

SENATE BILL NO. 381

INTRODUCED BY J. LASLOVICH

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN AFFIRMATIVE DEFENSE TO A FOOD SERVICE ESTABLISHMENT THAT OFFERS AN ALLERGY MENU; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

- (1) "Allergy menu" means a special menu that lists each and every ingredient in each and every menu item which, if read by a consumer, would notify the consumer of any possible allergens.
- (2) "Consumer" has the meaning provided in 50-50-102.
- (3) "Food service establishment" has the meaning provided in 50-50-102.

NEW SECTION. **Section 2. Allergy menu.** (1) The owners of food service establishments are encouraged to create and maintain an allergy menu that will be available to consumers upon request. Food service establishments are encouraged to make the availability of the allergy menu known by placing a conspicuous notice on the regular menu notifying consumers of the availability of the allergy menu.

(2) Food service establishments are free to choose the format for the allergy menu if the requirements for an allergy menu are met.

NEW SECTION. **Section 3. Affirmative defense.** It is an affirmative defense to any action alleging liability arising from bodily injury caused by an allergic reaction resulting from consumption of a menu item of a food service establishment if the following conditions are met:

- (1) the food service establishment had a current and accurate allergy menu available on the date of injury;
- (2) the regular food service establishment menu noted the availability of the allergy menu in a conspicuous location; and
- (3) the consumer did not request to see the allergy menu or the consumer requested to see the allergy



1 menu and it was made available to the consumer.

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3 NEW SECTION. Section 4. Notice. The department shall notify all food service establishments of the
4 provisions of [sections 1 through 3].

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6 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified
7 as an integral part of Title 50, chapter 50, and the provisions of Title 50, chapter 50, apply to [sections 1 through
8 3].

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10 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2007.

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