

By: Lucio

S.B. No. 2058

A BILL TO BE ENTITLED

AN ACT

relating to food allergen awareness in food service establishments;
authorizing a fee; requiring a food allergen awareness
certification for certain food service employees.

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

SECTION 1. Section 437.001, Health and Safety Code, is
amended by adding Subdivisions (5-a), (5-b), and (5-c) to read as
follows:

(5-a) "Major food allergen":

(A) includes:

(i) milk;

(ii) eggs;

(iii) fish, including bass, flounder, and

cod;

(iv) crustaceans, including crab, lobster,

and shrimp;

(v) tree nuts, including almonds, pecans,

and walnuts;

(vi) wheat;

(vii) peanuts;

(viii) soybeans; and

(ix) a food ingredient that contains
protein derived from any of those foods; and

(B) does not include any food ingredient that is

1 exempt from the food allergen labeling requirements of Section
2 403(w), Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section
3 343).

4 (5-b) "Menu" means a printed or pictorial display of
5 food items and prices of those items that are available for sale
6 from a food service establishment. The term includes a display of
7 food items that is distributed outside the food service
8 establishment, a promotional display of food items from which a
9 customer may place an order, and a display of food items on the food
10 service establishment's Internet website.

11 (5-c) "Menu board" means a list or pictorial display of
12 food items and the prices of those food items posted within or
13 outside a food service establishment.

14 SECTION 2. Chapter 437, Health and Safety Code, is amended
15 by adding Sections 437.024, 437.025, and 437.026 to read as
16 follows:

17 Sec. 437.024. FOOD ALLERGEN NOTICE ON MENUS AND MENU
18 BOARDS. (a) A food service establishment shall include on each menu
19 and menu board a clear and conspicuous notice requesting that a
20 customer notify the server of the customer's allergy to a major food
21 allergen before placing an order. The notice shall state: "Before
22 placing your order, please inform your server if a person in your
23 party has a food allergy."

24 (b) Except as provided by Subsection (c), a food service
25 establishment shall ensure that notice described by Subsection (a)
26 posted on a menu board is easily readable from the point of service
27 at which a customer orders food. The font size of the notice must be

the same size as or larger than the smallest font size of a menu item listed on the menu board.

(c) A food service establishment may, instead of posting the notice described by Subsection (a) on the menu board, post the notice adjacent to the menu board. The notice posted under this subsection must be:

(1) securely posted and easily readable from a distance of five feet by a customer standing at or approaching the point of service;

(2) directly facing the customer; and

(3) unobstructed from a customer's view.

Sec. 437.025. FOOD ALLERGY AWARE DESIGNATION. (a) The department shall develop a program to designate certain food service establishments as food allergy aware. The department shall maintain a list of food service establishments that receive the designation on the department's Internet website.

(b) Participation by a food service establishment in the food allergy aware program is voluntary.

(c) The executive commissioner shall adopt guidelines and requirements for a food service establishment to receive the food allergy aware designation. The requirements must include maintaining on the premises and making available to the public a master list of all ingredients used in the preparation of each food item available for consumption.

Sec. 437.026. REQUIRED FOOD ALLERGEN AWARENESS TRAINING AND CERTIFICATION. (a) In this section:

(1) "Food allergen awareness training and

1 certification program" means a program approved by the department
2 under this section.

3 (2) "Food handler" means a food service employee who
4 works with unpackaged food, food equipment or utensils, or
5 food-contact surfaces.

6 (3) "Food server" includes any food service employee
7 who takes food orders from customers or delivers food to customers.

8 (b) Each food handler, food server, and manager employed at
9 a food service establishment shall successfully complete a food
10 allergen awareness training and certification program approved by
11 the department as required by this sections not later than the 30th
12 day after the date on which the person is hired by the food service
13 establishment.

14 (c) Each food handler, food server, and manager who
15 completes the food allergen awareness training and certification
16 program must renew the certification every three years while that
17 person is employed at the food service establishment.

18 (d) Each manager shall post for display the manager's
19 certification required by Subsection (b).

20 (e) A manager shall ensure that at least one person with the
21 certification required by Subsection (b) is present at the food
22 service establishment during all hours the establishment provides
23 food service to customers.

24 (f) The executive commissioner by rule shall establish
25 criteria and guidelines for food allergen awareness training and
26 certification programs. The department may approve food allergen
27 awareness training and certification programs that meet the

established criteria and guidelines. A food allergen awareness training and certification program approved by the department must include training on:

- (1) the serious nature of food allergy;
- (2) the importance of reading ingredient labels and of strict allergen avoidance;
- (3) the avoidance of cross-contact during food preparation; and
- (4) the means of activating emergency assistance in the event of an allergic reaction.

(g) The executive commissioner by rule shall establish a fee for the department to charge in the amount necessary to cover the costs of administering this section to each person that applies for the department's approval of a food allergen awareness training and certification program.

(h) The department at least every five years shall review each food allergen awareness training and certification program approved by the department to ensure the program continues to meet the criteria and guidelines established by rule under this section.

SECTION 3. Not later than December 1, 2015, the executive commissioner of the Health and Human Services Commission shall, in consultation with Food Allergy Research & Education and the Texas Restaurant Association, adopt rules establishing:

(1) the guidelines and requirements for a food allergy aware designation as required by Section 437.025, Health and Safety Code, as added by this Act; and

(2) criteria and guidelines for food allergen

1 awareness training and certification programs as required by
2 Section 437.026, Health and Safety Code, as added by this Act.

3 SECTION 4. (a) Notwithstanding Section 437.024, Health and
4 Safety Code, as added by this Act, a food service establishment is
5 not required to comply with that section until September 1, 2016.

6 (b) Notwithstanding Section 437.026, Health and Safety
7 Code, as added by this Act, a food handler, food server, or manager
8 employed at a food service establishment on or before February 1,
9 2016, must comply with that section on or before March 1, 2016.

10 SECTION 5. Not earlier than September 1, 2016, and not later
11 than September 1, 2017, the executive commissioner of the Health
12 and Human Services Commission shall, in consultation with Food
13 Allergy Research & Education and the Texas Restaurant Association,
14 submit a report to the legislature analyzing the impact of this Act
15 on food service establishments and consumers. The report must
16 include the rate at which food service establishments comply with
17 the requirements of this Act and recommendations to improve food
18 allergen awareness by food service establishments and their
19 employees that are consistent with the public health and welfare.

20 SECTION 6. This Act takes effect September 1, 2015.