

House Bill 228

By: Representatives Horner of the 3rd, Ridley of the 6th, Cannon of the 172nd, Ridley of the 22nd, Cox of the 28th, and others

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, and adulteration of food, so as to authorize and regulate the production
3 of farmstead products for human consumption; to provide relief from unnecessary regulatory
4 burdens to small dairy farmers and dairy product producers; to provide standards for safety,
5 cleanliness, and health for such products; to authorize the Commissioner of Agriculture to
6 enforce such standards and to promulgate rules and regulations; to provide for and require
7 permits related to the production of farmstead products; to provide for penalty; to provide for
8 definitions; to provide for related matters; to provide a short title; to repeal conflicting laws;
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Georgia Farmstead Relief Act."

13 **SECTION 2.**

14 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
15 labeling, and adulteration of food, is amended by adding a new article to read as follows:

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"ARTICLE 19

26-2-500.

As used in this article, the term:

(1) 'Commissioner' means the Commissioner of Agriculture of the State of Georgia.

(2) 'Department' means the Department of Agriculture of the State of Georgia.

(3) 'Farmstead' is any place or premises where one or more lactating animals, such as cows, goats, and sheep, are kept for milking purposes, and from which a part or all of the milk produced by the resident lactating animals is processed in an on-site farmstead manufacturing plant to manufacture farmstead products.

(4) 'Farmstead manufacturing plant' is a facility located on a farmstead in which farmstead milk is pasteurized and used to make farmstead products.

(5) 'Farmstead milk' is milk produced by farmstead lactating animals which is pasteurized and processed in a farmstead manufacturing plant to manufacture farmstead products.

(6) 'Farmstead products' are dairy products, including cheese, butter, and ice cream, made in a farmstead manufacturing plant for human consumption. Farmstead products are limited to class II-IV dairy products as defined by the Federal Milk Order System of the United States Department of Agriculture.

26-2-501.

Farmstead products which are in compliance with this article and in compliance with the rules and regulations promulgated pursuant to this article may be sold, offered for sale, or delivered to the consuming public for the purpose of human consumption.

38 26-2-502.

39 All farmstead manufacturing plants must have a valid dairy manufacturer's license issued
40 by the department.

41 26-2-503.

42 No license or permit shall be required for a farmstead.

43 26-2-504.

44 (a) The Commissioner is charged with the responsibility of enforcing this article.

45 (b) It shall be the duty of the Commissioner or his or her authorized food safety division
46 representative:

47 (1) To inspect or cause to be inspected the farmstead manufacturing plant at the time of
48 licensure, annually thereafter, and in the event of concerns about the safety of farmstead
49 products produced by the farmstead manufacturing plant;

50 (2) To prohibit the production, sale, or distribution of unclean or unwholesome farmstead
51 products;

52 (3) To condemn for food purposes all unclean or unwholesome farmstead products,
53 wherever found;

54 (4) To take samples anywhere of farmstead products and cause the same to be analyzed
55 or satisfactorily tested;

56 (5) To inspect and make tests of any instrument or equipment used in the production of
57 farmstead products; and

58 (6) To compile and publish in print or electronically annually, or at such shorter intervals
59 as he or she may desire, statistics and information concerning farmsteads in this state.

26-2-505.

The Commissioner shall have the power to adopt, amend, and repeal rules and regulations to implement and enforce this article; provided, however, that all rules and regulations shall be of uniform application; and provided, further, that all rules and regulations shall be adopted, amended, or repealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The rules and regulations shall include, but not be limited to, the following:

- (1) Rules and regulations to provide for the labeling of farmstead products; and
- (2) Rules and regulations to prescribe the specifications of all equipment used in the production of farmstead products and instruments that may be used in the testing of farmstead milk used in the production of farmstead products, except as otherwise specified by this article.

26-2-506.

(a) It shall be unlawful for any farmstead manufacturing plant that does not possess a dairy manufacturer's license from the department to manufacture or sell farmstead products.

(b) Licenses shall not be transferable to other persons or locations.

(c) Applications for all licenses provided for in this article shall be made to the Commissioner on such forms as he or she may prescribe. The Commissioner may deny, refuse, suspend, or revoke any license, after notice and a hearing, for any violation of or failure to comply with this article or the rules and regulations promulgated hereunder; provided, however, that the hearing shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

26-2-507.

