

Senate Bill 80

By: Senators Bulloch of the 11th, Crosby of the 13th, Hooks of the 14th, Tolleson of the 20th, Hudgens of the 47th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated,  
2 relating to adulteration and misbranding of food, so as to change certain provisions relating  
3 to prohibited acts; to provide requirements for testing of samples or specimens of foods by  
4 food sales establishments for the presence of poisonous or deleterious substances or other  
5 contaminants rendering such foods injurious to health or otherwise unfit for consumption;  
6 to provide for rules and regulations; to change certain provisions relating to right of entry in  
7 food establishments and transport vehicles and examination of samples obtained; to provide  
8 for inspection of records; to provide for related matters; to provide an effective date; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to  
13 adulteration and misbranding of food, is amended in Code Section 26-2-22, relating to  
14 prohibited acts, by adding a new paragraph to read as follows:

15 "(5.1) The failure to comply with testing, reporting, or record-keeping requirements  
16 provided by or pursuant to Code Section 26-2-27.1;"

17 **SECTION 2.**

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

19 "26-2-27.1.

20 (a)(1) In order to protect the public health, safety, and welfare and ensure compliance  
21 with this article, the Commissioner shall by rule or regulation establish requirements for  
22 regular testing of samples or specimens of foods by food sales establishments for the  
23 presence of poisonous or deleterious substances or other contaminants rendering such  
24 foods injurious to health or otherwise unfit for consumption. Such rules or regulations  
25 shall identify the specific classes or types of establishments, foods, and poisonous or

26 deleterious substances or other contaminants that shall be subject to such testing  
27 requirements and the frequency with which such tests shall be performed by  
28 establishments, provided that any required test shall be performed not less than annually  
29 by an establishment that is subject to such testing requirement.

30 (2) In addition to any regular tests required pursuant to paragraph (1) of this subsection,  
31 the Commissioner may order any food sales establishment to have samples or specimens  
32 of its foods tested for the presence of any poisonous or deleterious substances or other  
33 contaminants whenever in his or her determination there are reasonable grounds to  
34 suspect that such foods may be injurious to health or otherwise unfit for consumption.

35 (3) If a food sales establishment has reasonable grounds to suspect the presence of any  
36 poisonous or deleterious substance or other contaminant rendering any of its foods  
37 injurious to health or otherwise unfit for consumption, such establishment shall report the  
38 same to the department not later than the next business day after becoming aware of such  
39 grounds for suspicion.

40 (b) Any test required pursuant to this Code section shall be performed by qualified  
41 personnel at a laboratory approved by the department.

42 (c) A food sales establishment shall be responsible for the cost of any testing required  
43 pursuant to this Code section.

44 (d) If as a result of testing required pursuant to this Code section the presence of a  
45 poisonous or deleterious substance or other contaminant rendering a food injurious to  
46 health or otherwise unfit for consumption is detected, such result shall be reported by the  
47 food sales establishment to the department not later than the next business day after the  
48 receipt of such result from the laboratory.

49 (e) Records of the results of any tests required pursuant to this Code section shall be kept  
50 by a food sales establishment and made available to the department for inspection for a  
51 period of not less than three years from the date the results were reported by the  
52 laboratory."

53 **SECTION 3.**

54 Said article is further amended by revising Code Section 26-2-36, relating to right of entry  
55 in food establishments and transport vehicles and examination of samples obtained, as  
56 follows:

57 "26-2-36.

58 (a) The Commissioner or his duly authorized agent shall have free access at all reasonable  
59 hours to any factory, warehouse, or establishment in which food is manufactured,  
60 processed, packed, or held for introduction into commerce and any vehicle being used to  
61 transport or hold such foods to commerce for the purposes:

62 (1) Of inspecting such factory, warehouse, establishment, or vehicle, and any records of  
63 testing of samples or specimens of foods for the presence of poisonous or deleterious  
64 substances or other contaminants and the results thereof, to determine if any of the  
65 provisions of this article are being violated; and

66 (2) Of securing samples or specimens of any food, after paying or offering to pay for  
67 such sample.

68 (b) It shall be the duty of the Commissioner to make or cause to be made examinations of  
69 samples secured under subsection (a) of this Code section to determine whether or not this  
70 article is being violated."

71 **SECTION 4.**

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

74 **SECTION 5.**

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