

BOTH BILL: BACK OF THE HOUSE
SECTION 5.75 - FOOD ALLERGY RESTAURANT SAFETY
DRAFT LANGUAGE

I. Definitions.

- (a) "Health Officer" means the director of the Seattle-King County Department of Public Health or any of his or her authorized representatives.
- (b) "Department of Health" refers to the King County Department of Public Health.
- (c) "General food service" as defined in WAC 246-215-01115(53.1) means any stationary food establishment that provides food to the public, guests, patrons or its personnel for on-premises or off-premises consumption. This term does not apply to any other category of food establishment.
- (d) "Major food allergen"
 - (i) "Major food allergen" as adopted from WAC 246-215-01115(71)(a) shall include milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or
 - (ii) a food ingredient that contains protein derived from a food as specified in (d)(i) of this subsection; and
 - (iii) "Major food allergen" shall include sesame or any food ingredient that contains protein derived from sesame⁵
 - (iv) MAJOR FOOD ALLERGEN does not include:
 - (1) Any highly refined oil derived from a FOOD specified in (a)(i) of this subsection and any ingredient derived from such highly refined oil; or
 - (2) An ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004. (Public Law 108-282.)
- (e) "Food Allergy Notification" shall refer to posted menu notifications as specified in section 5.75(II).
- (f) "Front of the establishment" or "front of the house" refers to employees with customer facing roles in general food service establishments who primarily work in the areas of a general food service establishment in areas designated for customers' consumption of food or beverages.
- (g) "Back of the establishment" or "back of the house" refers to employees of a general food service establishment who primarily work in the kitchen or otherwise in the cooking or preparation of food or beverages in areas designated for employees of the food service establishment.
- (h) "Patron" or "Customer" means a person who enters a food service establishment with the intent of purchasing or being served food or beverages from the food service establishment.
- (i) "Certified Food Protection Manager" or "CFPM" as adopted from WAC 246-215-02107 is a person associated with general food service who has successfully passed a recognized food manager certification course. (FDA Food Code 2-102.20). CFPM responsibilities include training and implementing a program of food protection and education for each person in charge.

- (j) "Person in charge" or "PIC" means the individual(s) present at a Food Establishment during hours of operation who is responsible for the food service establishment. There may be more than one PIC on premise of the food service establishment. They must be able to successfully demonstrate knowledge described in WAC 02105 Adopted from WAC 246-215-01115(84).
- (k) "Food safety rating" means a food safety inspection performance score issued by the Health Officer following a routine inspection of a general food service establishment, derived from up to the four most recent routine inspection results at the establishment and compared with establishments of similar food establishment risk category and geographic location as determined by the Health Officer. King County Food Code 5.04.045
- (l) "Food safety rating placard" means a placard displaying the food safety rating score of a general food service establishment as determined by the Health Officer in accordance with this title. King County Food Code 5.04055

II. Posting of Menu Notifications.

- (a) Food service establishments shall post a Food Allergy Notification on the;
 - (i) Menu board
 - (ii) Digital Menu and website
 - (iii) Any communication setting forth a bill of fare
- (b) Subject to prior approval by the Department of Health, general food service establishments may use alternative means for such food allergy notification of patrons, provided such information is made available prior to the point of ordering and readily apparent as outlined in section (d) and (e) below.
- (c) The food allergy notification shall be legible and shall be printed in a size and typeface at least as large as the name of the menu items.
- (d) Notifications must state, "If you have a specific food allergy, please speak to the certified food protection manager or person in charge on premise."
- (e) The food allergy notification must inform the patron that it is their responsibility to notify the food service establishment of their specific food allergies.
- (f) The Department of Health shall produce and deliver template Food Allergy Notification Labels to general food service establishments conforming to the requirements of this section.

III. Posting of Food Allergy Safety Signs.

- (a) Every food service establishment in King County shall post a minimum of two signs provided by the Department of Health meeting the requirements prescribed in this section.
 - (i) A minimum of one Food Allergy Training sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to employees in all food preparation areas.
 - (ii) A minimum of one Food Allergy Training sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to customers approaching a point of service.

(iii) Such signs shall be posted in English and Spanish, and such other language deemed necessary by the Department of Health.

