

House Bill 883 (AS PASSED HOUSE AND SENATE)

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 **SECTION 2.**

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

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

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

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

39 (C)(i) The Commissioner shall impose a civil penalty for a violation of this
 40 subsection.

41 (ii) The department shall adopt rules and regulations establishing a schedule of civil
 42 penalties that shall be imposed under this subsection. Civil penalties imposed
 43 pursuant to this subsection shall not exceed \$5,000.00 for each violation; provided,
 44 however, that a food processing plant that knowingly fails to comply with the
 45 provisions of subparagraph (B) of this paragraph shall be punished by the imposition
 46 of a \$7,500.00 civil penalty. In addition to such civil penalty, within 30 days of the
 47 determination by the Commissioner that such violation has occurred, such food
 48 processing plant shall submit to the Commissioner a written plan pursuant to
 49 subparagraph (B) of this paragraph.

50 (iii) For purposes of this subsection, each day a violation continues after the period
 51 established for compliance by the Commissioner shall be considered a separate
 52 violation.

53 (iv) When a civil penalty is imposed under this subsection, such penalty shall be
 54 subject to review in the manner prescribed by Article 1 of Chapter 13 of Title 50,
 55 known as the 'Georgia Administrative Procedure Act.'

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

61 **SECTION 3.**

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

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

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

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

79 **SECTION 4.**

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

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

88 **SECTION 5.**

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

91 **SECTION 6.**

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