

## **BILL ANALYSIS**

Senate Research Center  
76R3427 MCK-D

S.B. 1239  
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### **DIGEST**

Under current Texas law, it takes up to 45 days for the Texas Department of Health (department) to receive the injunctive relief necessary to close an unsanitary food facility. During this period a facility can continue to operate even with serious critical violations. S.B. 1239 would authorize the department, counties, and public health districts to immediately close retail food establishments that fail to comply with the minimum state standards and which pose immediate public health hazard.

### **PURPOSE**

As proposed, S.B. 1239 authorizes the Texas Department of Health's to regulate certain food establishments.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 437, Health and Safety Code, by amending Section 437.009 and amending Section 437.009, and adding Sections 437.0095, 437.0145 and 437.0155, as follows:

Sec. 437.009. INSPECTIONS. Authorizes authorized agents or employees of the department, a county, or a public health district to enter the premises of a food service establishment, or temporary food service establishment under the department's, county's or district's jurisdiction during normal operating hours to conduct inspections to determine compliance with state law, rules adopted under state law, and orders adopted by the department, county, of district.

Sec. 437.0095. DETENTION. Authorizes the commissioner of The Department of Health or an authorized agent to detain an article of food that is located on the premises of a food service establishment, retail store, mobile food unit, roadside food vendor, or temporary food service establishment and is adulterated or misbranded under Chapter 431.

Sec. 437.0145. EMERGENCY SUSPENSION OR CLOSING ORDER. Requires the Texas Department of Health (department) to suspend the license of a food service establishment, retail food store, mobile food unit, roadside food vendor, or temporary food service establishment or order the immediate closing if the department finds certain violations. Provides that an order suspending a license or closing an establishment under this section is immediately effective on the date on which the license holder receives written notice or a later date specified in the order and is valid for 10 days after the effective date of the order.

Sec. 437.0155. DEPARTMENT INJUNCTION. Authorizes the department to institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, if it appears that a person has violated, is violating, or threatens to violate this chapter or a rule adopted under this chapter. Authorizes the department to petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that certain violations are going to occur. Requires the attorney general to institute a suit in the same name of the state for injunctive relief, on the department's request. Authorizes the court, in an action for injunctive relief under this section, to grant any prohibitory or mandatory injunction warranted by the facts, including temporary restraining orders, temporary injunctions, and permanent injunctions. Requires the court to grant injunctive relief without a bond

or other undertaking by the department. Provides that venue for a suit brought under this section is in the county in which the violation or threat of violation is alleged to have occurred or in Travis County.

SECTION 2. Effective date: September 1, 1999.

Makes application of this Act prospective.

SECTION 3. Emergency clause.