

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

**AS PASSED SENATE**

**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 processing plants for the presence of poisonous or deleterious substances or other  
5 contaminants rendering such foods injurious to health; to provide for rules and regulations;  
6 to change certain provisions relating to right of entry in food establishments and transport  
7 vehicles and examination of samples obtained; to provide for inspection of records; to  
8 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
9 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) As used in this Code section, the term 'food processing plant' means a commercial  
21 operation that manufactures food for human consumption and does not provide food  
22 directly to a consumer.

23 (b)(1) In order to protect the public health, safety, and welfare and ensure compliance  
24 with this article, the Commissioner shall by rule or regulation establish requirements for  
25 regular testing of samples or specimens of foods and ingredients by food processing

26 plants for the presence of poisonous or deleterious substances or other contaminants  
27 rendering such foods or ingredients injurious to health. Such rules or regulations shall  
28 identify the specific classes or types of food processing plants, foods, ingredients, and  
29 poisonous or deleterious substances or other contaminants that shall be subject to such  
30 testing requirements and the frequency with which such tests shall be performed by food  
31 processing plants. If an operator of a food processing plant submits to the Commissioner  
32 a written food safety plan, such as a hazard analysis critical control point plan, that  
33 documents and describes the procedures used at such plant to prevent the presence of  
34 hazards such as poisonous or deleterious substances or other contaminants that would  
35 render finished foods or finished ingredients as manufactured at such plant injurious to  
36 health, including preventive controls, monitoring to ensure the effectiveness of such  
37 controls, and records of corrective actions, including actions taken in response to the  
38 presence of known hazards, and if upon review such plan is acceptable to the  
39 Commissioner, then such food processing plant may comply with the requirements of  
40 such food safety plan, including but not limited to any test regimen provided by such  
41 plan, in lieu of complying with a test regimen established by rules or regulations  
42 promulgated by the Commissioner pursuant to this paragraph.

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

48 (c) Any test required pursuant to this Code section shall be performed by qualified  
49 personnel at a laboratory approved by the department.

50 (d) A food processing plant shall be responsible for the cost of any testing required  
51 pursuant to this Code section.

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

59 (f) Records of the results of any tests required pursuant to this Code section shall be kept  
60 by a food processing plant and made available to the department for inspection for a period  
61 of not less than two years from the date the results were reported by the laboratory.

62 (g) This Code section shall not apply to any food processing plant operating under a  
63 federal grant of inspection from the United States Department of Agriculture Food Safety  
64 and Inspection Service."

65 **SECTION 3.**

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

69 "26-2-36.

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

74 (1) Of inspecting such factory, warehouse, establishment, or vehicle, and any records of  
75 testing of samples or specimens of foods or ingredients for the presence of poisonous or  
76 deleterious substances or other contaminants and the results thereof as may be required  
77 pursuant to Code Section 26-2-27.1, to determine if any of the provisions of this article  
78 are being violated; and

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

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

84 **SECTION 4.**

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

87 **SECTION 5.**

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