

House Bill 1443

By: Representatives Gaines of the 117<sup>th</sup>, Wiedower of the 119<sup>th</sup>, Gambill of the 15<sup>th</sup>, Hagan of the 156<sup>th</sup>, Cameron of the 1<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated,  
2 relating to food service establishments, so as to provide that mobile food service  
3 establishments that have active permits may operate in the county of origin and in one or  
4 more counties other than its county of origin without obtaining an additional permit; to  
5 provide for definitions; to provide for notice to other counties prior to operation; to provide  
6 for communication between the county of origin and other counties; to provide for  
7 inspections of mobile food service establishments by other counties; to provide for written  
8 notice of remedial measures upon failure of an inspection; to provide for violation fines and  
9 penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to  
13 food service establishments, is amended by revising Code Section 26-2-370, relating to  
14 definitions, as follows:

15 "26-2-370.

16 As used in this article, the term:

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(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. ~~This~~ Such 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~~ Such term shall not include:

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

(B) The food service component of any food sales establishment defined in Code Section 26-2-21;

(C) 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;

(D) 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;

(E) 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:

(i) Is sponsored by a political subdivision of this state;

(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

(iii) Lasts 120 hours or less; or

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

(3) 'Mobile food service establishment' means one or more mobile food service units operating from a single base of operation and under the managerial authority of one permit holder.

~~(3)~~(4) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee, or association, or combination thereof."

## SECTION 2.

Said article is further amended by revising Code Section 26-2-371, relating to required permits to be issued by county board of health or the Department of Public Health, the validity and transferability of permits, and rules and regulations by municipalities, as follows:

"26-2-371.

It shall be unlawful for any person to operate a food service establishment without having first obtained a valid food service establishment permit. Such permits shall be issued by the county board of health or its duly authorized representative, subject to supervision and direction by the Department of Public Health; but, where the county board of health is not functioning, such permit shall be issued by the Department of Public Health. Except as provided for in Code Section 26-2-379, such ~~Such~~ permits shall be valid until suspended

or revoked and shall not be transferable with respect to person or location. When a mobile food service establishment has been permitted in any county, that permit shall be recognized by all counties pursuant to Code Section 26-2-379. Except as provided for in Code Section 26-2-379, nothing ~~Nothing~~ contained in this article shall prevent any municipality from adopting rules and regulations governing the licensing and operation of food service establishments."

### SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

"26-2-379.

(a) A county board of health outside a mobile food service establishment's county of origin shall recognize the permit from the mobile food service establishment's county of origin as provided for in this Code section. Such recognition shall authorize the mobile food service establishment to operate in an outside county subject to the ordinances of such county.

(b) A county board of health shall use the following process to recognize a permit from a mobile food service establishment's county of origin:

(1) Prior to operating in a county outside the mobile food service establishment's county of origin, a mobile food service establishment shall submit to the county board of health in the outside county a copy of its mobile food service establishment permit from its county of origin, its permit for its base of operations, and a listing of any other counties where it is authorized to operate. Such information shall be submitted in person, by electronic mail, or on an electronic form on the outside county's website if available; and

(2) Upon receipt of such information, the county board of health in the outside county shall verify on the Department of Public Health's permit data base, or by contacting all relevant counties directly, that the permit is in good standing in the county of origin and in any other counties where the mobile food service establishment has been authorized

96 to operate. Upon verification that the permit is in good standing, a county shall recognize  
97 the permit and shall immediately authorize the mobile food service establishment to  
98 operate in its jurisdiction and have jurisdiction over the mobile food service  
99 establishment.

100 (c) An outside county may refuse to recognize a mobile food service establishment's  
101 permit if it is not in good standing in the county of origin or if the establishment has  
102 citations in any county that raise public health and safety concerns. The county shall  
103 recognize or deny the permit within three business days from the date the mobile food  
104 service establishment requests recognition. If the county refuses to recognize a mobile  
105 food service establishment's permit, the county shall provide the mobile food service  
106 establishment written notice regarding the basis for its refusal and advise of any remedial  
107 actions that may be taken so the mobile food service establishment may operate in its  
108 jurisdiction.

109 (d) The mobile food service establishment may be subject to periodic and unannounced  
110 inspections in any outside county where its permit has been recognized. County boards of  
111 health shall utilize discretion when inspecting mobile food service establishments that have  
112 been authorized to operate in multiple jurisdictions and that have high previous inspection  
113 scores to ensure they are not inspected more frequently than necessary to protect public  
114 health and safety. A mobile food service establishment shall allow the county board of  
115 health access for inspection when the mobile food service establishment is physically  
116 operating in such county.

117 (e) If any such inspection results in a violation, any outside county may notify the county  
118 of origin and any other counties where the mobile food service establishment is authorized  
119 to operate of the violation. A county may issue a fine or terminate authorization for the  
120 mobile food service establishment to operate in the county for the violation.

- 121 (f) A mobile food service establishment shall renew its permit annually in its county of  
122 origin and shall provide any outside counties where it is authorized to operate a copy of its  
123 renewed permit before operating under the renewed permit.
- 124 (g) The Department of Public Health may establish an expedited permit approval and  
125 recognition process for mobile food service establishments for counties to utilize that is  
126 consistent with the provisions of this Code section.
- 127 (h) The Department of Public Health may develop rules and regulations governing the  
128 operation of mobile food service establishments. Any such rules and regulations shall be  
129 narrowly tailored to address health and safety risks."

130 **SECTION 4.**

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