

House Bill 253

By: Representatives Graves of the 12th, McCall of the 30th, England of the 108th, Roberts of the 154th, Houston of the 170th, 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 provide an effective date;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
9 labeling, and adulteration of food, is amended in Code Section 26-2-21, relating to
10 definitions relative to said article, by revising paragraph (5) of subsection (a) as follows:

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

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

5 (B) Lasts 120 hours or less; and

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

8 SECTION 2.

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

10 "26-2-25.1.

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

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

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

16 (3) Individual who prepares and sells food that is not potentially hazardous food at a
 17 community event or farmers' market, other than a state farmers' market, with gross
 18 receipts of \$5,000.00 or less in a calendar year from all goods sold at retail, including but
 19 not limited to the prepared food items, subject to the following requirements:

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

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

25 (4) Person who receives less than \$5,000.00 in gross receipts in a calendar year from all
 26 goods sold at retail, including but not limited to the sale of home-processed and
 27 home-canned food products, if:

28 (A) The products are:

29 (i) Pickles, vegetables, or fruits;

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

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

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

34 (C) The seller displays prominently at the point of sale a clearly legible sign or placard
 35 stating, 'These products are homemade and not subject to state inspection,' unless the
 36 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."

5 SECTION 3.

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

7 "26-2-379.

8 This article shall not apply to any:

- 9 (1) Person not regularly engaged in the business of manufacturing and selling food and
 10 who prepares food only on order of and for sale directly to the ultimate consumer;
 11 (2) Educational, charitable, or religious organization not regularly engaged in the
 12 business of manufacturing, processing, or selling food;
 13 (3) Individual who prepares and sells food that is not potentially hazardous food at a
 14 community event or farmers' market, other than a state farmers' market, with gross
 15 receipts of \$5,000.00 or less in a calendar year from all goods sold at retail, including but
 16 not limited to the prepared food items, subject to the following requirements:

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

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

- 22 (4) Person who receives less than \$5,000.00 in gross receipts in a calendar year from all
 23 goods sold at retail, including but not limited to the sale of home-processed and
 24 home-canned food products, if:

25 (A) The products are:

- 26 (i) Pickles, vegetables, or fruits;
 27 (ii) Products such as cakes, fruit pies, breads, rolls, jams, jellies, and honey; or
 28 (iii) Home-processed and home-canned in this state;

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

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

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

1 (E) The products are not potentially hazardous foods."

2 **SECTION 4.**

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

5 **SECTION 5.**

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