(b) Signs required by this ordinance shall meet the following criteria:

(i) Include the following statement: "This entity has designated ____ employee(s) as (a) food safety officer(s) who completed a food allergen training program approved by the King County Department of Health. If you have a food allergy or a special dietary requirement, please advise a member of staff";

(ii) List the top food allergens as identified from the WAC;

(iii) List symptoms of an allergic reaction including loss of consciousness, shortness of breath, itching or tingling in or around the mouth, face, scalp, hands, and feet, hives, swelling of the face, eyelids, tongue, lips, hands, or feet, tightening of the throat and sudden onset of vomiting, cramps, or diarrhea;

(iv) Actions to be taken if a patron informs a food service establishment employee that he or she has a food allergy;

(v) How kitchen staff and servers can prevent cross contact;

(vi) Action to be taken if a customer has an allergic reaction; and

(vii) Text on the sign shall be no smaller than 21-point font size and shall be in a contrasting color to the background.

(viii) Department shall produce and deliver to all Food Service Establishments signs conforming to the requirements of this section.

(ix) Signs shall be available for inspection at all times by the Department.

IV. Food Allergens Awareness Training.

(a) The Department of Health shall designate one or more food allergen training programs, including at least one option to be taken online, for food service establishment employees. Such program shall be in English, Spanish, and such other language deemed necessary by the Department of Health

(b) The CFPM is required to get food allergy training certification annually. The CFPM shall demonstrate knowledge detailed on the Food Allergen Safety Signs and placement of Menu Notification, Signage in the front of the house and the back of the house and Awareness Placards.

(c) Designated PIC (as identified by the CFPM) must also complete a food allergen training program approved as by the Department of Health. If a CFPM is not available on premises a designated, food-allergen training certified PIC must demonstrate knowledge detailed on the Food Allergen Safety Signs and placement of Menu Notification, Signage in the front of the house and the back of the house and Awareness Placards.

(d) Every food service establishment must have and maintain 25% of their workforce certified in food allergy training one year after the enactment of this bill.

(e) Any employee that completes a food allergen training program shall provide the owner or operator of a general food service establishment with a proof of written certification that they have completed a

Department of Health approved food allergen training program, which must be kept on file by the general food service establishment.

(f) The Department of Health shall notify every general food service establishment of the requirements of Section 5.75 on food allergy restaurant safety and shall maintain records regarding proof of such notice.

V. Posting of Food Allergy Awareness Placards.

- (a) In conjunction with Food Safety Ratings Placard, a Food Allergy Awareness placard will inform the public of this new Food Safety program.
- (b) Every general food service establishment that demonstrates compliance through each of the following allergy safety measures; Posting of Menu Notifications, Posting of Food Allergy Safety Signs (which includes proof of Food Allergen Awareness Training) must display Food Allergy Awareness placards. Compliance for Food Allergy Awareness will be verified and determined by the Health Officer.
- (c) The general food service establishment owner or operator shall post at the establishment, a Food Allergy Awareness placard provided by the Health Officer. Each placard must be posted:
 - (i) Within five feet of the main public entrance or entrances of the general food service establishment, positioned conspicuously in a window or display case to ensure the placard is clearly visible to passersby and to patrons entering the establishment; or
 - (ii) In a conspicuous location at the general food service establishment as determined and directed in the discretion of the Health Officer to ensure the placard is clearly visible to passerby and to patrons entering the establishment.
- (d) The Department of Health shall produce and deliver to all Food Service Establishments signs conforming to the requirements of this section.
- (e) A discretionary penalty fee may be assessed by the Health Officer if a general food service establishment fails to correctly post required signs. Penalty fees can be determined as percentage of a business' annual permit fee. The penalty fee shall increase incrementally per each violation of Section V.
- (f) Enforcement of this provision follows the fee structure for Food Safety Ratings signage follows the incremental penalty scale for noncompliance as follows:

Offense (in 2-year period)	Penalty fee
1st offense	50% of permit fee*
2nd offense	100% of permit fee
3rd and subsequent offenses	200% of permit fee

* Applying a fee that is % of permit cost is more equitable because it is relative scale to the business size.

VI. Promulgation of rules and regulations.

- (a) The Health Officer is authorized to promulgate rules and regulations to effectuate the provisions of this local law.

VII. No private right of action.

- (a) This local law does not create a private right of action against Food Service Establishments in King County.

VIII. Violations; penalties; liability.

- (a) Non-compliance with sections ____ (TBD) ____ of this law shall be deemed a violation and an imminent or actual health hazard under K.C.C. 5.60.020(a).
- (b) The Department may establish procedures for the administrative adjudication of any violation of this in compliance with the penalties provided for in K.C.C. 5.60.020.

IX. Severability.

- (a) If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.