

House Bill 1380 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Graves of the 12th, McCall of the 30th, Roberts of the 154th, Ray of the 136th, Black of the 174th, and others

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 redefine a term; to provide certain
3 exemptions from laws relating to adulteration and misbranding of food; to provide certain
4 exemptions from laws relating to food service establishments; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

12 "(5) 'Food sales establishment' means retail and wholesale grocery stores; retail seafood
13 stores and places of business; food processing plants, except those food processing plants
14 which are currently required to obtain a license from the Commissioner under any other
15 provision of law; bakeries; confectioneries; fruit, nuts, and vegetable stores ~~or roadside~~
16 ~~stands~~; wholesale sandwich and salad manufacturers, including vending machines and
17 operations connected therewith; and places of business and similar establishments,
18 mobile or permanent, engaged in the sale of food primarily for consumption off the
19 premises; provided, however, that such term shall not include roadside stands where farm
20 or garden produce is sold. Within a food sales establishment, there may be a food service
21 component, not separately operated, which may serve customers on site. This food
22 service component shall be considered as part of the food sales establishment. The food
23 sales component of any food service establishment defined in Code Section 26-2-370
24 shall not be included in this definition. This term shall not include 'food service
25 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 all goods sold at retail, including but
 21 not limited to the prepared food items, subject to 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 all
 28 goods sold at retail, including but not limited to the sale of home-processed and
 29 home-canned food products, if:

30 (A) The products are:

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

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

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

34 (B) The products are sold or offered for sale at a community or social event or a
 35 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 all goods sold at retail, including but
 32 not limited to the prepared food items, subject to 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

- 1 (B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the
2 name and address of the person preparing and selling the foods; or
3 (4) Person who receives less than \$7,500.00 in gross receipts in a calendar year from all
4 goods sold at retail, including but not limited to the sale of home-processed and
5 home-canned food products, if:
- 6 (A) The products are:
- 7 (i) Pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;
8 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or
9 (iii) Home-processed and home-canned in this state;
- 10 (B) The products are sold or offered for sale at a community or social event or a
11 farmers' market in this state, other than a state farmers' market;
- 12 (C) The seller displays prominently at the point of sale a clearly legible sign or placard
13 stating, 'These canned goods are homemade and not subject to state inspection,' unless
14 the products were processed and canned in a kitchen that is licensed and inspected; and
- 15 (D) Each container of the product sold or offered for sale under this paragraph is
16 accurately labeled to provide the name and address of the person who processed and
17 canned the goods and the date on which the goods were processed and canned."

18 **SECTION 5.**

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