

House Bill 1345

By: Representatives Jacobs of the 80th, Levitas of the 82nd, Wilkinson of the 52nd, Willard of the 49th, Henson of the 87th, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for a short title, to amend Chapter 2 of Title 26 of the Official Code of Georgia
2 Annotated, relating to standards, labeling, and adulteration of food, so as to repeal provisions
3 relating to kosher foods; to amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official
4 Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," so as to
5 provide for oversight by the administrator of kosher food; to provide for definitions; to
6 provide for a kosher food disclosure statement; to provide for exceptions; to provide for
7 related matters; to provide for effective dates; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Georgia Kosher Food Consumer Protection
12 Act."

13 **SECTION 2.**

14 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
15 labeling, and adulteration of food, is amended by striking in its entirety Article 11, relating
16 to kosher foods, and designating said article as "Reserved."

17 **SECTION 3.**

18 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
19 relating to the "Fair Business Practices Act of 1975," is amended by revising subsection (a)
20 of Code Section 10-1-392, relating to definitions, by adding new paragraphs to read as
21 follows:

22 "(14.1) 'Food' means articles used for food or drink for human consumption, chewing
23 gum, and articles used for components of any such article."

24 "(16.1) 'Kosher food disclosure statement' means a statement which:

25 (A) Discloses to consumers practices relating to the preparation, handling, and sale of
 26 any unpackaged food, or food packaged at the place it is sold to consumers, represented
 27 to be kosher, kosher for Passover, or prepared or maintained under rabbinical or other
 28 kosher supervision; and

29 (B) Complies with the provisions of subsections (c) through (e) of Code Section
 30 10-1-393.11."

31 "(24.1) 'Presealed kosher food package' means a food package which bears a kosher
 32 symbol insignia and is sealed by the manufacturer, processor, or wholesaler at premises
 33 other than the premises where the food is to be sold to the public."

34 "(27.1) 'Representation regarding kosher food' means any direct or indirect statement,
 35 whether oral or written, including but not limited to an advertisement, and any letter,
 36 word, sign, emblem, insignia, or mark which could reasonably lead a consumer to believe
 37 that a representation is being made that the final food product sold to the consumer is
 38 kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher
 39 supervision."

40 **SECTION 4.**

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

42 "10-1-393.11.

43 (a) No person shall through an advertisement, sign, menu, or other written means make a
 44 representation regarding kosher food, nor through an advertisement, sign, menu, or other
 45 written means describe any place of business as being kosher, kosher for Passover, or under
 46 rabbinical or other kosher supervision, unless such advertisement, sign, menu, or written
 47 communication identifies the name of the rabbi or other person who supervises or
 48 otherwise certifies the food or place of business as kosher or kosher for Passover.

49 (b) A person who makes a representation regarding kosher food shall prominently and
 50 conspicuously display on the premises on which the food is sold or served, in a location
 51 readily visible to the consumer, a completed kosher food disclosure statement which shall
 52 be updated from time to time if there are any changes in the information required by
 53 subsections (c) through (e) of this Code section.

54 (c) A kosher food disclosure statement shall set forth the name and address of the
 55 establishment to which it applies and the date on which it was completed.

56 (d) A kosher food disclosure statement shall state in the affirmative or negative whether
 57 the person:

58 (1) Operates under rabbinical or other kosher supervision;

59 (2) Sells or serves food represented as kosher, as well as food not represented as kosher;

60 (3) Sells or serves only meat, dairy, and pareve food represented as kosher;

