

West Virginia Bans 7 Artificial Food Dyes, Citing Health Concerns

At least 20 other states are considering bills restricting the use of certain food dyes and additives.



West Virginia is banning seven food dyes that are used to add vivid colors to a range of products.Credit...Joe Raedle/Getty Images

By Alice Callahan – New York Times

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In the most sweeping move of its kind, West Virginia has banned foods containing most [artificial food dyes](#) and two preservatives, citing their potential health risks.

The legislation, signed into law Monday by Gov. Patrick Morrisey, will go into effect in 2028. At least 20 states are considering similar restrictions on food chemicals, but West Virginia is the first to ban virtually all artificial dyes from foods sold statewide. The new law will also prohibit products containing the dyes from being served in school meals starting this August.

“Everybody realizes that we’ve got to do something about food in general,” said Adam Burkhammer, a Republican state representative who [introduced the bill](#) in February. It quickly passed both legislative houses with broad bipartisan support. Mr. Burkhammer said he hopes the law will improve the health of children in his state and spur other states to take similar actions.

California has passed similar measures, though they were narrower in scope. One, passed in 2023, [banned four food additives statewide](#). And in 2024, state lawmakers [banned artificial food dyes](#) from school meals.

Jennifer Pomeranz, an associate professor of public health policy and management at New York University, said the California measures likely led state lawmakers to realize they could move faster than the Food and Drug Administration to act on food additives that carried health concerns.

She added that Robert F. Kennedy Jr., who was confirmed as health secretary last month and has spoken frequently of his concerns about food dyes, has also brought more attention to the issue. Earlier this month, at a [meeting with executives from large food companies including PepsiCo and General Mills](#), Mr. Kennedy said that it was an “urgent priority” to eliminate artificial dyes from foods and drinks sold nationwide. At another meeting, he [encouraged people to call Gov. Morrissey](#) in support of the West Virginia law.

The state’s law will ban seven food dyes: Blue No. 1, Blue No. 2, Green No. 3, Yellow No. 5, Yellow No. 6, Red No. 40 and Red No. 3. (Red No. 3 was banned from foods, beverages and drugs [in California in 2023](#) and by [the Food and Drug Administration in January of this year](#).) The dyes are used to add vivid colors to a range of products, many designed to appeal to children, including breakfast cereals, snack foods, baked goods and candies.

A [2021 review of scientific studies by California state scientists](#) concluded that consuming the dyes may increase hyperactivity and other behavioral problems in some children. The [F.D.A. has maintained](#) that food dyes (with the exception of Red No. 3) are safe when used according to regulations.

West Virginia will also prohibit the use of two preservatives. The first is propylparaben, which was also banned in the 2023 California law; it now appears to be used in few foods but was previously used in [products including tortillas, chips, processed cheeses and packaged baked goods](#). Some [research](#), mostly conducted using animals, suggests that propylparaben may [interfere with hormones in the body](#).

The other is butylated hydroxyanisole, or BHA, which prevents fats from going rancid and is [used in](#) processed meats, frozen meals, snack foods and other products. A [National Toxicology Program](#) review of the research on BHA concluded that it is “reasonably anticipated to be a human carcinogen.” The authors noted, however, that much of the research on dietary BHA exposures and cancer has been focused on animals, and that there isn’t sufficient evidence from humans to evaluate the relationship between cancer and BHA.

The F.D.A. has designated both BHA and propylparaben to be “generally recognized as safe” when used in small amounts in foods.

But this designation is not reassuring, said Scott Faber, a senior official at the Environmental Working Group, an advocacy group that has long pushed for stricter regulation of food chemicals. The agency’s “generally recognized as safe” policy allows companies to introduce ingredients without adequate safety testing, he said.

It isn’t clear how, exactly, the ban will take effect. Mr. Burkhammer said he expects food manufacturers to reformulate products with natural dyes and alternative preservatives so that they can be sold in West Virginia and in other states that may adopt similar legislation.

Food industry groups have opposed the West Virginia law, as they have done with similar measures in California and other states.

“Unfortunately, not only will this bill ignore the F.D.A.’s rigorous science- and risk-based process of evaluating safe ingredients, it will also limit consumer access to affordable, nutritious and convenient food and beverage choices,” wrote Sarah Gallo, the senior vice president of product policy at the Consumer Brands Association, which represents packaged food and drink companies.

Mr. Faber, who formerly worked as a lobbyist for the same association, took issue with this argument. “I’m sure I said the same thing about the industry and I may have even believed that to be true,” he said. But, he said, food companies already make the same products without these ingredients to sell in other countries.

“Once states start banning unsafe ingredients, the food industry is not going to create food products for specific states,” Dr. Pomeranz predicted. “They’ll reformulate for the whole country, the way they’ve done in Europe.”