

The Senate Committee on Health and Human Services offered the following substitute to SB 345:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to provide for nonprofit organizations to prepare and provide food in accordance with Department of Public Health requirements; to revise the definitions of "food sales establishment" and "food service establishment"; to revise provisions relating to permits for nonprofit food sales and food service; to revise requirements for food items prepared by nonprofit organizations; to eliminate the right to appeal to the commissioner of public health for orders or actions of a county board of health or district health director; to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, is amended by revising paragraph (5) of subsection (a) of Code Section 26-2-21, relating to definitions relative to the "Georgia Food Act," as follows:

"(5) 'Food sales establishment' means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, except those food processing plants which are currently required to obtain a license from the Commissioner under any other provision of law; bakeries; confectioneries; fruit, nuts, and vegetable stores or roadside stands; wholesale sandwich and salad manufacturers, including vending machines and operations connected therewith; and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off the premises. Within a food sales establishment, there may be a food service component, not separately operated, which may serve customers on site. This food service component shall be considered as part of the food sales establishment. This term shall not include:

(A) The food sales component of any food service establishment defined in Code Section 26-2-370; ~~shall not be included in this definition. This term shall not include~~

(B) Food service establishments ~~'food service establishments'~~ as defined in Code Section 26-2-370; ~~This term also shall not include~~

(C) Establishments ~~establishments~~ engaged in the sale of food primarily for consumption off the premises if such sale is an authorized part of and occurs upon the site of a fair or festival which:

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

~~(B)(ii) Lasts 120 hours or less; and~~

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

(D) Establishments ~~This term also shall not include establishments~~ engaged in the boiling, bottling, and sale of sugar cane syrup or sorghum syrup within this state, provided that such bottles contain a label listing the producer's name and street address, all added ingredients, and the net weight or volume of the product; or

(E) Nonprofit food sales and food service provided under a permit issued pursuant to Article 14 of this chapter."

## SECTION 2.

Said chapter is further amended by revising division (1)(B)(iv) of Code Section 26-2-62, relating to the "Georgia Meat Inspection Act," as follows:

"(iv) If it bears or contains any color additive which is unsafe within the meaning of Section ~~706~~ 721 of the Federal Food, Drug, and Cosmetic Act; or"

## SECTION 3.

Said chapter is further amended by Code Section 26-2-370, relating to definitions relative to food service establishments, as follows:

"26-2-370.

As used in this article, the term:

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

(2) 'Food service establishment' means establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either for carry out or service within the establishment. ~~The~~ This term includes restaurants;

coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which retail sandwiches or salads; soda fountains; institutions, both public and private; food carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar facilities by whatever name called. Within a food service establishment, there may be a food sales component, not separately operated. This food sales component shall be considered as part of the food service establishment. This term shall not include:

(A) A food sales establishment, a 'food sales establishment,' as defined in Code Section 26-2-21, except as otherwise stated in this definition. paragraph;

(B) The food service component of any food sales establishment defined in Code Section 26-2-21; shall not be included in this definition. This term shall not include

(C) Any any outdoor recreation activity sponsored by the state, a county, a municipality, or any department or entity thereof, any outdoor or indoor (other than school cafeteria food service) public school function, or any outdoor private school function; Such term shall also not include

(D) Any any organization which is operating on its own property or on the property of a party that has provided written consent for the use of such property for such purpose and which is exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code for the purpose of operating a house or other residential structures where seriously ill or injured children and their families are provided temporary accommodations in proximity to their treatment hospitals and where food is prepared, served, transported, or stored by volunteer personnel; This term also shall not mean

(E) Establishments establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products if such preparation or serving is an authorized part of and occurs upon the site of an event which:

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

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

(C)(iii) Lasts 120 hours or less; and or

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

(F) Nonprofit food sales and food service provided under a permit issued pursuant to Article 14 of this chapter.

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

#### SECTION 4.

Said chapter is further amended by revising Article 14, relating to nonprofit food sales and food service, as follows:

"26-2-390.

As used in this article, the term:

(1) 'Nonprofit food sales and food service' means the temporary sale or service of food items by an organization at an event sponsored by a county, municipality, or organization or the temporary sale of food items by an organization if such sale is sponsored by a religious, charitable, or nonprofit corporation, including but not limited to churches, schools, clubs, lodges, or other such organizations.

(2) 'Organization' means an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2.

26-2-391.

(a) A county or municipality shall be authorized to issue permits for the operation of nonprofit food sales and food service at events sponsored by the county, municipality, or an organization; ~~provided, however, that the county or municipality may delegate the authority to issue such permits to the county board of health.~~ For any permit issued pursuant to this Code section to be valid, the event must be held on property belonging to the sponsoring county, municipality, or organization or on the property of a party that has provided ~~written~~ consent for use of such property for such event.

