

House Bill 1177

By: Representatives Levitas of the 82nd, Jacobs of the 80th, and Henson of the 87th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to
2 standards, labeling, adulteration of food, so as to provide for legislative intent; to provide a
3 short title; to define certain terms; to provide for the posting of kosher certification
4 information by sellers of kosher food and kosher for Passover food; to prohibit the posting
5 of false kosher certification information; to provide for enforcement by the Commissioner
6 of Agriculture; to provide penalties for the failure to post kosher certification information and
7 for the posting of false kosher certification information; to provide for the handling of minor
8 violations; to provide for the institution of criminal proceedings; to provide for injunctive
9 relief; to provide that remedies under this Act are not exclusive; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
14 labeling, adulteration of food, is amended by revising in its entirety Article 11, relating to
15 kosher foods, as follows:

16 style="text-align:center">"ARTICLE 11

17 26-2-330.

18 The General Assembly declares that the public has a right to expect honest and adequate
19 information regarding the sale of food presented as kosher and kosher for Passover,
20 specifically, the disclosure of certain facts underlying the claim that food is kosher or
21 kosher for Passover. The General Assembly finds that this information is needed by
22 consumers in order for them to make intelligent, well-informed purchasing decisions that
23 conform to their individual needs and to protect them from misleading or fraudulent claims
24 by unethical sellers. At the same time, the General Assembly is cognizant of the legal

25 duties already placed upon food sellers in order to protect the public and has tailored these
 26 kosher certification disclosure requirements to meet the prevailing practices in the retail
 27 food industry so as not to unduly burden sellers. Lastly, the General Assembly in
 28 establishing these kosher food certification disclosure standards is mindful of the freedom
 29 of religion granted individuals under the United States and Georgia Constitutions and the
 30 limitations placed on the power of government so as not cause an infringement of this basic
 31 liberty. It is the purpose of this article to ensure that truthful and sufficient kosher food
 32 certification information is made available to the public in the sale of kosher and kosher
 33 for Passover food and to authorize the Commissioner of Agriculture to take all actions
 34 necessary to obtain compliance.

35 26-2-331.

36 This article shall be known and may be cited as the 'Georgia Kosher Food Consumer
 37 Protection Act.'

38 26-2-332.

39 As used in this article, the term:

40 (1) 'Certifying individual or organization' means an individual, firm, corporation,
 41 association, or other entity that provides an assurance to the consumer that the food
 42 offered or being exposed for sale is kosher or kosher for Passover.

43 (2) 'Commissioner' means the Commissioner of Agriculture or his or her duly authorized
 44 agent.

45 (3) 'Consumer' means a person who is a member of the public, takes possession of food,
 46 is not functioning in the capacity of an operator of a food establishment or food
 47 processing plant, and does not offer the food for resale.

48 (4) 'Food' means any meat, products containing meat, meat byproducts, meat
 49 preparations, poultry, products containing poultry, poultry byproducts, poultry
 50 preparations, milk, products containing milk, milk byproducts, milk preparations, fish
 51 including shellfish, products containing fish, fish byproducts, fish preparations, articles
 52 of food, food products or food ingredients, chewing gum, dietary supplements, or
 53 beverages, either raw or prepared, intended for human consumption, whether on the
 54 premises where prepared or sold or taken elsewhere for consumption. 'Food' shall also
 55 include nonedible products made with or intended to be used with food.

56 (5) 'Kosher food' means food prepared in accordance with and products sanctioned by
 57 Jewish religious rules and requirements and includes foods prepared for the festival of
 58 Passover and termed as 'kosher for Passover.' 'Kosher food' does not include foods
 59 offered or exposed for sale that are described as 'kosher type' or 'kosher style,' whether

60 on packaging or in advertisements.
 61 (6) 'Person' means any individual, firm, corporation, or other entity that advertises,
 62 represents, or holds himself, herself, or itself out to the public as selling or exposing for
 63 sale any food as kosher or kosher for Passover. 'Person' also means those 'food sales
 64 establishments' as defined in Code Section 26-2-21 and those 'food service
 65 establishments' as defined in Code Section 26-2-370, including, but not limited to,
 66 manufacturers, distributors, slaughterhouses, wholesalers, repackagers, stores,
 67 restaurants, hotels, inns, boarding houses, lunchroom businesses, catering businesses,
 68 butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores,
 69 nursing homes, freezer dealers, and food plan companies. These persons may also sell,
 70 prepare, or maintain food not represented as kosher. 'Person' shall not include any house
 71 of worship.

72 26-2-333.

73 (a) Any person who sells or exposes for sale to the public any food represented to be
 74 kosher or kosher for Passover, other than food packaged in a sealed container obtained
 75 from a manufacturer, distributor, repackager, processor, slaughterhouse, or other party and
 76 marked as kosher or kosher for Passover by an independent certifying individual or
 77 organization, shall disclose the basis upon which that representation is made by posting the
 78 information required by this Code section on a sign in an open and conspicuous manner
 79 readily visible to the public upon the premises at which the food is being sold or exposed
 80 for sale.

