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Frederick, MD

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Dear Legislators,

I am writing as a Maryland small business owner and restaurant operator to share concerns about House Bill 181, *Public Health Restaurants Disclosure of Main Food Allergens*, and its real-world impact on restaurants like mine.

I fully support the intent of this legislation: protecting individuals with food allergies and improving transparency. Restaurants already take food allergies seriously, and many of us have established processes to ask guests about allergies and communicate ingredient information when concerns are raised. However, as currently drafted, HB 181 presents significant operational and liability challenges that may have unintended consequences for both restaurants and consumers.

### **Operational Reality in Commercial Kitchens**

HB 181 requires restaurants to provide a written disclosure of each “main food allergen” that the restaurant *knows or reasonably should know* is an ingredient in each menu item. While well-intentioned, this requirement is difficult to implement with absolute accuracy due to:

- Frequent ingredient substitutions driven by availability and seasonality
- Vendor changes that may alter allergen profiles without notice
- Shared kitchen environments where cross-contact risks exist despite best practices
- Daily specials and evolving preparations

The “reasonably should know” standard introduces ambiguity that may expose restaurants to liability even when acting responsibly and in good faith.

### **Customer Non-Disclosure Creates Unavoidable Risk**

In practice, restaurants regularly ask guests whether anyone in their party has food allergies. Despite this, it is common for customers to not disclose allergies, either because they forget, underestimate the risk, or assume ingredients will be avoided automatically. In some cases, allergies are only disclosed *after* an adverse reaction occurs.

HB 181 does not account for this reality or establish shared responsibility between restaurants and consumers. As written, it places full liability on restaurants even when a customer fails to



disclose a known allergy. This creates a serious evidentiary problem: restaurants have no clear mechanism to demonstrate that reasonable steps were taken or that an allergy was not disclosed when asked.

### **Customer Allergies Extend Beyond the Federal Definition**

Many guests have allergies or sensitivities that fall outside the federal definition of “main food allergens,” including garlic, onions, seed oils, and other common ingredients. Under HB 181, customers may reasonably but incorrectly assume that the absence of a listed allergen equates to safety. This increases risk for both parties and may inadvertently create a false sense of security.

### **Expanded Liability Without Safe-Harbor Protections**

HB 181 includes criminal penalties and civil fines for violations, with each day constituting a separate offense. However, the bill does not include:

- Safe-harbor protections for restaurants acting in good faith
- Protection when ingredient information is supplied by third-party vendors
- Clear guidance on how disclosures must be updated, documented, or verified
- Any acknowledgment of customer responsibility in disclosing allergies

This shifts disproportionate legal risk onto small businesses without reflecting the realities of restaurant operations.

### **Constructive Recommendations**

I respectfully urge the General Assembly to consider amendments that would:

1. Include safe-harbor protections for good-faith compliance
2. Clarify that allergen disclosures are informational and not guarantees
3. Establish standardized disclaimer language
4. Recognize shared responsibility when customers fail to disclose allergies
5. Align requirements with existing FDA Food Code guidance
6. Engage restaurant operators during implementation and rulemaking

Restaurants want to be partners in protecting public health. Thoughtful adjustments to HB 181 would help ensure the law improves safety without unintentionally penalizing responsible businesses.

Thank you for your time and consideration. I would welcome the opportunity to discuss this further or participate in stakeholder discussions related to this legislation.

**Respectfully,**



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