

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1869 Session of 2023

INTRODUCED BY VENKAT, HOHENSTEIN, MIHALEK, HANBIDGE, MADDEN, KHAN, ADAMS, SANCHEZ, NEILSON, DALEY, PISCIOTTANO, SHUSTERMAN, HOWARD, HADDOCK, KAZEEM, GREEN, CIRESI, CERRATO, OTTEN, PASHINSKI, TAKAC, BOROWSKI AND MARCELL, NOVEMBER 30, 2023

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2024

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, in food protection, FURTHER PROVIDING FOR <--
3 DEFINITIONS, providing for food allergy awareness program AND <--
4 FURTHER PROVIDING FOR POWERS OF DEPARTMENT.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5705 of Title 3 of the Pennsylvania <--
8 Consolidated Statutes is amended to read:

9 § 5705. [(Reserved).] Food allergy awareness program.

10 (a) Establishment. The Department of Health shall establish
11 a food allergy awareness program. The food allergy awareness
12 program shall require a public eating or drinking place to
13 comply with all of the following:

14 (1) Prominently display a poster developed by the
15 Department of Health under subsection (b) in the staff area
16 that provides information on food allergy awareness.

17 (2) Include on a food menu a notice to a customer of the

1 ~~customer's obligation to inform a server about the customer's~~
2 ~~food allergy.~~

3 ~~(b) Language. The Department of Health, in consultation~~
4 ~~with the Food Allergy and Anaphylaxis Network, shall develop the~~
5 ~~poster required under subsection (a)(1) and approve the~~
6 ~~information on the poster.~~

7 SECTION 1. THE DEFINITION OF "POTENTIALLY HAZARDOUS FOOD" IN <--
8 SECTION 5702 OF TITLE 3 OF THE PENNSYLVANIA CONSOLIDATED
9 STATUTES IS AMENDED TO READ:

10 § 5702. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 * * *

15 "POTENTIALLY HAZARDOUS FOOD." THE TERM SHALL HAVE THE SAME
16 MEANING AS [DEFINED IN THE 2009] TIME/TEMPERATURE CONTROL FOR
17 SAFETY FOOD IS DEFINED IN THE 2022 EDITION OF THE FOOD CODE
18 PUBLISHED BY THE [DEPARTMENT OF HEALTH AND HUMAN SERVICES,]
19 UNITED STATES FOOD AND DRUG ADMINISTRATION, OR ANY SUCCESSOR
20 DOCUMENT APPROVED BY [REGULATION OF] THE DEPARTMENT UNDER
21 SECTION 5707(E) (RELATING TO POWERS OF DEPARTMENT).

22 * * *

23 SECTION 2. SECTION 5705 OF TITLE 3 IS AMENDED TO READ:

24 § 5705. [(RESERVED).] FOOD ALLERGY AWARENESS.

25 (A) REQUIREMENTS.--EACH PROPRIETOR OF A RETAIL FOOD FACILITY
26 SHALL COMPLY WITH ALL OF THE FOLLOWING:

27 (1) PROMINENTLY DISPLAY A POSTER ACCEPTABLE TO THE
28 DEPARTMENT AND IN ACCORDANCE WITH SUBSECTION (B) IN THE
29 EMPLOYEE AREA THAT PROVIDES INFORMATION FOR EMPLOYEES ON FOOD
30 ALLERGY AWARENESS.

1 (2) INCLUDE ON A FOOD MENU OR THROUGH OTHER WRITTEN
2 INFORMATION A NOTICE TO A CUSTOMER OF FOOD ALLERGENS USED IN
3 THE RETAIL FOOD FACILITY AND A REQUEST FOR THE CUSTOMER TO
4 INFORM THE EMPLOYEE SERVING THE CUSTOMER ABOUT THE CUSTOMER'S
5 FOOD ALLERGY.

6 (B) POSTERS.--THE DEPARTMENT SHALL REQUIRE POSTERS UNDER
7 THIS SECTION TO CONTAIN, AT A MINIMUM, A DESCRIPTION OF THE
8 MAJOR FOOD ALLERGENS AND SYMPTOMS OF AN ALLERGIC REACTION AND
9 ANY OTHER RELATED REQUIREMENTS THAT ARE SPECIFIED IN THE FOOD
10 CODE, PUBLISHED BY THE UNITED STATES FOOD AND DRUG
11 ADMINISTRATION. THE FOLLOWING APPLY:

12 (1) THE SECRETARY SHALL TRANSMIT NOTICE OF THE OTHER
13 RELATED REQUIREMENTS THAT ARE SPECIFIED IN THE VERSION OF THE
14 FOOD CODE THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS
15 PARAGRAPH TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION
16 IN THE NEXT AVAILABLE ISSUE OF THE PENNSYLVANIA BULLETIN.

17 (2) THE SECRETARY SHALL REVIEW ANY SUBSEQUENT CHANGES TO
18 THE OTHER RELATED REQUIREMENTS THAT ARE SPECIFIED UNDER THE
19 FOOD CODE AND SHALL TRANSMIT NOTICE OF THE CHANGES TO THE
20 LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE NEXT
21 AVAILABLE ISSUE OF THE PENNSYLVANIA BULLETIN.

22 SECTION 3. SECTION 5707(A) OF TITLE 3 IS AMENDED AND THE
23 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

24 § 5707. POWERS OF DEPARTMENT.

25 (A) RULES AND REGULATIONS.--THE DEPARTMENT SHALL MAKE SUCH
26 REASONABLE RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY FOR
27 CARRYING OUT THE PROVISIONS AND INTENT OF THIS SUBCHAPTER. IN
28 PROMULGATING REGULATIONS, THE DEPARTMENT SHALL BE GUIDED BY THE
29 [MOST CURRENT] 2022 EDITION OF THE FOOD CODE, PUBLISHED BY THE
30 UNITED STATES [DEPARTMENT OF HEALTH,] FOOD AND DRUG

1 ADMINISTRATION OR ANY SUCCESSOR DOCUMENT APPROVED BY THE
2 DEPARTMENT UNDER SUBSECTION (E). THE REGULATORY STANDARDS
3 ESTABLISHED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE THE
4 STANDARDS FOLLOWED AND APPLIED BY ANY LICENSOR WITH RESPECT TO
5 RETAIL FOOD FACILITIES.

6 * * *

7 (E) ADOPTION BY REFERENCE.--

8 (1) THE SECRETARY SHALL REVIEW THE 2022 EDITION OF THE
9 FOOD CODE, PUBLISHED BY THE UNITED STATES FOOD AND DRUG
10 ADMINISTRATION, AND TRANSMIT NOTICE TO THE LEGISLATIVE
11 REFERENCE BUREAU FOR PUBLICATION IN THE NEXT AVAILABLE ISSUE
12 OF THE PENNSYLVANIA BULLETIN OF THE STANDARDS APPROVED FOR
13 ADOPTION.

14 (2) THE SECRETARY SHALL REVIEW ANY SUBSEQUENT CHANGES TO
15 THE FOOD CODE AND SHALL TRANSMIT NOTICE OF ADOPTION TO THE
16 LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE NEXT
17 AVAILABLE ISSUE OF THE PENNSYLVANIA BULLETIN.

18 Section 2 4. This act shall take effect in 60 days.

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