

House Bill 583

By: Representatives Hagan of the 156<sup>th</sup>, Gaines of the 120<sup>th</sup>, and Camp of the 135<sup>th</sup>

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 the production and sale of  
3 homemade food items with certain exemptions, requirements, and disclosures; to provide for  
4 definitions; to provide for licensing and inspections; to provide for a civil penalty; to provide  
5 for conforming changes; to amend Chapter 60 of Title 36 of the Official Code of Georgia  
6 Annotated, relating to general provisions applicable to counties and municipal corporations,  
7 so as to prohibit local regulation of homemade food items; to provide for related matters; to  
8 repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

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

H. B. 583

13 "ARTICLE 19

14 26-2-470.

15 As used in this article, the term:

16 (1) 'Commissioner' means the Commissioner of Agriculture.

17 (2) 'Cottage food operator' means a person who produces homemade food items at a  
18 residential property for sale to consumers or sellers pursuant to this article.

19 (3) 'Department' means the Department of Agriculture.

20 (4) 'Homemade food item' means a food item or nonalcoholic beverage intended for  
21 human consumption that is produced and, if packaged, packaged at the residential  
22 property of the producer. The term 'homemade food item' shall not include alcoholic  
23 beverages, foods containing cannabis, or raw milk.

24 (5) 'Milk product' shall have the same meaning as such term is used in Article 7 of this  
25 chapter but shall exclude raw milk.

26 (6) 'Non-potentially hazardous foods' means homemade food items that do not require  
27 temperature control for safety because they are not capable of supporting the rapid  
28 growth of pathogenic or toxigenic microorganisms or the growth and toxin production  
29 of Clostridium botulinum. The term 'non-potentially hazardous foods' includes, but is not  
30 limited to, baked goods such as loaf breads, rolls, biscuits and cakes, except those whose  
31 fillings require refrigeration or have high moisture content; jams, jellies, and preserves,  
32 except fruit butters when their commercial sterility may be affected by reduced sugar or  
33 pectin levels; uncut fruits and vegetables; dried fruits; dry herbs, seasonings, and  
34 mixtures; cereals, trail mixes, and granola; coated and uncoated nuts; vinegars and  
35 flavored vinegars; dill pickles; confections; fudge; dry soup mixes; roasted coffee beans;  
36 dry pasta; and popcorn, popcorn balls, and cotton candy.

37 (7) 'Potentially hazardous foods' means homemade food items requiring temperature  
38 control for safety because they are capable of supporting the rapid growth of pathogenic

39 or toxigenic microorganisms or the growth and toxin production of Clostridium  
40 botulinum.

41 (8) 'Produce' means to prepare a food item by cooking, baking, drying, mixing, cutting,  
42 fermenting, preserving, dehydrating, growing, raising, or other process.

43 (9) 'Producer' means a person who produces a homemade food item pursuant to this  
44 article.

45 (10) 'Seller' means any person, except a cottage food operator, who sells a homemade  
46 food item to a consumer, including, but not limited to, an agent of the producer or a  
47 third-party vendor.

48 (11) 'Third-party vendor' means a retail store, grocery store, or other similar store.

49 26-2-471.

50 (a) Except as provided in subsection (e) of this Code section, it shall be unlawful for any  
51 person to operate as a cottage food operator without a valid cottage food operator license  
52 issued by the Commissioner pursuant to this article.

53 (b) A cottage food operator license shall be issued by the Commissioner which shall expire  
54 at the end of each calendar year. The Commissioner may charge a permit fee not to exceed  
55 \$100.00. For any permit issued after June 30 in any calendar year, the permit fee shall be  
56 reduced by 50 percent.

57 (c) An application for an initial cottage food operator license or a renewal of such license  
58 shall include:

59 (1) The business name and address of the cottage food operator;

60 (2) Documentation confirming that the cottage food operator has completed an in-person  
61 or online food safety manager principles course and earned a food manager certification  
62 from the American National Standards Institute or other training program approved by  
63 the department.

64 (d) Upon issuing a cottage food operator license, the Commissioner shall include on the  
65 license:

66 (1) The business name and address of the cottage food operator;

67 (2) The cottage food operator's name;

68 (3) The issuance and expiration date of the license; and

69 (4) The following statement: 'This license allows for the retail sale of homemade food  
70 items. Food produced in this facility is not subject to routine inspection, nor should this  
71 license be construed as a substitute for the Department of Agriculture's food sales  
72 establishment license.'

73 (e) A cottage food operator license shall not be required for a person to sell non-potentially  
74 hazardous foods at a bake sale affiliated with a nonprofit, charitable, or religious  
75 organization.

