

Senate Bill 345

By: Senators Kirkpatrick of the 32nd, Tippins of the 37th, Rhett of the 33rd and Jordan of the 6th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to
2 standards, labeling, and adulteration of food, so as to provide for nonprofit organizations to
3 prepare and provide food in accordance with Department of Public Health requirements; to
4 revise the definitions of "food sales establishment" and "food service establishment"; to
5 revise provisions relating to permits for nonprofit food sales and food service; to revise
6 requirements for food items prepared by nonprofit organizations; to eliminate the right to
7 appeal to the commissioner of public health for orders or actions of a county board of health
8 or district health director; to correct a cross-reference; to provide for related matters; to
9 provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
13 labeling, and adulteration of food, is amended by revising paragraph (5) of subsection (a) of
14 Code Section 26-2-21, relating to definitions relative to the "Georgia Food Act," as follows:

15 "(5) 'Food sales establishment' means retail and wholesale grocery stores; retail seafood
16 stores and places of business; food processing plants, except those food processing plants
17 which are currently required to obtain a license from the Commissioner under any other
18 provision of law; bakeries; confectioneries; fruit, nuts, and vegetable stores or roadside
19 stands; wholesale sandwich and salad manufacturers, including vending machines and
20 operations connected therewith; and places of business and similar establishments,
21 mobile or permanent, engaged in the sale of food primarily for consumption off the
22 premises. Within a food sales establishment, there may be a food service component, not
23 separately operated, which may serve customers on site. This food service component
24 shall be considered as part of the food sales establishment. This term shall not include:

25 (A) The food sales component of any food service establishment defined in Code
26 Section 26-2-370; ~~shall not be included in this definition. This term shall not include~~

- 27 (B) Food service establishments ~~'food service establishments'~~ as defined in Code
 28 Section 26-2-370; ~~This term also shall not include~~
- 29 (C) Establishments ~~establishments~~ engaged in the sale of food primarily for
 30 consumption off the premises if such sale is an authorized part of and occurs upon the
 31 site of a fair or festival which:
- 32 ~~(A)(i) Is sponsored by a political subdivision of this state or by an organization~~
 33 ~~exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or~~
 34 ~~under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section~~
 35 ~~501(c) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2;~~
 36 ~~and~~
- 37 ~~(B)(ii) Lasts 120 hours or less; and~~
- 38 ~~(C) When sponsored by such an organization, is authorized to be conducted pursuant~~
 39 ~~to a permit issued by the municipality or county in which it is conducted.~~
- 40 (D) Establishments ~~This term also shall not include establishments~~ engaged in the
 41 boiling, bottling, and sale of sugar cane syrup or sorghum syrup within this state,
 42 provided that such bottles contain a label listing the producer's name and street address,
 43 all added ingredients, and the net weight or volume of the product; ~~or~~
- 44 (E) Nonprofit food sales and food service provided under a permit issued pursuant to
 45 Article 14 of this chapter."

46 SECTION 2.

47 Said chapter is further amended by revising division (1)(B)(iv) of Code Section 26-2-62,
 48 relating to the "Georgia Meat Inspection Act," as follows:

49 "(iv) If it bears or contains any color additive which is unsafe within the meaning of
 50 Section ~~706~~ 721 of the Federal Food, Drug, and Cosmetic Act; or"

51 SECTION 3.

52 Said chapter is further amended by Code Section 26-2-370, relating to definitions relative to
 53 food service establishments, as follows:

54 "26-2-370.

55 As used in this article, the term:

56 (1) 'Food nutrition information' means the content of food including, but not limited to,
 57 the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin,
 58 mineral, and sodium content.

59 (2) 'Food service establishment' means establishments for the preparation and serving of
 60 meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either
 61 for carry out or service within the establishment. ~~The~~ This term includes restaurants;

62 coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places
 63 which retail sandwiches or salads; soda fountains; institutions, both public and private;
 64 food carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar
 65 facilities by whatever name called. Within a food service establishment, there may be a
 66 food sales component, not separately operated. This food sales component shall be
 67 considered as part of the food service establishment. This term shall not include:

68 (A) A food sales establishment, a 'food sales establishment,' as defined in Code Section
 69 26-2-21, except as otherwise stated in this definition. paragraph;

70 (B) The food service component of any food sales establishment defined in Code
 71 Section 26-2-21; shall not be included in this definition. This term shall not include

72 (C) Any any outdoor recreation activity sponsored by the state, a county, a
 73 municipality, or any department or entity thereof, any outdoor or indoor (other than
 74 school cafeteria food service) public school function, or any outdoor private school
 75 function; Such term shall also not include

