

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

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 and
4 ingredients of food processing plants for the presence of poisonous or deleterious substances
5 or other contaminants; to provide for food safety plans; to provide for reports and records;
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 inspections; 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) 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 from that location. Such term shall not include a commercial
23 operation that produces raw agricultural commodities and whose end product remains a
24 raw agricultural product.

25 (b)(1)(A) In order to protect the public health, safety, and welfare and ensure
26 compliance with this article, the Commissioner shall by rule or regulation establish
27 requirements for regular testing of samples or specimens of foods and ingredients by
28 food processing plants for the presence of poisonous or deleterious substances or other
29 contaminants rendering such foods or ingredients injurious to health. Such rules or
30 regulations shall identify the specific classes or types of food processing plants, foods,
31 ingredients, and poisonous or deleterious substances or other contaminants that shall
32 be subject to such testing requirements and the frequency with which such tests shall
33 be performed by food processing plants.

34 (B) The Commissioner shall also promulgate rules and regulations establishing
35 minimum standards and requirements for a written food safety plan, such as a hazard
36 analysis critical control point plan, that may be submitted by an operator of a food
37 processing plant to document and describe the procedures used at such plant to prevent
38 the presence of hazards such as poisonous or deleterious substances or other
39 contaminants that would render finished foods or finished ingredients as manufactured
40 at such plant injurious to health, including preventive controls, monitoring to ensure the
41 effectiveness of such controls, and records of corrective actions, including actions taken
42 in response to the presence of known hazards. If an operator of a food processing plant,
43 in its discretion, submits to the department a written food safety plan for such plant and
44 such plan conforms to rules and regulations promulgated for purposes of this
45 subparagraph, then such food processing plant shall comply with the requirements of
46 such written food safety plan, including but not limited to any test regimen provided by
47 such plan, in lieu of complying with a test regimen established by rules or regulations
48 promulgated by the Commissioner pursuant to subparagraph (A) of this paragraph.

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

54 (c) Any food processing plant subject to any testing requirements pursuant to this Code
55 section shall cause such required tests to be performed in accordance with testing standards
56 and procedures established by rules and regulations of the Commissioner. Testing
57 standards and procedures established by the Commissioner under this paragraph shall be
58 consistent with standards presented in the federal Food and Drug Administration's Bacterial
59 Analytical Manual and standards developed by the Association of Analytical Communities
60 International, International Organization for Standardization, or another internationally
61 recognized certification body.

62 (d) A food processing plant shall be responsible for the cost of any testing required
 63 pursuant to this Code section and may conduct such testing either internally or via a third
 64 party, provided that subsection (c) of this Code section applies in either case.

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

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

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

78 **SECTION 3.**

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

82 "26-2-36.

83 (a) The Commissioner or his duly authorized agent shall have free access during all hours
 84 of operation and at all other reasonable hours to any factory, warehouse, or establishment
 85 in which food is manufactured, processed, packed, or held for introduction into commerce
 86 and any vehicle being used to transport or hold such foods to commerce for the purposes:

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

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

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

97

SECTION 4.

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

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SECTION 5.

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