

House Bill 101 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 144th, McCall of the 33rd, Jasperse of the 11th, Holmes of the 129th, Harden of the 148th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 26-2-370 of the Official Code of Georgia Annotated, relating to
2 definitions relative to food service establishments, so as to exclude certain events held by
3 nonprofit organizations from the definition of "food service establishment"; to amend Article
4 14 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to nonprofit
5 food sales and food service, so as to allow counties or municipalities to delegate permitting
6 authority to the local board of health; to provide for protection for property owners; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 26-2-370 of the Official Code of Georgia Annotated, relating to definitions
11 relative to food service establishments, is amended as follows:

12 "26-2-370.

13 As used in this article, the term:

14 (1) 'Food nutrition information' means the content of food including, but not limited to,
15 the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin,
16 mineral, and sodium content.

17 (2) 'Food service establishment' means establishments for the preparation and serving of
18 meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either
19 for carry out or service within the establishment. The term includes restaurants; coffee
20 shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which
21 retail sandwiches or salads; soda fountains; institutions, both public and private; food
22 carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar
23 facilities by whatever name called. Within a food service establishment, there may be a
24 food sales component, not separately operated. This food sales component shall be
25 considered as part of the food service establishment. This term shall not include a 'food
26 sales establishment,' as defined in Code Section 26-2-21, except as stated in this

27 definition. The food service component of any food sales establishment defined in Code
 28 Section 26-2-21 shall not be included in this definition. This term shall not include any
 29 outdoor recreation activity sponsored by the state, a county, a municipality, or any
 30 department or entity thereof, any outdoor or indoor (other than school cafeteria food
 31 service) public school function, or any outdoor private school function. This term also
 32 shall not mean establishments for the preparation and serving of meals, lunches, short
 33 orders, sandwiches, frozen desserts, or other edible products if such preparation or
 34 serving is an authorized part of and occurs upon the site of ~~a fair or festival~~ an event
 35 which:

36 (A) Is sponsored by a political subdivision of this state or by an organization exempt
 37 from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under
 38 Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the
 39 Internal Revenue Code, as that code is defined in Code Section 48-1-2;

40 (B) Is held on the property of such sponsor or on the property of a party that has
 41 provided written consent for use of such property for such event;

42 ~~(B)~~(C) Lasts 120 hours or less; and

43 ~~(C)~~(D) When sponsored by such an organization, is authorized to be conducted
 44 pursuant to a permit issued by the municipality or county in which it is conducted.

45 (3) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee, or
 46 association, or combination thereof."

47 SECTION 2.

48 Article 14 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to
 49 nonprofit food sales and food service, is amended by revising Code Section 26-2-391,
 50 relating to permits for nonprofit food sales and food service at events, as follows:

51 "26-2-391.

52 A county or municipality shall be authorized to issue permits for the operation of nonprofit
 53 food sales and food service at events sponsored by the county, municipality, or an
 54 organization; provided, however, that the county or municipality may delegate the authority
 55 to issue such permits to the county board of health. For any permit issued pursuant to this
 56 Code section to be valid, the event must be held on property belonging to the sponsoring
 57 county, municipality, or organization or on the property of a party that has provided written
 58 consent for use of such property for such event. A permit shall be valid for a period of 120
 59 hours or less and another permit shall not be issued to the organization holding such permit
 60 until five days have elapsed from the date of the expiration of the permit. No fees shall be
 61 charged to an organization for the issuance of any such permit ~~by a county or municipality.~~"

62

SECTION 3.

63 Said article is further amended in Code Section 26-2-393, relating to enforcement of
64 nonprofit food sales and food service provisions, by revising subsection (a) as follows:

65 "(a) The county or municipality issuing a permit for the operation of a nonprofit food sales
66 and food service event shall be authorized to enforce the provisions of this article;
67 ~~provided, however, no adverse action against an organization may be taken by a county or~~
68 ~~municipality or any agent of a county or municipality, including a denial of a permit or~~
69 ~~revocation of a permit, or citation for violation of this article, without the written approval~~
70 ~~of such action by the district health director and any party whose property is used for the~~
71 ~~operation of a nonprofit food sales or food service event without such party's written~~
72 ~~authorization may seek legal and equitable remedies including, but not limited to, damages~~
73 ~~and injunctive relief against unauthorized users."~~

74

SECTION 4.

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