

## **BILL ANALYSIS**

Senate Research Center  
81R10763 JSC-F

S.B. 1329  
By: Nelson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Two nationwide salmonella outbreaks in the last year have involved Texas food manufacturing or distributing companies. Each year 36,000 lab-confirmed cases of salmonella infection in this country are attributed to contaminated produce. There is a loophole in the Texas Food, Drug, and Cosmetic Act that exempts fresh produce wholesalers from the Department of State Health Services (DSHS) authority since they are not technically licensed through DSHS.

S.B. 1329 seeks to better protect consumers from food-borne illnesses by closing the fresh produce wholesaler loophole to give DSHS regulatory and licensing authority over these operations.

As proposed, S.B. 1329 authorizes DSHS [formerly the Texas Department of Health] to require the submission of microbiological isolates or lab specimens from food manufacturers or wholesalers for testing and authorizes DSHS to require food wholesalers and manufacturers to test their products and submit results to DSHS.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 81.044, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 5 (Section 431.085, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 81.003, Health and Safety Code, by adding Subdivision (4-a), to define "microbiological isolate."

SECTION 2. Amends Section 81.044, Health and Safety Code, by adding Subsection (e), to authorize the executive commissioner of the Health and Human Services Commission (HHSC), by rule, to require the submission of microbiological isolates or laboratory specimens.

SECTION 3. Amends Section 81.061(c), Health and Safety Code, to require a person to provide records, microbiological isolates, and other information to the Texas Department of Health (TDH) on request according to TDH's written instructions.

SECTION 4. Amends Section 81.062(a), Health and Safety Code, to authorize TDH, for the purpose of an investigation under Section 81.061(c), to administer oaths, summon witnesses, and compel the attendance of a witness or the production of a document or microbiological isolate. Makes a conforming change.

SECTION 5. Amends Subchapter D, Chapter 431, Health and Safety Code, by adding Section 431.085, as follows:

Sec. 431.085. REPORTABLE PATHOGENS AND REQUIRED TESTING. (a) Defines "food manufacturer," "food wholesaler," and "public health disaster."

(b) Authorizes TDH, by rule, to require a food manufacturer or food wholesaler to test products specified by TDH rule for pathogenic microorganisms or toxins injurious to human health.

(c) Requires a food manufacturer or food wholesaler in this state to report test results of products that test positive for pathogenic microorganisms or toxins injurious to human health as provided by TDH rule.

(d) Requires TDH to maintain and revise as necessary the list of reportable food-borne pathogenic microorganisms or toxins. Requires that the list include salmonella.

(e) Authorizes the commissioner of public health, in a public health disaster, to require testing for or reports of food-borne pathogenic microorganisms or toxins from providers without a TDH rule or action. Requires the commissioner to issue appropriate instructions relating to complying with the testing and reporting requirements of this section.

SECTION 6. Amends Section 431.2211(a), Health and Safety Code, to provide that a person is not required to hold a license under this subchapter if the person is a person, firm, or corporation that only harvests, packages, or washes raw fruits or vegetables for shipment at the location of harvest, rather than a person, firm, or corporation that only harvests, packages, washes, or shops raw fruits or vegetables.

SECTION 7. Provides that a person is not required to perform tests or report the results of tests performed under Section 431.085, Health and Safety Code, as added by this Act, before January 1, 2010.

SECTION 8. (a) Effective date, except as provided by Subsection (b): September 1, 2009.

(b) Effective date, Section 6: September 1, 2010.