(b) A permit shall be valid for:

(1) A a period of up to 120 consecutive hours or less and another permit shall not be issued to the organization holding such permit until five days have elapsed from the date of the expiration of the permit; or

(2) A continuous period of up to 12 weeks between May 15 and August 15 and four additional weeks during the calendar year, which may be composed of nonconsecutive periods, coinciding with holidays during which local school systems are not in session, provided that all food items are provided free of charge and the organization does not receive funding from the United States Department of Agriculture to operate a food program.

(c) At the request of the county or municipality issuing a permit pursuant to this Code section or at the request of a county or municipality sponsoring an event pursuant to subparagraph (a)(5)(C) of Code Section 26-2-21 or subparagraph (2)(E) of Code Section 26-2-370, the county board of health shall:

(1) Supply educational materials regarding food safety which may be provided to event organizers and the public; and

(2) Conduct food safety inspections to ensure compliance with the provisions of Code Section 26-2-392.

(d) No fees shall be charged to an organization for the issuance of any ~~such~~ permit pursuant to this Code section; provided, however, that the county board of health shall be authorized to impose a fee for inspections performed at the request of the issuing county or municipality. Such fee shall be fixed in a reasonable amount such that the proceeds of the fee do not exceed the total direct and indirect costs of conducting the inspection.

(e) For purposes of this Code section, an event may include the provision of food at a third-party location within the same county.

26-2-392.

(a) This Code section applies to food items prepared and offered for sale or service by organizations at events covered under this article. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a licensed food processing establishment is prohibited.

(b) At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, flooding, drainage, and overhead leakage or overhead drippage from condensation. ~~The temperature of potentially hazardous food shall be either 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times.~~

(c) Meat, poultry, seafood, and other animal products shall be cooked to at least the safe minimum cooking temperatures recommended by the United States Department of Agriculture. No raw or undercooked animal products shall be served.

~~(c)~~(d) Time/temperature control for safety foods to be served at an event shall be maintained at 41 degrees Fahrenheit or less if held cold or 135 degrees Fahrenheit or more if held hot. A thin probe thermometer shall be used to check temperatures of such foods. The preparation of the following ~~potentially hazardous~~ time/temperature control for safety foods is prohibited unless the organization has an established hazard control program:

(1) Pastries filled with cream or synthetic cream;

(2) Custards;

(3) Products similar to the products listed in paragraphs (1) and (2) of this subsection;  
or

(4) Salads containing meat, poultry, eggs, or fish.

~~(d)~~(e) Frozen desserts shall only be produced using commercially pasteurized mixes or ingredients.

~~(f)~~ Suitable utensils, as needed for serving, must be provided to eliminate ~~hand~~ bare-hand contact with ~~the cooked product or ready-to-eat foods~~. All utensils and equipment shall be ~~cleaned~~ washed, rinsed, and sanitized periodically as necessary to prevent contamination or a buildup of food, using separate basins for washing, rinsing, and sanitizing. Disposable utensils may be utilized to meet such requirement.

~~(e)~~(g) Ice that is consumed or that contacts food shall be from an approved source and protected from contamination until used. Ice used for cooling stored food shall not be used for human consumption. Food shall be served in an individual-meal type of container and handed to the customer. Food items shall not be transported for sale at any other location or sold, held, or reused at another event.

~~(f)~~(h) A convenient handwashing facility shall be available for ~~employee handwashing use~~ by individuals preparing and serving food. This facility shall consist of, at least, warm running water, soap, and individual paper towels. Individuals who prepare or serve food shall not make bare-hand contact with ready-to-eat food. Individuals who have a known communicable or transmittable disease, as defined by the Department of Public Health for these purposes, shall not prepare or serve food at an event.

~~(g)~~(i) This Code section shall in no way be construed to allow the sale of food items which have been packaged, bottled, or canned in unapproved facilities. Food items prepared in private homes are prohibited; provided, however, that this shall not apply to any food item produced in compliance with a license issued by the Department of Agriculture pursuant to Article 2 of this chapter.

~~(h)~~(j) County boards of health are authorized to provide staff assistance to organizations at events covered under this article for the purpose of providing food safety instruction.

(k) Nothing in this Code section shall prohibit an organization from using an offsite kitchen to prepare food for an event permitted under this article, so long as the offsite kitchen complies with the provisions of this Code section.

26-2-393.

~~(a)~~ The county or municipality issuing a permit for the operation of a nonprofit food sales and food service event shall be authorized to enforce the provisions of this article and any

205 party whose property is used for the operation of a nonprofit food sales or food service  
206 event without such party's ~~written authorization~~ consent may seek legal and equitable  
207 remedies including, but not limited to, damages and injunctive relief against unauthorized  
208 users.

209 ~~(b) Any organization which is aggrieved or adversely affected by any final order or action~~  
210 ~~of a county board of health or district health director may have review thereof by appeal~~  
211 ~~to the commissioner of public health or his or her designee. Appeals to the commissioner~~  
212 ~~shall be heard after not more than eight hours."~~

213 **SECTION 5.**

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

216 **SECTION 6.**

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