

**Testimony**  
**Senate Concurrent Resolution No. 4011**  
**Senate Human Services Committee**  
**February 20, 2017; 9:00 a.m.**  
**North Dakota Department of Health**

Good morning Chair Lee and members of the Senate Human Services Committee. My name is Julie Wagendorf. I am an environmental health practitioner for the North Dakota Department of Health serving as the Director of the Division of Food and Lodging. I am here today to provide neutral testimony on the behalf of the Department.

Currently, North Dakota Administrative Code (NDAC) 33-33-04, often referred to as the North Dakota Food Code, defines the eight ‘major food allergens’ under NDAC 33-33-04-01 as milk, egg, fish (such as bass, flounder, cod) crustacean shellfish (such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans.

The federal Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), Public Law 108-282, Title II, requires labeling on all commercially-processed and packaged food items sold in interstate commerce that would potentially be received by the food service industry. There also are labeling requirements in the North Dakota Food Code required on all commercially-processed and packaged food items sold in intrastate commerce. For instance, the label must declare the name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient (example: ‘milk’ or ‘egg’).

During a routine food safety inspection, North Dakota Food Code NDAC 33-33-04-27.2 requires that a person in charge is present during all hours of operation of the food service; and that the person in charge can effectively demonstrate knowledge about food regulations, food safety including allergen awareness, and foodborne disease prevention as it relates to the food operation. The person in charge shall demonstrate this knowledge by being in compliance with the food code, or by being a certified food protection manager who has shown proficiency of required information through passing an accredited test, or by responding correctly to the inspector's questions as they relate to the specific food operation. Under this regulation, the person in charge shall demonstrate knowledge by describing foods and menu items identified as major food allergens and the

symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction. Additionally, as part of their assigned job duties, the Food Code requires the person in charge to ensure that employees are properly trained in food safety, including food allergy awareness.

Chair Lee and members of the committee, the Department understands the importance of food allergen awareness and the intent of this study resolution. However, we feel that federal and state regulations are currently in place to inform patrons of the potential food allergens in menu items and packaged food items sold at retail.

Thank you for listening to my testimony. I am happy to answer any questions you may have.

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