

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5481**

By Delegates Amos and Burkhammer

[Introduced February 12, 2026; referred to the  
Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
 2 designated §18-5D-3B, relating to requiring certain ingredients not be included in foods  
 3 prepared in West Virginia school nutrition programs.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.**  
**§18-5D-3B. Ultra-processed foods prohibited.**

1 (a) Definitions:

2 (1) "Ultra-processed food" a food or beverage product that:

3 (A) Is industrially manufactured using a series of mechanical, chemical, or biological  
 4 processes not typically performed in a household kitchen; and

5 (B) Contains ingredients listed in §18-5D-3A of this code, as well as any food product that  
 6 contains two or more ingredients whose primary purpose is to enhance palatability, texture,  
 7 appearance, or shelf stability, including but not limited to:

8 (i) Artificial or non-nutritive sweeteners;

9 (ii) Industrial flavorings or flavor enhancers;

10 (iii) Emulsifiers, stabilizers, anti-caking agents, foaming agents, or texturizers;

11 (iv) Color additives not derived directly from whole foods;

12 (v) Preservatives used primarily to extend shelf life beyond that achievable through  
 13 refrigeration, freezing, or traditional canning; and

14 (C) Is formulated to be ready-to-eat or heat-and-serve and designed to substitute for a  
 15 freshly prepared meal or whole-food component.

16 The term does not include whole or minimally processed foods; foods prepared by school  
 17 food authorities using raw or minimally processed ingredients; foods processed solely by baking,  
 18 roasting, freezing, drying, fermenting, pasteurizing, or canning without the addition of industrial  
 19 functional ingredients; medical foods, infant formula, or foods required for disability or medical  
 20 accommodation; non-alcoholic beverages containing non-nutritive sweeteners and no added

21 caloric sugars.

22 (b) Nutrition standards for school meals.

23 (1) No public school, county board of education, or school food authority participating in a  
24 state-administered meal program shall purchase, prepare, or serve ultra-processed foods as  
25 defined in subsection (a) of this section as a reimbursable component of a school breakfast or  
26 lunch meal.

27 (2) This section shall be implemented in a manner consistent with federal school meal  
28 requirements, and nothing herein shall be construed to require a waiver of federal reimbursement  
29 eligibility.

30 (3) The West Virginia Department of Education shall:

31 (A) Develop and publish a compliant foods list and a non-compliant foods list for school  
32 meal planning;

33 (B) Provide technical assistance and training to school nutrition personnel;

34 (C) Allow reasonable phase-in periods and hardship waivers where local sourcing or  
35 preparation capacity is limited.

36 (4) Nothing in this section prohibits the occasional use of non-compliant foods for  
37 classroom celebrations or extracurricular events or foods brought from home by students.

38 (c) Compliance with this section shall be achieved through procurement standards, menu  
39 planning guidance, and technical assistance, and shall not be enforced through student meal  
40 denial or punitive measures against school personnel.

NOTE: The purpose of this bill is to prohibit the use of ultra-processed foods in meals provided by school nutrition programs.

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