(a) All farmstead products shall be packaged and sealed at the same location where produced.

(b) All containers and packages enclosing farmstead products shall be labeled in accordance with the applicable requirements of the federal Food, Drug, and Cosmetic Act, as amended, the federal Nutrition Labeling and Education Act (NLEA) of 1990 and regulations developed thereunder, and the Code of Federal Regulations and shall comply with the applicable requirements of this article.

26-2-508.

(a) Samples of farmstead milk and farmstead products shall be collected by the department and tested prior to a dairy manufacturer's license being issued to the farmstead manufacturing plant.

(b) The farmstead shall provide to the department satisfactory testing results prior to:

(1) The farmstead manufacturing plant receiving a dairy manufacturer's license and beginning production or distribution; or

(2) Reinstatement of a dairy manufacturer's license to a farmstead manufacturing plant that has been suspended.

(c) Samples of farmstead milk and farmstead products, except as otherwise specified by this article, may be taken for scientific examination for public health purposes, at any reasonable time or place, and examined bacteriologically or for any other public health reason by agents of the department. On a schedule or at times to be determined by the department, such samples are to be collected by the farmstead and farmstead manufacturing plant, properly packaged in prepaid parcels provided by the department and submitted to a designated testing facility by overnight mail.

26-2-509.

All farmstead milk used in the production of farmstead products shall be pasteurized. No raw milk pursuant to Article 18 of this chapter shall be used in the production of farmstead products. Farmstead milk shall, except as otherwise specified in this article, meet the

110 requirements of milk for manufacturing purposes as defined by the United States
111 Department of Agriculture.

112 26-2-510.

113 Farmsteads located in regions determined by the U.S. Department of Agriculture's Animal
114 and Plant Health Inspection Service to be free of brucellosis and tuberculosis whose
115 lactating animals, including cows, goats, and sheep, are used to produce farmstead milk to
116 be used to make farmstead products shall be exempt from any brucellosis and tuberculosis
117 testing requirements.

118 26-2-511.

119 Farmsteads shall be exempt from all mandatory testing of milk for manufacturing purposes
120 except:

121 (1) The appearance and odor test; and
122 (2) Testing for antibiotic residues. Farmsteads shall be responsible for conducting,
123 performing, and recording the testing of farmstead milk prior to pasteurization and use
124 in the manufacture of farmstead products.

125 26-2-512.

126 (a) The Commissioner shall be charged with the enforcement of this article and shall have
127 the power and authority, in connection with this and other provisions dealing with food or
128 food products, to revoke or cancel the dairy manufacturer's license of any person or
129 farmstead manufacturing plant doing business in this state who violates the laws of this
130 state or the rules and regulations made pursuant thereto.

131 (b) The enforcement methods authorized by this article shall be cumulative of those
132 otherwise provided by law, and the same are not superseded by this article.

26-2-513.

(a) Any person operating under this article shall furnish, upon the request of the Commissioner, such data and statistics as he or she may require.

(b) All persons operating under this article shall keep complete and accurate records of their operations, and the Commissioner shall have free access to all such records.

26-2-514.

Any person, firm, or corporation subject to this article and the other laws of this state who violates any provision of this article or any valid rules or regulations made thereunder may be enjoined from such continued violation. The Commissioner is authorized to apply for, and for cause shown the superior court having jurisdiction of the defendant in any such action may grant, injunctive relief by interlocutory injunction, permanent injunction, or temporary restraining order, as the circumstances may warrant. The proceeding may be maintained notwithstanding the pendency of any civil action and notwithstanding the pendency of or conviction in a criminal proceeding arising from the same transaction. Such action may be maintained without bond. The purpose of this Code section is to create a statutory cause of action by way of injunction, and the Commissioner is authorized to bring such proceedings in the same form and manner and in the same court as other equitable proceedings may be brought. This remedy is not exclusive but is cumulative of other remedies afforded to protect the consuming public from unwholesome products which are economic frauds.

26-2-515.

Any person who violates any provision this article shall be guilty of a misdemeanor."

SECTION 3.

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