and Safety Code, is amended to read as follows:

(a)  The department may not accredit an education or training program unless the program includes:

(1)  four hours of training on the subject of food, including:

(A)  a description of food-borne disease and its cause and prevention; [~~and~~]

(B)  protection of food in location, receipt, storage, preparation, service, and transportation; and

(C)  the food allergen awareness information described by Section 437.027(b);

(2)  four hours of training on the subject of food service facilities, including:

(A)  waste disposal and sanitary plumbing and water;

(B)  cleaning and sanitization of dishes and utensils;

(C)  storage of equipment and utensils;

(D)  housekeeping procedures and schedules;

(E)  proper handling of nonfood supplies, including single service items, linens, and toxic materials; and

(F)  cleanliness of the physical plant, including building construction, ventilation, lighting, pest control, and general safety of the environment;

(3)  two hours of training on the subject of sanitary habits for food handlers, including:

(A)  personal hygiene, including proper dress, handwashing, personal habits, and illness;

(B)  food handling practices, including minimum handling and proper use of food service utensils; and

(C)  operational problems, including identification and correction of commonly occurring deficiencies; and

(4)  four hours of training on the subject of management in the food service industry, including:

(A)  self-inspection promotion and techniques;

(B)  motivation, including safety, the economics of safe food handling, and planning to meet sanitation guidelines; and

(C)  personnel training, including management responsibility, resources, and methods.

SECTION 4.  Section 438.0431(b), Health and Safety Code, is amended to read as follows:

(b)  The executive commissioner shall by rule define the basic food safety training or education required to be included in a course curriculum.  The course curriculum must include the food allergen awareness information described by Section 437.027(b). The course length may not exceed two hours.

SECTION 5.  Section 438.103, Health and Safety Code, is amended to read as follows:

Sec. 438.103.  CERTIFICATION AND RENEWAL OF CERTIFICATION;  EXAMINATION REQUIRED. (a)  A person who satisfies the requirements of this subchapter may receive and renew a food manager certificate by passing a state-approved examination.

(b)  A state-approved examination for issuance or renewal of a food manager certificate must test an applicant on the food allergen awareness information described by Section 437.027(b).

SECTION 6.  Chapter 438, Health and Safety Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. MISCELLANEOUS PROVISIONS

Sec. 438.201.  NO PRIVATE CAUSE OF ACTION. The provisions of this chapter related to food allergens do not create a private cause of action or change any common law or statutory duty.

Sec. 438.202.  CERTAIN REGULATIONS PROHIBITED. Notwithstanding any other law, a county, municipality, or public health district may not adopt or enforce an order, ordinance, rule, or other measure related to food allergens that is inconsistent with or exceeds the requirements of this chapter or Section 437.027.

SECTION 7.  Not later than December 1, 2023:

(1)  the Department of State Health Services shall determine the form and content of the poster and post the sample poster on the department's Internet website as required by Section 437.027, Health and Safety Code, as added by this Act;

(2)  the Department of State Health Services shall update the education or training program accreditation requirements and course curriculum as required by Sections 438.043 and 438.0431, Health and Safety Code, as amended by this Act; and

(3)  the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement the changes in law made by this Act.

SECTION 8.  The changes in law made by this Act apply 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.

SECTION 9.  Notwithstanding Section 437.027, Health and Safety Code, as added by this Act, a food service establishment is not required to comply with that section before September 1, 2024.

SECTION 10.  This Act takes effect September 1, 2023.

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I hereby certify that S.B. No. 812 passed the Senate on April 6, 2023, by the following vote:  Yeas 26, Nays 5.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 812 passed the House on May 24, 2023, by the following vote:  Yeas 95, Nays 49, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor