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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
This Act shall be known and may be cited as the "Georgia Kosher Food Consumer Protection Act."

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

SECTION 3.
Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," is amended by revising subsection (a) of Code Section 10-1-392, relating to definitions, by adding new paragraphs to read as follows:

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

"(16.1) 'Kosher food disclosure statement' means a statement which:
(A) Discloses to consumers practices relating to the preparation, handling, and sale of any unpackaged food, or food packaged at the place it is sold to consumers, represented to be kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher supervision; and

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

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

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

SECTION 4.

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

"10-1-393.11. (a) No person shall through an advertisement, sign, menu, or other written means make a representation regarding kosher food, nor through an advertisement, sign, menu, or other written means describe any place of business as being kosher, kosher for Passover, or under rabbinical or other kosher supervision, unless such advertisement, sign, menu, or written communication identifies the name of the rabbi or other person who supervises or otherwise certifies the food or place of business as kosher or kosher for Passover.

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

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

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

(1) Operates under rabbinical or other kosher supervision;

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

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

(5) Sells or serves only dairy and pareve food represented as kosher;

(6) Sells or serves meat and poultry represented as kosher only if it is slaughtered under rabbinical or other kosher supervision and identified at the slaughterhouse to be sold as kosher;

(7) Represents kosher meat sold as 'Glatt kosher' or 'Glatt';

(8) Sells or serves seafood only if it has or had fins and removable scales;

(9) Keeps separate meat described as kosher, dairy described as kosher, pareve food described as kosher, and food not described as kosher;

(10) Uses separate utensils for meat described as kosher, dairy described as kosher, pareve food described as kosher, and food not described as kosher;

(11) Uses separate working areas for meat and poultry described as kosher, dairy described as kosher, pareve food described as kosher, and food not described as kosher;

(12) Sells or serves wine represented as kosher only if it has rabbinical or other kosher supervision;

(13) Sells or serves cheese represented as kosher only if it has rabbinical or other kosher supervision;

(14) Sells or serves food represented as kosher for Passover;

(15) Uses separate utensils for food represented as kosher for Passover;

(16) Keeps food represented as kosher for Passover free from and not in contact with ingredients not described as kosher for Passover; and

(17) Prepares food represented as kosher for Passover under rabbinical or other kosher supervision.

(e) A person who represents to the public that any unpackaged food for sale or a place of business is under rabbinical or other kosher supervision shall also provide in the kosher food disclosure statement the following information about the rabbinical or other kosher supervision:

(1) The dates to which the supervision applies;

(2) The name of the supervising rabbi or agency;

(3) The address of the supervising rabbi or agency;

(4) The telephone number of the supervising rabbi or agency;

(5) The frequency with which the supervising rabbi or agency visits the establishment; and

(6) Any relevant affiliations of the supervising rabbi or agency that the person wishes to disclose.

(f) The administrator may promulgate a form for the kosher food disclosure statement and any additional information that the administrator deems reasonable and necessary for full
and complete disclosure. The completion and prominent and conspicuous display of such
form shall constitute compliance with subsections (c) through (e) of this Code section.

(g) No person shall advertise any food for sale or any place of business as 'kosher-style'
or 'kosher-type' on any advertisement, sign, menu, or other written material, unless there
is a clearly and conspicuously stated disclaimer in type no smaller than the smallest type
contained in the advertisement, sign, menu, or other written material, that the food offered
for sale is not represented as kosher.

(h) It shall be unlawful for any person to knowingly or intentionally make a false
representation in a kosher food disclosure statement or otherwise violate this Code section.

(i) This Code section shall not apply to food sold in a presealed kosher food package.”

SECTION 5.

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

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

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

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

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

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

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

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

(C) A declaratory judgment;

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

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

SECTION 6.

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

SECTION 7.

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