



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

8/25/2020 3:18:00 PM

Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Senior Services TITLE-SERIES: 76-06  
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No  
RULE NAME: 76-06 Shared Table Initiative for Senior Citizens

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: 16-5S-9a

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

Code was amended during 2020 Legislative Session. H.B 4447 Shared Table Initiative for Senior Citizens.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/24/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/24/2020

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

New rule that establishes and affirms the creation of the shared table initiative for senior citizens who suffer from food insecurity. The purpose is to establish a statewide initiative to facilitate shared tables at senior centers and similar facilities where congregate and home delivered meals are provided to seniors in need via the WV Bureau of Senior Services contracted nutrition providers.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Code was amended during 2020 Legislative Session. H.B 4447 Shared Table Initiative for Senior Citizens.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No additional costs to the agency's operational cost to the senior nutrition program.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

**Yes**

**Robert E Roswall -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

**TITLE 76**  
**LEGISLATIVE RULE**  
**SENIOR SERVICES**

**SERIES 6**  
**SHARED TABLE INITIATIVE FOR SENIOR CITIZENS**

**§76-6-1. General.**

1.1. Scope. -- This rule details methods, establishes and affirms the creation of the shared table initiative for senior citizens who suffer from food insecurity. The purpose is to establish a statewide initiative to facilitate shared tables at senior centers and similar facilities where congregate and home delivered meals are provided to seniors in need via the WV Bureau of Senior Services contracted nutrition providers. Senior meal participants may not always want to consume certain food or beverage items included in their meal. Share tables are tables or stations where senior citizens may return unopened prepackaged items, whole fruit and unopened beverage items they choose not to eat. These food and beverage items are then available to other senior citizens who may need additional nutritional servings.

1.2. Authority. -- W. Va. Code §16-5S-9a.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the termination of 5 years from its effective date.

**§76-6-2. Definitions.**

2.1. "Apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by federal, state and local laws and regulations even though the produce may not be readily marketable due to appearance, age, freshness, grade, size, surplus or other conditions.

2.2. "Apparently wholesome food" means food that meets all quality and labeling standards imposed by federal, state and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus or other conditions.

2.3. "Donate" means to give without requiring anything of monetary value from the recipient, except that the term includes donations by one nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

2.4. "Gleaner" means a person who harvests a donated agricultural crop for free distribution to the needy or for donation to a nonprofit organization for ultimate distribution to the needy.

2.5. "Good Samaritan Food Donation Act" means a law providing a statutory framework to protect food donors from liability for their good faith efforts (W. Va. Code §55-7D-1).

**§76-6-3. Types of Food That May Be Distributed.**

3.1. All unopened pre-packaged items, such as pretzels, crackers, a bag of baby carrots or slice apples stored in a cooling bin, whole fruit (apples, bananas – all must be wrapped), unopened milk, if immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below. As with all foods and beverages prepared by nutrition providers must follow and adhere to the food safety requirements outline by the government food standards. All nutrition providers must be aware of all applicable local and State health and food safety codes to ensure their use of share tables does not violate any of those codes. Nutrition providers must ensure that their policies for saving and sharing food or beverage items are consistent with State and Federal regulations on maintaining food standards.

**§76-6-4. Methods of Distribution to Make Food Available.**

4.1. Includes a sharing table at the senior center congregate meal setting where food service staff, senior citizens, and volunteers may return appropriate food items consistent with this rule to make those food items available to senior citizens and the availability for distribution of appropriate food items to senior citizens who are recipients of home delivered meals.

**§76-6-5. Methods of Distributing Excess Food to Persons or Organizations Providing Food to Seniors Suffering from Food Insecurity.**

5.1. Senior citizens may take an additional helping of a food or beverage item from the share table during congregate serving times or may be provided as an extra serving to home delivered meal recipients. Food or beverage items left on the share table, where the Federal and State standards have been maintained, may be served for reimbursement during another meal service time if maintained at the appropriate storage standards.

**§76-6-6. Methods to Otherwise Donate Excess Food to Persons or Organizations Providing Food to Persons or Families Suffering from Food Insecurity.**

6.1. The preparation, safety, and receipt of donated food and donations of food made available to senior citizens for distribution shall comply with and be thereby covered by the Good Samaritan Food Donation Act, W. Va. Code §55-7D-1 *et seq.*, as well as foods donated by the senior center or other charitable non-profit organization.

6.2. The methods of distributing excess food to senior citizens shall include a sharing table where food service staff, senior citizens, and volunteers may return appropriate food items consistent with the covered method to make those food items available to senior citizens during the day.