

**SUBJECT:** Requiring DSHS to provide information about food regulations in 30 days

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 10 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, Laubenberg, J.D. Sheffield, Zedler

0 nays

1 absent — Coleman

**WITNESSES:** For — Erin Flynn; Amy Greer; Susie Marshall, Texas Organic Farmers and Gardeners Association; Judith McGreary, Farm and Ranch Freedom Alliance (*Registered, but did not testify*: Glenn Foore; Alexandra Landeros; Kelley Masters; Stacey Roussel; Stephanie Scherzer; Andrew Smiley, Sustainable Food Center; Roxanna Smock)

Against — None

On — Howard Johnson and Cheryl Wilson, Department of State Health Services

**BACKGROUND:** Health and Safety Code, ch. 438, governs public health measures related to food.

**DIGEST:** **Information requests.** CSHB 1392 would require the Department of State Health Services to provide a reasonable and substantial response to written requests for information about food regulations within 30 days, unless a response were prohibited by state or federal law.

**Official determinations.** If the department received an inquiry about regulation applicability or compliance requirements, the department would have to respond with an official determination within 30 days.

The determination would be valid until the regulation was changed by statute or department rule, and an inspector could not issue a citation for a perceived violation if the inspector's opinion were contradicted by an official determination.

**Rules.** The executive commissioner of the Health and Human Services Commission would have to adopt rules to implement this chapter by December 1, 2013. The commissioner would also evaluate and, if necessary, modify the department's food safety rules to improve consistency and communication.

The bill would apply only to requests for information or official determinations made on or after January 1, 2014.

This bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

HB 1392 would provide businesses with guidance and clarity. Small businesses are often confused about the applicability of regulations and about compliance requirements. By giving businesses a way to obtain information and official opinions about their specific operations, this bill would enhance clarity about food regulation, streamline the inspection process, and help ensure full compliance. Ultimately, increased compliance with food regulations would improve the public's health.

This bill would not significantly burden the Department of State Health Services because it is unlikely that they would receive a large number of written requests, and 30 days is a reasonable amount of time to provide information or an official determination.

**OPPONENTS  
SAY:**

HB 1392 would place onerous administrative burdens on the department. It would be difficult for them to respond to requests for information and official determinations within such a short time. The bill also could potentially interfere with a local health department's ability to regulate businesses within its jurisdiction.