

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]

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

Be it enacted by the Legislature of West Virginia:

ARTICLE 7A. FOOD ALLERGEN AWARENESS ACT.

§16-7A-1. Title.

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

§16-7A-2. Food allergen awareness.

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

- 4 (1) Determine the form and content of the poster;
- 5 (2) Post a sample poster on the department's Internet website; and
- 6 (3) Update the poster as necessary to ensure that the poster contains current information
 7 about food allergens.

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

- 11 (c) The poster or posted information must:
- 12 (1) State that a reaction to a food allergen is potentially life-threatening; and
- 13 (2) Include information regarding:
- 14 (A) The risk of allergic reaction to a food allergen;

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

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

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

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

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

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

§16-7A-3. **Implementation.**

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

4 (b) A food service establishment is not required to comply with this article before January 1,
5 2025.

§16-7A-4. **Enactment.**

1 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.