

House Bill 1345 (AS PASSED HOUSE AND SENATE)

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 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 (b) 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, sign, or menu and
 37 any letter, word, sign, emblem, insignia, or mark which could reasonably lead a consumer
 38 to believe that a representation is being made that the final food product sold to the
 39 consumer is kosher, kosher for Passover, or prepared or maintained under rabbinical or
 40 other kosher 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) A person who makes a representation regarding kosher food shall prominently and
 45 conspicuously display on the premises on which the food is sold, in a location readily
 46 visible to the consumer, a completed kosher food disclosure statement which shall be
 47 updated within 14 days of any changes in the information required by subsections (b)
 48 through (e) of this Code section.

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

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

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

54 (2) Sells or serves only food represented as kosher;

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

56 (4) Sells or serves meat, dairy, and pareve food;

57 (5) Sells or serves only meat and pareve food;

58 (6) Sells or serves only dairy and pareve food;

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

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

116 **SECTION 5.**

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

120 "(a) Whenever it may appear to the administrator that any person is using, has used, or is
 121 about to use any method, act, or practice declared by ~~Code Section 10-1-393, 10-1-393.1,~~
 122 ~~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
 123 made under Code Section 10-1-394 to be unlawful and that proceedings would be in the
 124 public interest, whether or not any person has actually been misled, he or she may:

- 125 (1) Subject to notice and opportunity for hearing in accordance with Code Section
 126 10-1-398, unless the right to notice is waived by the person against whom the sanction
 127 is imposed, take any or all of the following actions:
- 128 (A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice
 129 against any person; or

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

145 **SECTION 6.**

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

149 **SECTION 7.**

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