

The House Committee on Judiciary offers the following substitute to HB 1345:

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 change
7 provisions related to the authority of the administrator to issue cease and desist orders or
8 impose civil penalties; to provide for related matters; to provide for effective dates; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

14 **SECTION 2.**

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

18 **SECTION 3.**

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

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

25 "(16.1) 'Kosher food disclosure statement' means a statement which:

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

30 (B) Complies with the provisions of subsections (c) through (e) of Code Section
 31 10-1-393.11."

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

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

41 **SECTION 4.**

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

43 "10-1-393.11.

44 (a) No person shall through an advertisement, sign, menu, or other written means make a
 45 representation regarding kosher food, nor through an advertisement, sign, menu, or other
 46 written means describe any place of business as being kosher, kosher for Passover, or under
 47 rabbinical or other kosher supervision, unless such advertisement, sign, menu, or written
 48 communication clearly and conspicuously, in type no smaller than the smallest type
 49 contained in such advertisement, sign, menu, or written communication, identifies the name
 50 of the rabbi, agency, or other person who supervises or otherwise certifies the food or place
 51 of business as kosher or kosher for Passover.

52 (b) A person who makes a representation regarding kosher food shall prominently and
 53 conspicuously display on the premises on which the food is sold, in a location readily
 54 visible to the consumer, a completed kosher food disclosure statement which shall be
 55 updated within 14 days of any changes in the information required by subsections (c)
 56 through (e) of this Code section.

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

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

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

- 97 (4) The frequency with which the supervising rabbi, agency, or other person visits the
 98 establishment; and
- 99 (5) Any relevant affiliations of the supervising rabbi, agency, or other person that the
 100 person making the disclosure wishes to disclose.
- 101 (f) The administrator shall promulgate a form for the kosher food disclosure statement and
 102 any additional information that the administrator deems reasonable and necessary for full
 103 and complete disclosure. The completion and prominent and conspicuous display of such
 104 form shall constitute compliance with subsections (c) through (e) of this Code section.
- 105 (g) No person shall display a kosher food disclosure statement or other written document
 106 stating that a rabbi, agency, or other person certifies food or a place of business as kosher
 107 or kosher for Passover if no such certification has been provided. The person making the
 108 display shall remove the statement or document if the rabbi, agency, or other person sends
 109 a notice via certified mail or statutory overnight delivery directed to the person making the
 110 display that no such certification is being provided.
- 111 (h) It shall be unlawful for any person to:
- 112 (1) Fail to complete and prominently and conspicuously display a kosher food disclosure
 113 statement as required by this Code section;
- 114 (2) Otherwise fail to comply with this Code section; or
- 115 (3) Knowingly or intentionally, with intent to defraud, make a false affirmation or
 116 disclosure in a kosher food disclosure statement.
- 117 (i) This Code section shall not apply to:
- 118 (1) Food sold in a presealed kosher food package; or
- 119 (2) Food represented as 'kosher-style' or 'kosher-type.'

120 **SECTION 5.**

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

124 "(a) Whenever it may appear to the administrator that any person is using, has used, or is
 125 about to use any method, act, or practice declared by ~~Code Section 10-1-393, 10-1-393.1,~~
 126 ~~10-1-393.2, 10-1-393.3, 10-1-393.4, 10-1-393.5, or 10-1-393.6~~ this part or by regulations
 127 made under Code Section 10-1-394 to be unlawful and that proceedings would be in the
 128 public interest, whether or not any person has actually been misled, he or she may:

- 129 (1) Subject to notice and opportunity for hearing in accordance with Code Section
 130 10-1-398, unless the right to notice is waived by the person against whom the sanction
 131 is imposed, take any or all of the following actions:

- 132 (A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice
133 against any person; or
- 134 (B) Issue an order against a person who willfully violates this part, imposing a civil
135 penalty up to a maximum of \$2,000.00 per violation; or
- 136 (2) Without regard as to whether the administrator has issued any orders under this Code
137 section, upon a showing by the administrator in any superior court of competent
138 jurisdiction that a person has violated or is about to violate this part, a rule promulgated
139 under this part, or an order of the administrator, the court may enter or grant any or all of
140 the following relief:
- 141 (A) A temporary restraining order or temporary or permanent injunction;
- 142 (B) A civil penalty up to a maximum of \$5,000.00 per violation of this part;
- 143 (C) A declaratory judgment;
- 144 (D) Restitution to any person or persons adversely affected by a defendant's actions in
145 violation of this part;
- 146 (E) The appointment of a receiver, auditor, or conservator for the defendant or the
147 defendant's assets; or
- 148 (F) Other relief as the court deems just and equitable."

149 **SECTION 6.**

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

153 **SECTION 7.**

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