76 (D) Any any organization which is operating on its own property or on the property of
 77 a party that has provided written consent for the use of such property for such purpose
 78 and which is exempt from taxes under paragraph (1) of subsection (a) of Code Section
 79 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of
 80 Section 501(c) of the Internal Revenue Code for the purpose of operating a house or
 81 other residential structures where seriously ill or injured children and their families are
 82 provided temporary accommodations in proximity to their treatment hospitals and
 83 where food is prepared, served, transported, or stored by volunteer personnel; This
 84 term also shall not mean

85 (E) Establishments establishments for the preparation and serving of meals, lunches,
 86 short orders, sandwiches, frozen desserts, or other edible products if such preparation
 87 or serving is an authorized part of and occurs upon the site of an event which:

88 (A)(i) Is sponsored by a political subdivision of this state or by an organization
 89 exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or
 90 under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section
 91 501(c) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2;

92 (B)(ii) Is held on the property of such sponsor or on the property of a party that has
 93 provided written consent for use of such property for such event; and

94 (C)(iii) Lasts 120 hours or less; and or

95 (D) When sponsored by such an organization, is authorized to be conducted pursuant
 96 to a permit issued by the municipality or county in which it is conducted.

97 (F) Nonprofit food sales and food service provided under a permit issued pursuant to
 98 Article 14 of this chapter.

99 (3) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee, or
100 association, or combination thereof."

101 **SECTION 4.**

102 Said chapter is further amended by revising Article 14, relating to nonprofit food sales and
103 food service, as follows:

104 "26-2-390.

105 As used in this article, the term:

106 (1) 'Nonprofit food sales and food service' means the temporary sale or service of food
107 items by an organization at an event sponsored by a county, municipality, or organization
108 or the temporary sale of food items by an organization if such sale is sponsored by a
109 religious, charitable, or nonprofit corporation, including but not limited to churches,
110 schools, clubs, lodges, or other such organizations.

111 (2) 'Organization' means an organization exempt from taxes under paragraph (1) of
112 subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1)
113 through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that
114 code is defined in Code Section 48-1-2.

115 26-2-391.

116 (a) A county or municipality shall be authorized to issue permits for the operation of
117 nonprofit food sales and food service at events sponsored by the county, municipality, or
118 an organization; ~~provided, however, that the county or municipality may delegate the~~
119 ~~authority to issue such permits to the county board of health.~~ For any permit issued
120 pursuant to this Code section to be valid, the event must be held on property belonging to
121 the sponsoring county, municipality, or organization or on the property of a party that has
122 provided ~~written~~ consent for use of such property for such event.

123 (b) A permit shall be valid for:

124 (1) A a period of up to 120 consecutive hours or less and another permit shall not be
125 issued to the organization holding such permit until five days have elapsed from the date
126 of the expiration of the permit; or

127 (2) A continuous period of up to 12 weeks between May 15 and August 15 and four
128 additional weeks during the calendar year, which may be composed of nonconsecutive
129 periods, coinciding with holidays during which local school systems are not in session,
130 provided that all food items are provided free of charge and the organization does not
131 receive funding from the United States Department of Agriculture to operate a food
132 program.

133 (c) At the request of the county or municipality issuing a permit pursuant to this Code
 134 section or at the request of a county or municipality sponsoring an event pursuant to
 135 subparagraph (a)(5)(C) of Code Section 26-2-21 or subparagraph (2)(E) of Code Section
 136 26-2-370, the county board of health shall:

137 (1) Supply educational materials regarding food safety which may be provided to event
 138 organizers and the public; and

139 (2) Conduct food safety inspections to ensure compliance with the provisions of Code
 140 Section 26-2-392.

141 (d) No fees shall be charged to an organization for the issuance of any such permit
 142 pursuant to this Code section; provided, however, that the county board of health shall be
 143 authorized to impose a fee for inspections performed at the request of the issuing county
 144 or municipality. Such fee shall be fixed in a reasonable amount such that the proceeds of
 145 the fee do not exceed the total direct and indirect costs of conducting the inspection.

146 (e) For purposes of this Code section, an event may include the provision of food at a
 147 third-party location within the same county.

148 26-2-392.

149 (a) This Code section applies to food items prepared and offered for sale or service by
 150 organizations at events covered under this article. Food shall be in sound condition, free
 151 from spoilage, filth, or other contamination and shall be safe for human consumption.
 152 Food shall be obtained from sources that comply with all laws relating to food and food
 153 labeling. The use of food in hermetically sealed containers that was not prepared in a
 154 licensed food processing establishment is prohibited.

