

The House Committee on Agriculture and Consumer Affairs offers the following substitute to HB 1380:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to redefine a term; to provide certain exemptions from laws relating to adulteration and misbranding of food; to provide certain exemptions from laws relating to food service establishments; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to adulteration and misbranding of food, is amended in Code Section 26-2-21, relating to definitions relative to said article, by striking paragraph (5) of subsection (a), and inserting in lieu thereof the following:

"(5) 'Food sales establishment' means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, except those food processing plants which are currently required to obtain a license from the Commissioner under any other provision of law; bakeries; confectioneries; fruit, nuts, and vegetable stores ~~or roadside stands~~; wholesale sandwich and salad manufacturers, including vending machines and operations connected therewith; and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off the premises; provided, however, that such term shall not include roadside stands where farm or garden produce is sold. Within a food sales establishment, there may be a food service component, not separately operated, which may serve customers on site. This food service component shall be considered as part of the food sales establishment. The food sales component of any food service establishment defined in Code Section 26-2-370 shall not be included in this definition. This term shall not include 'food service establishments' as defined in Code Section 26-2-370. This term also shall not include

1 establishments engaged in the sale of food primarily for consumption off the premises if
2 such sale is an authorized part of and occurs upon the site of a fair or festival which:

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

7 (B) Lasts 120 hours or less; and

8 (C) When sponsored by such an organization, is authorized to be conducted pursuant
9 to a permit issued by the municipality or county in which it is conducted."

10 **SECTION 2.**

11 Said article is further amended by adding a new Code section to read as follows:

12 "26-2-25.1.

13 The provisions of Code Section 26-2-25 shall not apply to any:

14 (1) Person not regularly engaged in the business of manufacturing and selling food and
15 who prepares food only on order of and for sale directly to the ultimate consumer;

16 (2) Educational, charitable, or religious organization not regularly engaged in the
17 business of manufacturing, processing, or selling food;

18 (3) Individual who prepares and sells food that is not potentially hazardous food at a
19 community event or farmers' market, other than a state farmers' market, with gross
20 receipts of \$7,500.00 or less in a calendar year from the prepared food items, subject to
21 the following requirements:

22 (A) The seller shall display prominently at the point of sale a clearly legible sign or
23 placard stating, 'These products are homemade and not subject to state inspection,'
24 unless the food items were prepared in a kitchen that is licensed and inspected; and

25 (B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the
26 name and address of the person preparing and selling the foods; or

27 (4) Person who receives less than \$7,500.00 in gross receipts in a calendar year from the
28 sale of home-processed and home-canned food products if:

29 (A) The products are:

30 (i) Pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;

31 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or

32 (iii) Home-processed and home-canned in this state;

33 (B) The products are sold or offered for sale at a community or social event or a
34 farmers' market in this state, other than a state farmers' market;

1 (C) The seller displays prominently at the point of sale a clearly legible sign or placard
2 stating, 'These canned goods are homemade and not subject to state inspection,' unless
3 the products were processed and canned in a kitchen that is licensed and inspected; and
4 (D) Each container of the product sold or offered for sale under this paragraph is
5 accurately labeled to provide the name and address of the person who processed and
6 canned the goods and the date on which the goods were processed and canned."

7 **SECTION 3.**

8 Said article is further amended by adding a new Code section to read as follows:

9 "26-2-32.1.

10 (a) It shall be unlawful for any person or firm to advertise for sale any shelled pecans that
11 are less than whole on any outdoor advertising as such term is defined in Code Section
12 32-6-71 unless such outdoor advertising states, in letters at least one-half as tall and bold
13 as the tallest and boldest type on the outdoor advertising, the size category of shelled pecan
14 materials being offered for sale, such as but not limited to pecan halves, granules, meal, or
15 any combination thereof.

16 (b) Violation of subsection (a) of this Code section shall constitute dissemination of a false
17 advertisement for purposes of Code Section 26-2-22. Each day that an outdoor
18 advertisement does not conform to the requirements of subsection (a) of this Code section
19 shall constitute a separate offense."

20 **SECTION 4.**

21 Article 13 of Chapter 2 of Title 26, relating to food service establishments, is amended by
22 adding a new Code section to read as follows:

23 "26-2-379.

24 This article shall not apply to any:

25 (1) Person not regularly engaged in the business of manufacturing and selling food and
26 who prepares food only on order of and for sale directly to the ultimate consumer;

27 (2) Educational, charitable, or religious organization not regularly engaged in the
28 business of manufacturing, processing, or selling food;

29 (3) Individual who prepares and sells food that is not potentially hazardous food at a
30 community event or farmers' market, other than a state farmers' market, with gross
31 receipts of \$7,500.00 or less in a calendar year from the prepared food items, subject to
32 the following requirements:

33 (A) The seller shall display prominently at the point of sale a clearly legible sign or
34 placard stating, 'These canned goods are homemade and not subject to state inspection,'
35 unless the food items were prepared in a kitchen that is licensed and inspected; and

(B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the name and address of the person preparing and selling the foods; or

(4) Person who receives less than \$7,500.00 in gross receipts in a calendar year from the sale of home-processed and home-canned food products if:

(A) The products are:

(i) Pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;

(ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or

(iii) Home-processed and home-canned in this state;

(B) The products are sold or offered for sale at a community or social event or a farmers' market in this state, other than a state farmers' market;

(C) The seller displays prominently at the point of sale a clearly legible sign or placard stating, 'These canned goods are homemade and not subject to state inspection,' unless the products were processed and canned in a kitchen that is licensed and inspected; and

(D) Each container of the product sold or offered for sale under this paragraph is accurately labeled to provide the name and address of the person who processed and canned the goods and the date on which the goods were processed and canned."

SECTION 5.

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