WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 406

By Senator Chapman

[Introduced January 12, 2024; referred  
to the Committee on Health and Human Resources]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-7A-1, §16-7A-2, §16-7A-3, and §16-7A-4, all relating to food allergen awareness; requiring the Department of Health and Human Resources to provide posters that contain information about food allergens to restaurants, which the restaurants must post; requiring food service employees to understand and be able to explain the allergens potentially in each food item sold by that business; granting rule-making authority; and providing an enacting date.

Be it enacted by the Legislature of West Virginia:

Article 7a. food allergen awareness act.

§16-7A-1. Title.

This Act shall be known as the Food Allergen Awareness Act.

§16-7A-2. Food allergen awareness.

(a) A food service establishment shall display a poster relating to food allergen awareness in an area of the establishment accessible primarily to food service employees of the establishment. The Department of Health and Human Resources shall:

(1) 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 that the poster contains current information about food allergens.

(b) A food service establishment may display the information from the sample poster in lieu of the poster, provided the information is presented and posted in a manner that is easily readable by the establishment's food service employees in the selected employee area.

(c) The poster or posted information must:

(1) State that a reaction to a food allergen is potentially life-threatening; and

(2) Include information regarding:

(A) The risk of allergic reaction to a food allergen;

(B) The major food allergens, including milk, wheat, eggs, soy, crustacean shellfish, peanuts, tree nuts, and fish;

(C) The proper methods and procedures for checking ingredients in food items, including unexpected or hidden ingredients;

(D) The importance of clear communication between customers with food allergies and the establishment's staff concerning food allergens; and

(E) Methods for preventing cross-contact in food preparation.

(d) The executive commissioner shall adopt rules necessary for the implement this section.

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

§16-7A-3. Implementation.

(a) The Department of Health and Human Resources shall determine the form and content of the poster and post the sample poster and post the sample poster on the department's Internet website as required by §16-7A-2 of this code; and

(b) A food service establishment is not required to comply with this article before January 1, 2025.

§16-7A-4. Enactment.

This Act takes effect July 1, 2024.

NOTE: The purpose of this bill is to create the Food Allergen Awareness Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.