

House Bill 883 (COMMITTEE SUBSTITUTE)

By: Representatives Levitas of the 82nd, McCall of the 30th, England of the 108th, Roberts of the 154th, Burns of the 157th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Code Section 26-2-27.1 of the Official Code of Georgia Annotated, relating to
2 written food safety plans, so as to provide the Commissioner of Agriculture with certain
3 authority regarding safety plans; to provide a short title; to mandate certain written safety
4 plans; to provide for civil and criminal penalties; to provide for related matters; to provide
5 an effective date; to repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Sanitary Activity for Food-Processing
9 Enterprises (SAFE) Act."

10 **SECTION 2.**

11 Code Section 26-2-27.1 of the Official Code of Georgia Annotated, relating to written food
12 safety plans, is amended by revising subsection (b) as follows:

13 "(b)(1)(A) In order to protect the public health, safety, and welfare and ensure
14 compliance with this article, the Commissioner shall by rule or regulation establish
15 requirements for regular testing of samples or specimens of foods and ingredients by
16 food processing plants for the presence of poisonous or deleterious substances or other
17 contaminants rendering such foods or ingredients injurious to health. Such rules or
18 regulations shall identify the specific classes or types of food processing plants, foods,
19 ingredients, and poisonous or deleterious substances or other contaminants that shall
20 be subject to such testing requirements and the frequency with which such tests shall
21 be performed by food processing plants.

22 (B) The Commissioner shall also promulgate rules and regulations establishing
23 minimum standards and requirements for a written food safety plan, such as a hazard
24 analysis critical control point plan, that may be submitted by an operator of a food
25 processing plant to document and describe the procedures used at such plant to prevent

26 the presence of hazards such as poisonous or deleterious substances or other
27 contaminants that would render finished foods or finished ingredients as manufactured
28 at such plant injurious to health, including preventive controls, monitoring to ensure the
29 effectiveness of such controls, and records of corrective actions, including actions taken
30 in response to the presence of known hazards. If an operator of a food processing plant,
31 in its discretion, submits to the department a written food safety plan for such plant and
32 such plan conforms to rules and regulations promulgated for purposes of this
33 subparagraph, then such food processing plant shall comply with the requirements of
34 such written food safety plan, including, but not limited to, any test regimen provided
35 by such plan, in lieu of complying with a test regimen established by rules or
36 regulations promulgated by the Commissioner pursuant to subparagraph (A) of this
37 paragraph.

38 (C) A food processing plant that fails to comply with the provisions of
39 subparagraph (B) of this paragraph shall be punished by the fine of a \$5,000.00 civil
40 penalty and shall submit to the Commissioner a written plan, pursuant to subparagraph
41 (B) of this paragraph, within 30 days of the determination by the Commissioner that
42 such violation has occurred; provided, however, that for a second or subsequent
43 violation of subparagraph (B) of this paragraph within five years, as measured from the
44 date of the violation for which a civil penalty is imposed pursuant to this subparagraph,
45 such food processing plant shall be guilty of a misdemeanor of a high and aggravated
46 nature.

47 (2) In addition to any regular tests required pursuant to paragraph (1) of this subsection,
48 the Commissioner may order any food processing plant to have samples or specimens of
49 its foods and ingredients tested for the presence of any poisonous or deleterious
50 substances or other contaminants whenever in his or her determination there are
51 reasonable grounds to suspect that such foods or ingredients may be injurious to health."

52 SECTION 3.

53 Said Code section is further amended by revising subsections (e) and (f) as follows:

54 "(e)(1) Whenever any person or firm that operates a food processing plant in this state
55 obtains information from testing of samples or specimens of finished foods or finished
56 food ingredients as manufactured at such food processing plant which, based on a
57 confirmed positive test result, indicates the presence of a substance that would cause a
58 manufactured food bearing or containing the same to be adulterated within the meaning
59 of paragraph (1) of Code Section 26-2-26, such person or firm shall report such test result
60 to the department within 24 hours after obtaining such information.

61 (2) Any person who fails to make the report required by paragraph (1) of this subsection
62 shall be guilty of a misdemeanor. The punishment provided for in this subsection shall
63 be supplemental to any other applicable provisions of law.

64 (f) Records of the results of any tests required pursuant to this Code section shall be kept
65 by a food processing plant and made available to the department for inspection for a period
66 of not less than two years from the date the results were reported by the laboratory. Any
67 person who violates this subsection shall be guilty of a misdemeanor. The punishment
68 provided for in this subsection shall be supplemental to any other applicable provisions of
69 law."

SECTION 4.

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

72 "(h) Any person who knowingly introduces into commerce finished foods or finished food
73 ingredients as manufactured at a food processing plant containing a substance that would
74 cause a manufactured food bearing or containing the same to be adulterated within the
75 meaning of paragraph (1) of Code Section 26-2-26 shall be guilty of a felony, and, upon
76 conviction, shall be punished by imprisonment for not less than one nor more than 20
77 years, a fine not to exceed \$20,000.00, or both. The punishment provided for in this
78 subsection shall be supplemental to any other applicable provisions of law."

SECTION 5.

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

SECTION 6.

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