81 (b) The sign to be posted under this Code section shall:

82 (1) Be at least 8 1/2 inches by 11 inches in size, printed or handwritten in at least 12
 83 point block letters; and

84 (2) Contain the following information and in substantially the following form:

85 'KOSHER CERTIFICATION FORM

86 Name of Establishment:

87 Address:

88 Name and Title of Individual or Name of Organization Certifying Food as Kosher:

89 Address and Phone Number of Certifying Individual or Organization:

90 The certifying Individual or Organization visits this establishment:

91 _____ time(s) daily _____ time(s) weekly _____ time(s) monthly

92 _____ time(s) yearly _____ always present

93 This establishment sells:

94 Meat, poultry, products containing meat or poultry, or meat or poultry byproducts

95 Milk, products containing milk, or milk byproducts

96 Shellfish or products containing shellfish or shellfish byproducts

97 This establishment (does does not) exclusively sell or serve kosher food.

98 This establishment sells or serves food that is (kosher not kosher) for Passover.

99 This kosher certification form is valid through / / (exact date or 'indefinite').

100 THIS SIGN IS POSTED PURSUANT TO THE GEORGIA KOSHER FOOD CONSUMER
 101 PROTECTION ACT, O.C.G.A. §§ 26-2-330, et seq.'

102 (c) Subsection (b) of this Code section notwithstanding, the kosher certification
 103 information may be contained in the format of a letter from the certifying individual or
 104 organization printed on the individual's or organization's letterhead and posted in the
 105 manner described in paragraph (1) of subsection (b) of this Code section; provided,
 106 however, that the information contained in the letter must contain, at a minimum, the same
 107 information as that set forth in paragraph (2) of subsection (b) of this Code section.

108 (d) The kosher certification form or letter may contain additional information concerning
 109 the foods for sale or exposed for sale, the seller, or the certifying individual or organization
 110 as the issuer of the kosher certification form or letter deems appropriate or helpful to
 111 consumers; provided, however, that the inclusion of such information shall not be intended
 112 to or likely to mislead a consumer in violation of Part 2 of Article 15 of Chapter 1 of Title
 113 10, the 'Fair Business Practices Act of 1975.'

114 (e) If the person selling or exposing for sale any food represented to be kosher or kosher
 115 for Passover is the same person certifying the food as kosher or kosher for Passover, that
 116 fact shall be indicated on the kosher certification form.

117 26-2-334.

118 (a) No person, with intent to defraud, shall display a kosher certification form upon the
 119 premises at which food is sold or exposed for sale that falsely represents an individual or
 120 organization as certifying the food being sold or exposed for sale as kosher or kosher for
 121 Passover.

122 (b) It shall be prima-facie evidence of intent to defraud if a person displays a kosher
 123 certification form or letter that represents an individual or organization as certifying that
 124 the food being sold or exposed for sale is kosher or kosher for Passover after having been
 125 sent a notice in writing from that individual or organization stating that no such
 126 certification is being provided and demanding that the false kosher certification form not
 127 be displayed.

128 26-2-335.

129 (a) The Commissioner is empowered to enforce the provisions of this article and to
130 promulgate and adopt such regulations and procedures as are necessary to encourage and
131 ensure conformance with this article.

132 (b) The Commissioner shall have free access at all reasonable hours to any place described
133 in this Code section in which food is sold or exposed for sale as being kosher or kosher for
134 Passover to determine whether the provisions of this article are being violated. No person
135 may refuse entry to the Commissioner during reasonable hours for the purposes of ensuring
136 compliance with this article.

137 (c) The Commissioner is authorized to receive reports from the public alleging that the
138 provisions of this article or any rules, regulations, or standards adopted and promulgated
139 under this article are being violated. If the Commissioner has reasonable grounds to
140 suspect that such a violation has occurred, the Commissioner may initiate an investigation
141 of the alleged violation based on such a report.

142 26-2-336.

143 (a) Except as provided in subsection (c) of this Code section, any person who violates
144 Code Section 26-2-333 or 26-2-334 shall be guilty of a misdemeanor and punished as
145 provided in subsection (b) of this Code section.

146 (b) Upon a first conviction for a violation of Code Section 26-2-333 or 26-2-334, the
147 person shall be punished by a fine of not less than \$100.00 and not more than \$250.00.
148 Upon a second conviction, the person shall be punished by a fine of not less than \$250.00
149 and not more than \$500.00. For a third or subsequent conviction, that person shall be
150 punished by a fine of not less than \$750.00 and not more than \$1,000.00.

151 (c) Any person with three or more convictions of violating Code Section 26-2-333 or
152 26-2-334 within five years, as measured from the dates of previous arrests or issuance of
153 citations for which convictions were obtained to the date of the current arrest or issuance
154 of a citation for which a conviction is obtained, shall be punished as for a high and
155 aggravated misdemeanor and fined not less than \$1,000.00 and not more than \$2,500.00.

156 26-2-337.

157 Nothing in this article shall be construed as requiring the Commissioner to report, for the
158 institution of proceedings under this article, minor violations of this article whenever the
159 Commissioner believes that the public interest will be adequately served in the
160 circumstances by a suitable written notice or warning.

161 26-2-338.

162 Where an alleged violation of this article is supported by probable cause, it shall be the
163 duty of each prosecuting attorney to whom the Commissioner reports any violation of this
164 article to institute cause appropriate proceedings in a court of proper jurisdiction and to
165 prosecute the same in the manner provided by law. Before any violation of this article is
166 reported to any prosecuting attorney for the institution of a criminal proceeding, the person
167 against whom such proceeding is contemplated shall be given appropriate notice and an
168 opportunity to be heard by the Commissioner orally or in writing, in person, or by attorney
169 with regard to such contemplated proceedings; provided, however, that nothing in this
170 Code section shall be construed as requiring a prosecuting attorney to institute proceedings
171 in the absence of probable cause to believe that a violation of this article has occurred or
172 otherwise act in violation of his or her oath of office.

173 26-2-339.

174 In addition to the remedies provided for in this article, the Commissioner is authorized to
175 apply to the superior court of the appropriate county for an injunction. Such court shall
176 have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent
177 injunction restraining any person from violating Code Section 26-2-333 or 26-2-334,
178 notwithstanding the existence of an adequate remedy at law.

179 26-2-340.

180 The remedies conferred by this article shall not be deemed exclusive of others which may
181 exist in Georgia or federal law."

182 **SECTION 2.**

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