- 61 (4) Sells or serves only meat and pareve food represented as kosher;
62 (5) Sells or serves only dairy and pareve food represented as kosher;
63 (6) Sells or serves meat and poultry represented as kosher only if it is slaughtered under
64 rabbinical or other kosher supervision and identified at the slaughterhouse to be sold as
65 kosher;
66 (7) Represents kosher meat sold as 'Glatt kosher' or 'Glatt';
67 (8) Sells or serves seafood only if it has or had fins and removable scales;
68 (9) Keeps separate meat described as kosher, dairy described as kosher, pareve food
69 described as kosher, and food not described as kosher;
70 (10) Uses separate utensils for meat described as kosher, dairy described as kosher,
71 pareve food described as kosher, and food not described as kosher;
72 (11) Uses separate working areas for meat and poultry described as kosher, dairy
73 described as kosher, pareve food described as kosher, and food not described as kosher;
74 (12) Sells or serves wine represented as kosher only if it has rabbinical or other kosher
75 supervision;
76 (13) Sells or serves cheese represented as kosher only if it has rabbinical or other kosher
77 supervision;
78 (14) Sells or serves food represented as kosher for Passover;
79 (15) Uses separate utensils for food represented as kosher for Passover;
80 (16) Keeps food represented as kosher for Passover free from and not in contact with
81 ingredients not described as kosher for Passover; and
82 (17) Prepares food represented as kosher for Passover under rabbinical or other kosher
83 supervision.
- 84 (e) A person who represents to the public that any unpackaged food for sale or a place of
85 business is under rabbinical or other kosher supervision shall also provide in the kosher
86 food disclosure statement the following information about the rabbinical or other kosher
87 supervision:
- 88 (1) The dates to which the supervision applies;
89 (2) The name of the supervising rabbi or agency;
90 (3) The address of the supervising rabbi or agency;
91 (4) The telephone number of the supervising rabbi or agency;
92 (5) The frequency with which the supervising rabbi or agency visits the establishment;
93 and
94 (6) Any relevant affiliations of the supervising rabbi or agency that the person wishes to
95 disclose.
- 96 (f) The administrator may promulgate a form for the kosher food disclosure statement and
97 any additional information that the administrator deems reasonable and necessary for full

98 and complete disclosure. The completion and prominent and conspicuous display of such
 99 form shall constitute compliance with subsections (c) through (e) of this Code section.
 100 (g) No person shall advertise any food for sale or any place of business as 'kosher-style'
 101 or 'kosher-type' on any advertisement, sign, menu, or other written material, unless there
 102 is a clearly and conspicuously stated disclaimer in type no smaller than the smallest type
 103 contained in the advertisement, sign, menu, or other written material, that the food offered
 104 for sale is not represented as kosher.
 105 (h) It shall be unlawful for any person to knowingly or intentionally make a false
 106 representation in a kosher food disclosure statement or otherwise violate this Code section.
 107 (i) This Code section shall not apply to food sold in a presealed kosher food package."

108

SECTION 5.

109 Said part is further amended by revising subsection (a) of Code Section 10-1-397, relating
 110 to the authority of the administrator to issue cease and desist orders or impose civil penalties,
 111 as follows:

112 "(a) Whenever it may appear to the administrator that any person is using, has used, or is
 113 about to use any method, act, or practice declared by Code Section 10-1-393, 10-1-393.1,
 114 10-1-393.2, 10-1-393.3, 10-1-393.4, 10-1-393.5, ~~or 10-1-393.6,~~ or 10-1-393.11 or by
 115 regulations made under Code Section 10-1-394 to be unlawful and that proceedings would
 116 be in the public interest, whether or not any person has actually been misled, he or she may:

117 (1) Subject to notice and opportunity for hearing in accordance with Code Section
 118 10-1-398, unless the right to notice is waived by the person against whom the sanction
 119 is imposed, take any or all of the following actions:

120 (A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice
 121 against any person; or

122 (B) Issue an order against a person who willfully violates this part, imposing a civil
 123 penalty up to a maximum of \$2,000.00 per violation; or

124 (2) Without regard as to whether the administrator has issued any orders under this Code
 125 section, upon a showing by the administrator in any superior court of competent
 126 jurisdiction that a person has violated or is about to violate this part, a rule promulgated
 127 under this part, or an order of the administrator, the court may enter or grant any or all of
 128 the following relief:

129 (A) A temporary restraining order or temporary or permanent injunction;

130 (B) A civil penalty up to a maximum of \$5,000.00 per violation of this part;

131 (C) A declaratory judgment;

132 (D) Restitution to any person or persons adversely affected by a defendant's actions in
 133 violation of this part;

- 134 (E) The appointment of a receiver, auditor, or conservator for the defendant or the
135 defendant's assets; or
136 (F) Other relief as the court deems just and equitable."

137 **SECTION 6.**

138 This Act shall become effective on July 1, 2010; provided, however, that Section 2 of this
139 Act shall become effective upon its approval by the Governor or upon its becoming law with
140 out such approval.

141 **SECTION 7.**

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