155 (b) At all times, including while being stored, prepared, displayed, served, or transported,
 156 food shall be protected from potential contamination, including dust, insects, rodents,
 157 unclean equipment and utensils, unnecessary handling, flooding, drainage, and overhead
 158 leakage or overhead drippage from condensation. ~~The temperature of potentially~~
 159 ~~hazardous food shall be either 45 degrees Fahrenheit or below or 140 degrees Fahrenheit~~
 160 ~~or above at all times.~~

161 (c) Meat, poultry, seafood, and other animal products shall be cooked to at least the safe
 162 minimum cooking temperatures recommended by the United States Department of
 163 Agriculture. No raw or undercooked animal products shall be served.

164 ~~(c)~~(d) Time/temperature control for safety foods to be served at an event shall be
 165 maintained at 41 degrees Fahrenheit or less if held cold or 135 degrees Fahrenheit or more
 166 if held hot. A thin probe thermometer shall be used to check temperatures of such foods.
 167 The preparation of the following ~~potentially hazardous~~ time/temperature control for safety
 168 foods is prohibited unless the organization has an established hazard control program:

- 169 (1) Pastries filled with cream or synthetic cream;
- 170 (2) Custards;
- 171 (3) Products similar to the products listed in paragraphs (1) and (2) of this subsection;
- 172 or
- 173 (4) Salads containing meat, poultry, eggs, or fish.
- 174 ~~(d)~~(e) Frozen desserts shall only be produced using commercially pasteurized mixes or
- 175 ingredients.
- 176 (f) Suitable utensils, as needed for serving, must be provided to eliminate ~~hand~~ bare-hand
- 177 contact with ~~the cooked product or ready-to-eat foods~~. All utensils and equipment shall be
- 178 ~~cleaned~~ washed, rinsed, and sanitized periodically as necessary to prevent contamination
- 179 or a buildup of food, using separate basins for washing, rinsing, and sanitizing. Disposable
- 180 utensils may be utilized to meet such requirement.
- 181 ~~(e)~~(g) Ice that is consumed or that contacts food shall be from an approved source and
- 182 protected from contamination until used. Ice used for cooling stored food shall not be used
- 183 for human consumption. Food shall be served in an individual-meal type of container and
- 184 handed to the customer. Food items shall not be transported for sale at any other location
- 185 or sold, held, or reused at another event.
- 186 ~~(f)~~(h) A convenient handwashing facility shall be available for ~~employee handwashing use~~
- 187 by individuals preparing and serving food. This facility shall consist of, at least, warm
- 188 running water, soap, and individual paper towels. Individuals who prepare or serve food
- 189 shall not make bare-hand contact with ready-to-eat food. Individuals who have a known
- 190 communicable or transmittable disease, as defined by the Department of Public Health for
- 191 these purposes, shall not prepare or serve food at an event.
- 192 ~~(g)~~(i) This Code section shall in no way be construed to allow the sale of food items which
- 193 have been packaged, bottled, or canned in unapproved facilities. Food items prepared in
- 194 private homes are prohibited; provided, however, that this shall not apply to any food item
- 195 produced in compliance with a license issued by the Department of Agriculture pursuant
- 196 to Article 2 of this chapter.
- 197 ~~(h)~~(j) County boards of health are authorized to provide staff assistance to organizations
- 198 at events covered under this article for the purpose of providing food safety instruction.
- 199 (k) Nothing in this Code section shall prohibit an organization from using an offsite
- 200 kitchen to prepare food for an event permitted under this article, so long as the offsite
- 201 kitchen complies with the provisions of this Code section.
- 202 26-2-393.
- 203 (a) The county or municipality issuing a permit for the operation of a nonprofit food sales
- 204 and food service event shall be authorized to enforce the provisions of this article and any

205 party whose property is used for the operation of a nonprofit food sales or food service
206 event without such party's ~~written authorization~~ consent may seek legal and equitable
207 remedies including, but not limited to, damages and injunctive relief against unauthorized
208 users.

209 ~~(b) Any organization which is aggrieved or adversely affected by any final order or action~~
210 ~~of a county board of health or district health director may have review thereof by appeal~~
211 ~~to the commissioner of public health or his or her designee. Appeals to the commissioner~~
212 ~~shall be heard after not more than eight hours."~~

213 **SECTION 5.**

214 This Act shall become effective upon its approval by the Governor or upon its becoming law
215 without such approval.

216 **SECTION 6.**

217 All laws and parts of laws in conflict with this Act are repealed.