

The Senate Agriculture and Consumer Affairs Committee offered the following substitute to HB 1380:

**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 regulate certain  
4 advertising of shelled pecans for sale; to change certain provisions relating to promulgation  
5 of rules, regulations, and standards by the Department of Human Resources and county  
6 boards of health relative to food service establishments; to provide certain exemptions from  
7 laws relating to food service establishments; to repeal conflicting laws; and for other  
8 purposes.

9                   BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10                   **SECTION 1.**

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

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; provided, however, that such term shall not include roadside stands where farm  
23 or garden produce is sold. Within a food sales establishment, there may be a food service  
24 component, not separately operated, which may serve customers on site. This food  
25 service component shall be considered as part of the food sales establishment. The food  
26 sales component of any food service establishment defined in Code Section 26-2-370

1 shall not be included in this definition. This term shall not include 'food service  
2 establishments' as defined in Code Section 26-2-370. This term also shall not include  
3 establishments engaged in the sale of food primarily for consumption off the premises if  
4 such sale is an authorized part of and occurs upon the site of a fair or festival which:

- 5 (A) Is sponsored by a political subdivision of this state or by an organization exempt  
6 from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under  
7 Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the  
8 Internal Revenue Code, as that code is defined in Code Section 48-1-2;  
9 (B) Lasts 120 hours or less; and  
10 (C) When sponsored by such an organization, is authorized to be conducted pursuant  
11 to a permit issued by the municipality or county in which it is conducted."

## 12 SECTION 2.

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

14 "26-2-25.1.

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

16 (1) Person not regularly engaged in the business of manufacturing and selling food and  
17 who prepares food only on order of and for sale directly to the ultimate consumer;  
18 (2) Educational, charitable, or religious organization not regularly engaged in the  
19 business of manufacturing, processing, or selling food;  
20 (3) Individual who prepares and sells food that is not potentially hazardous food at a  
21 community event or farmers' market, other than a state farmers' market, with gross  
22 receipts of \$2,000.00 or less in a calendar year from all goods sold at retail, including but  
23 not limited to the prepared food items, subject to the following requirements:

24 (A) The seller shall display prominently at the point of sale a clearly legible sign or  
25 placard stating, 'These products are homemade and not subject to state inspection,'  
26 unless the food items were prepared in a kitchen that is licensed and inspected; and  
27 (B) Prepared foods sold under this paragraph shall be labeled to accurately reflect the  
28 name and address of the person preparing and selling the foods; or  
29 (4) Person who receives less than \$2,000.00 in gross receipts in a calendar year from all  
30 goods sold at retail, including but not limited to the sale of home-processed and  
31 home-canned food products, if:

32 (A) The products are:

- 33 (i) Pickles, vegetables, or fruits;  
34 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or  
35 (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;
  - (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; and
  - (E) The products are not potentially hazardous foods."

### **SECTION 3.**

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

"26-2-32.1.

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

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

## SECTION 4.

24 Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to  
25 food service establishments, is amended in Code Section 26-2-373 of the Official Code of  
26 Georgia Annotated, relating to promulgation of rules, regulations, and standards by the  
27 Department of Human Resources and county boards of health relative to food service  
28 establishments, by striking subsection (a) and inserting in lieu thereof the following:

29       "(a) For the purpose of protecting the public health, the Department of Human Resources  
30 shall have the power to adopt and promulgate such rules and regulations as it deems  
31 necessary and proper to carry out the purpose and intent of this article, including the  
32 establishment of reasonable standards of sanitation for food service establishments and  
33 such establishments which are also retail frozen dessert packagers and the examination and  
34 condemnation of unwholesome food therein. The Department of Human Resources shall  
35 promulgate rules and regulations for posting the uniform grading sheet in each food service

establishment in a prominent area of the interior of the food service establishment other than windows and doors. County boards of health are authorized to adopt and promulgate supplementary rules and regulations, including the establishment of reasonable standards of sanitation for food service establishments, consistent with those adopted and promulgated by the department. The department and the county boards of health may obtain technical and laboratory assistance from the Department of Agriculture."

## SECTION 5.

Said article is further amended by adding a new Code section to read as follows:  
"26-2-379.

10 This article shall not apply to any:

- (1) Person not regularly engaged in the business of manufacturing and selling food and who prepares food only on order of and for sale directly to the ultimate consumer;
  - (2) Educational, charitable, or religious organization not regularly engaged in the business of manufacturing, processing, or selling food;
  - (3) Individual who prepares and sells food that is not potentially hazardous food at a community event or farmers' market, other than a state farmers' market, with gross receipts of \$2,000.00 or less in a calendar year from all goods sold at retail, including but not limited to the prepared food items, subject to the following requirements:
    - (A) The seller shall display 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 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 \$2,000.00 in gross receipts in a calendar year from all goods sold at retail, including but not limited to the sale of home-processed and home-canned food products, if:
    - (A) The products are:
      - (i) Pickles, vegetables, or fruits;
      - (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;

- 1       (D) Each container of the product sold or offered for sale under this paragraph is  
2       accurately labeled to provide the name and address of the person who processed and  
3       canned the goods and the date on which the goods were processed and canned; and  
4       (E) The products are not potentially hazardous foods."

## SECTION 6.

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