



Bite-Sized Food Safety



*June
2023*

**Food safety resources
for front-line managers
to train food workers**

Animals in Restaurants! Oh My!



In this year's legislative session, the West Virginia General Assembly passed an amendment to the legislative rule governing food establishments. It took effect on April 1st. The amendment allows dogs in restaurants if **ALL** of the following public health controls are implemented:

- ◆ The establishment is licensed as a private club, restaurant, coffee shop, brew pub, or micro distillery,
- ◆ Signage is present indicating that the establishment is dog-friendly,
- ◆ The establishment has liability insurance for dog-related incidents,
- ◆ Dogs are prohibited from entering any areas where food is being prepared,
- ◆ A written procedure has been established and posted concerning dog accidents (poop, pee, or vomit) cleanup,
- ◆ Any area where a dog has an accident is cleaned and sanitized,
- ◆ Dog waste stations are available, and
- ◆ The dog owner will be asked to leave, if a dog creates a nuisance.

QUESTION: Is a variance required in order to allow dogs in my restaurant?

ANSWER: No, you just have to implement the above public health controls.

QUESTION: Does a restaurant owner have to allow dogs in their facility?

ANSWER: With the exception of service dogs, it is entirely their choice. However, they must implement the above public health controls if they choose to allow dogs.

QUESTION: What should you do if a patron brings a dog (other than a service dog) into your restaurant if you have chosen not to become a dog-friendly restaurant by implementing the public health controls listed above?

ANSWER: You should politely ask the patron to remove their dog from the premises of your food establishment.

QUESTION: What if the dogs are just outside on a patio or deck?

ANSWER: The same rules apply regardless of where on the food establishment's premises the dogs are allowed, inside or outside. Any areas under the control of a food establishment are considered their premises.

QUESTION: Are there any advantages to limiting dogs to only outside seating areas?

ANSWER: Yes, there are definitely advantages. Some patrons may be afraid of dogs or have allergies to dog dander. Giving people a choice to sit outside (with dogs) or inside (without dogs) accommodates everyone. Also, cleanup of dog "accidents" is usually much easier in outside areas where a hose can be employed after initial cleaning and sanitizing of the area. This is especially true if inside areas are carpeted.

QUESTION: What if a food establishment has a buffet? Many dog owners don't want to leave their dogs unattended. Can dogs go to the buffet with their owners?

ANSWER: The legislative rule governing food establishments is silent on this issue. However, this may be another good reason to voluntarily limit dogs to outside areas. Imagine how your patrons would react if a dog began eating food from the buffet.

QUESTION: Are dogs prohibited from being on tables and chairs?

ANSWER: No, the legislative rule governing food establishments is silent on this issue. However, this may be another good reason to voluntarily limit dogs to outside areas.

QUESTION: What should a restaurant do if a dog bites someone?

ANSWER: It is recommended that the contact information for both the dog owner and the person bitten be obtained along with a description of the dog and an account of the incident. It is recommended that these details should then be communicated to both the local health department and the county animal control officer. The person bitten should be encouraged to seek medical attention. These steps will help protect the person bitten from rabies and may limit the restaurant's possible liability.

QUESTION: Can a restaurant impose reasonable rules for their dog-friendly area that go beyond what is required by state regulation?

ANSWER: Yes, as the business owner you can have reasonable rules regarding what is allowed on your property. For example, you could put a table tent on each patio table that says:

- ◆ This is a dog-friendly seating area
- ◆ Dogs are allowed only in outside areas
- ◆ All dogs must be on a leash
- ◆ Dogs may not be left unattended
- ◆ Dogs are not allowed on tables or chairs
- ◆ Dogs may not be fed on these premises
- ◆ A water bowl for dogs is located at the patio entrance

QUESTION: If dogs may not be left unattended, how can a patron who is by themselves wash their hands?

ANSWER: It is recommended that a small bottle of hand sanitizer be placed on each table in dog-friendly seating areas.

QUESTION: What about restaurant employees?

ANSWER: To prevent hand contamination and avoid potential dog bites, it is recommended that restaurant employees not be allowed to pet or otherwise handle any patron's dog.

QUESTION: What about service dogs?

ANSWER: Service animals that are controlled by the disabled employee or person are allowed in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas. You can't refuse entrance to a disabled person with a service animal unless a health or safety hazard will result from the presence or activities of the animal.



QUESTION: How is a service animal defined?

ANSWER: A service animal means an animal such as a guide dog, signal dog, or other dog individually trained to provide assistance to an individual with a disability. This definition is adapted from 28 CFR 36.104 adopted pursuant to the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C 12101 et seq.). A service animal performs some of the functions that persons with a disability cannot perform for themselves, such as those provided by "seeing eye dogs"; alerting persons with hearing impairments to sounds; pulling wheelchairs or carrying and picking up things for persons with mobility impairments; and assisting persons with mobility impairments with balance. **An emotional support animal or pet is not a service animal.**

QUESTION: Can you ask a person with a dog if it is a service animal?

ANSWER: When it is not obvious whether a dog is a service animal or what service the dog provides, only limited inquiries are allowed. You may only ask two specific questions:

- ◆ Is the dog a service animal required because of a disability?
- ◆ What work or task has the dog been trained to perform?

QUESTION: What should you do if a patron tells you their dog is a service dog, but the dog has no identification as a service dog.

ANSWER: If they were able to answer the two above questions, you must take them at their word. No identification is required for the dog.

QUESTION: Can any types of animals other than dogs be used as service animals?

ANSWER: Under Title II and III of the Americans with Disabilities Act, service animals are limited to dogs. However, entities must make reasonable modifications in policies to allow individuals with disabilities to use miniature horses if they have been individually trained to do work or perform tasks for individuals with disabilities.

QUESTION: Do I have to provide food or water for a service animal?

ANSWER: No, you are not required to care for a service animal in any way.



QUESTION: What about patrol or sentry (guard) dogs?

ANSWER: Patrol dogs may accompany police or security officers in offices, dining areas, sales areas, and storage areas if the contamination of food, clean equipment, utensils, linens, unwrapped single-service articles, or single-use articles can't result. Sentry dogs may run loose in outside fenced areas.

QUESTION: What about fish bait?

ANSWER: Live or dead fish bait (worms, minnows, crickets, hellgrammites, etc) may be stored in a food establishment **IF** contamination of food, clean equipment, utensils, linens, unwrapped single-service articles, or single-use articles can't result.



QUESTION: Other than dogs, miniature horses used as service animals, and fish bait (each as described above), are any other animals ever allowed in food establishments?

ANSWER: Yes, fish in aquariums and shellfish or crustacea on ice, under refrigeration, or in display tanks are permitted.