

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 745

By Senators Helton and Rucker

[Reported February 18, 2026, from the Committee on
Health and Human Resources]

1 A BILL to amend and reenact §18-5D-3A of the Code of West Virginia, 1931, as amended, relating
2 to requirements for school nutrition programs; setting forth additives not to be included in a
3 school nutrition program; setting forth requirements related for sugar; setting forth
4 requirements to post a list of ingredients online; setting forth effective dates; permitting
5 waiver; setting forth requirements for waiver; and requiring reporting.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.
§18-5D-3A. Unsafe food additives prohibited.

1 (a) Effective August 1, 2025, the following food additives shall be deemed unsafe and shall
2 not be permitted as an ingredient in any meal served in a school nutrition program as set forth in
3 this article:

- 4 (1) Red Dye No. 3 (CAS Reg. No. 16423-68-0);
- 5 (2) Red Dye No. 40 (CAS Reg. No. 25956-17-6);
- 6 (3) Yellow Dye No. 5 (CAS Reg. No. 1934-21-0);
- 7 (4) Yellow Dye No. 6 (CAS Reg. No. 2783-94-0);
- 8 (5) Blue Dye No. 1 (CAS Reg. No.3844-45-8);
- 9 (6) Blue Dye No. 2 (CAS Reg. No. 860-22-0); and
- 10 (7) Green Dye No. 3 (CAS Reg. No. 2353-45-9).

11 (b) Effective August 1, 2027, the following food additives shall be deemed unsafe and shall
12 not be permitted as an added ingredient in any meal served in a school nutrition program as set
13 forth in this article:

- 14 (1) Titanium dioxide;
- 15 (2) Butylated hydroxytoluene (BHT);
- 16 (3) Butylated hydroxyanisole (BHA);
- 17 (4) Tert-butylhydroquinone (TBHQ);
- 18 (5) Sodium benzoate;

19 (6) Propyl gallate;

20 (7) Azodicarbonamide;

21 (8) Aloe vera;

22 (9) Propylparaben;

23 (10) Potassium bromate;

24 (11) Butylparaben;

25 (12) Acetaldehyde;

26 (13) Propylene oxide;

27 (14) Ethoxyquin;

28 (15) Acrolein;

29 (16) Aspartame;

30 (17) Sucralose;

31 (18) Acesulfame K;

32 (19) Diacetyl;

33 (20) Octyl gallate;

34 (21) Dodecyl gallate;

35 (22) Calcium bromate; and

36 (23) Calcium sorbate.

37 (c) Effective August 1, 2027, no more than 10 percent of daily calories served in a school

38 nutrition program as set forth in this article may come from added sugars or as provided by the

39 United States Department of Agriculture's Child Nutrition Programs whichever is less; *Provided,*

40 That effective August 1, 2028, no more than seven percent of daily calories served in a school

41 nutrition program as set forth in this article may come from added sugars or as provided by the

42 United States Department of Agriculture's Child Nutrition Programs whichever is less; *Provided,*

43 *however,* That effective August 1, 2029, no more than five percent of daily calories served in a

44 school nutrition program as set forth in this article may come from added sugars or as provided by

45 the United States Department of Agriculture's Child Nutrition Programs whichever is less.

46 (d) Effective August 1, 2027, a school shall post on the school's website the school's
47 breakfast and lunch menu, as applicable, with the list of ingredients for each item on the menu.

48 (e) An individual school may be granted a waiver of the requirements of subsections (b) in
49 the event that the nutrition direction, or other individual responsible for purchasing food for the
50 school, is unable to locate a product for sale that is free from ingredients listed in subsection (b)
51 within the existing vendor inventory. To obtain the waiver the nutrition direction, or other individual
52 responsible for purchasing food, for the school shall:

53 (1) Document the item being purchased and all other possible substitute items and their
54 ingredients to obtain a waiver;

55 (2) This information shall be submitted to the Department of Education Office of Child
56 Nutrition to validate and approve the waiver: *Provided*, That the Department of Education Office of
57 Child Nutrition has access to the vendor list and can independently validate the information
58 submitted;

59 (3) If the waiver is approved, then no substitution shall be required; and

60 (4) If the waiver is not approved, then a substitute product is available, and the substitution
61 shall be made.

62 (b)(f) An elementary, middle, or high school may permit the sale of food items that do not
63 comply with this section as part of a school fundraising event if the sale of those items takes place
64 off of and away from school premises or the sale of those items takes place on the school
65 premises at least one-half hour after the end of the school day.

66 (g) The Department of Education shall submit an annual report to the Legislative Oversight
67 Commission on Health and Human Resources Accountability and to the Legislative Oversight
68 Commission on Education Accountability beginning July 1, 2028, and annually thereafter
69 regarding the following: how many waivers are requested, granted, and denied each year.