

SENATE BILL REPORT

SHB 1562

As of March 26, 2015

Title: An act relating to allergen information in schools.

Brief Description: Requiring posting of allergen information in public schools.

Sponsors: House Committee on Education (originally sponsored by Representatives Sullivan, Tarleton and Orwall).

Brief History: Passed House: 3/04/15, 70-26.

Committee Activity: Early Learning & K-12 Education: 3/17/15.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Matthew Lemon (786-7405)

Background: In 2013 the United States Centers for Disease Control and Prevention reported that food allergies affect an estimated 4 to 6 percent of children nationwide and that about 88 percent of schools had one or more students with a food allergy in 2006. The symptoms and severity of allergic reactions differ between individuals and can range from mild to life-threatening reactions including anaphylaxis. Currently the only way to prevent food allergy reactions is avoidance of the identified allergen.

The federal Food Allergen Labeling and Consumer Protection Act (FALCPA) of 2004 requires that the label of a food that contains an ingredient that is or contains a major food allergen must declare the presence of the allergen in the manner prescribed by law. FALCPA identifies the following eight foods as the major food allergens:

- milk;
- eggs;
- crustacean shellfish;
- fish;
- tree nuts;
- peanuts;
- wheat; and
- soybeans.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington State Department of Agriculture (WSDA) inspects food products and labeling and has prepared guidance on how to label foods containing allergens in accordance with FALCPA.

Summary of Bill: The Office of Superintendent of Public Instruction must consult with WSDA to develop and disseminate guidance for school districts on how and what allergen information schools must display. By September 1, 2016, schools must display allergen information on a conspicuous sign in a prominent place within each area where food is served. Additional methods of display may include food labels and other notices, and allergens may include the eight major food allergens described in FALCPA.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: One in 13 children suffer from a food allergy and there are eight food groups that account for about 90 percent of all food allergies. It is important for students to know how to protect themselves and they may feel more secure if they know what they are eating. This bill only requires that the Office of Superintendent of Public Instruction (OSPI) consult with WSDA to figure out what the display methods and requirements would be. There is some concern that the definition of areas where food is served may be too broad and a change in the language may be helpful. OSPI should promulgate the sign requirements.

CON: This bill does not protect children with life-threatening and autoimmune disorders. This approach would shift some of the responsibility to make decisions about whether food is safe or not to young children who should not be making those decisions on their own. Some children are unable to read or understand the terms on a label or a sign and many do not know what their particular allergy is. It is unlikely that children would be able to accurately read and understand a label in a noisy lunchroom in a short period of time. This bill creates liability for schools and districts if students cannot interpret the signs and make the correct decisions.

This bill is unnecessary because districts are already subject to current federal regulations for food allergies and intolerances which address ways to accommodate students and students must report to the school if they have a life threatening condition. Food service directors know about each child who is on a special plan and the means of accommodation are very specific and different for each district. One district is already serving more than 100 special diets and students in the district are allergic to 47 different allergens. This bill could be quite expensive if signs need to be changed every day as the menu changes.

There are ways to get allergen information to families that do not require signage that has a high risk for errors. Training should be a large part of allergen communication efforts. Many individuals have celiac disease or gluten intolerances which can cause malnutrition, learning

problems, and concentration issues and this should be included in communication efforts. The anaphylaxis guidelines are a good starting point, but the dissemination and use of those guidelines should be more widespread.

Persons Testifying: PRO: Senator McAuliffe.

CON: Cynthia Kupper, Gluten Intolerance Group of North America; Mitch Denning, Alliance of Educational Assns.; Mary Asplund, WA School Nutrition Assn.; Kelly Morgan, WA FEAST, President.

Persons Signed in to Testify but Not Testifying: No one.