76 26-2-472.

77 (a) A cottage food operator or seller may sell homemade food items that do not contain  
78 meat, meat by-products, meat food products, poultry, poultry by-products, poultry food  
79 products, or milk products in person or remotely via telephone, email, or website, including  
80 through a third-party vendor's website or mobile application. Such products may be  
81 delivered by the cottage food operator or their agent.

82 (b) A cottage food operator may sell directly to consumers homemade food items that  
83 contain meat, meat by-products, meat food products, poultry, poultry by-products, poultry  
84 food products, or milk products if:

85 (1) Such poultry was raised by the producer pursuant to the exemption set forth  
86 in 9 C.F.R. Section 381.10(c); or

87 (2) Such meat or poultry came from an inspected source, such as a butcher shop or  
88 grocery store, pursuant to 9 C.F.R. Section 381.10(d).

89 Such homemade food items must be delivered directly by the cottage food operator to the  
90 consumer in person.

91 (c) A seller shall not sell homemade food items that contain meat, meat by-products, meat  
92 food products, poultry, poultry by-products, poultry food products, or milk products.

93 26-2-473.

94 Any potentially hazardous homemade food item that is transported before final delivery to  
95 a consumer shall:

96 (1) Be maintained at an appropriate temperature to prevent the rapid growth of  
97 pathogenic or toxigenic microorganisms or the growth and toxin production of  
98 Clostridium botulinum at all times during transport;

99 (2) Not be transported more than once; and

100 (3) Not be transported for longer than two hours.

101 26-2-474.

102 (a) Except as provided in subsection (c) of this Code section, a cottage food operator or  
103 seller shall provide the following information to consumers of a homemade food item:

104 (1) The business name, address, and telephone number of the cottage food operator;

105 (2) The common or usual name of the homemade food item;

106 (3) The ingredients of the homemade food item in descending order of predominance by  
107 weight;

108 (4) The following statement in at least 10 point font: 'This product was produced at a  
109 residential property that is exempt from state inspection. This product may contain  
110 allergens.'

111 (b) Such information shall be provided:

112 (1) On a label affixed to the package, if the homemade food item is packaged;

113 (2) On a label affixed to the container, if the homemade food item is offered for sale  
114 from a bulk container;

115 (3) On a placard displayed at the point of sale, if the homemade food item is neither  
116 packaged nor offered for sale from a bulk container; or

117 (4) On the webpage on which the homemade food item is offered for sale, if the  
118 homemade food item is offered for sale on the internet.

119 (c)(1) If the homemade food item is sold by telephone or custom order, the seller may  
120 choose not to display the information required by subsection (a) of this Code section but  
121 shall disclose to consumers that the homemade food item:

122 (A) Is produced at a residential property that is exempt from state inspection; and

123 (B) May contain allergens.

124 (2) The seller shall have the information required by paragraphs (1) through (3) of  
125 subsection (a) of this Code section readily available and shall provide it to consumers  
126 upon request.

127 (d) In addition to the labeling requirements provided in subsections (a) and (b) of this  
128 Code section, if the homemade food item is sold by a third-party vendor, the item shall be  
129 displayed in a separate section of the store or in a separate display case from  
130 non-homemade food items. The third-party vendor shall conspicuously label the separate  
131 section or display case as containing homemade food items that are exempt from state  
132 inspection.

133 26-2-475.

134 The Commissioner shall be authorized to enforce the provisions of this article and shall  
135 have the authority to adopt any rules or regulations necessary to carry out said enforcement.

136 Nothing in this article shall be construed to prevent the department from conducting an  
137 investigation into a reported foodborne illness.

138 26-2-476.

139 Any person who willfully fails to comply with any provision of this article or violates any  
140 rule or regulation adopted pursuant to this article shall be given a written warning. Upon  
141 a second or subsequent violation, such person shall be assessed a civil penalty of not more  
142 than \$75.00 per violation.

143 26-2-477.

144 (a) The department may inspect the residence of a cottage food operator to investigate a  
145 consumer complaint, a report of foodborne illness, or other public health emergency.

146 (b) Such inspection shall be limited to the areas of the residence used by the cottage food  
147 operator.

148 (c) Except in emergency situations, the department shall schedule an inspection with the  
149 cottage food operator in advance. A cottage food operator may request an administrative  
150 warrant prior to an inspection.

151 26-2-478.

152 Nothing in this article shall be construed to:

153 (1) Exempt a cottage food operator or seller from any applicable federal law, including,  
154 but not limited to, any federal law prohibiting the sale of certain food items in interstate  
155 commerce;

156 (2) Preclude the production or sale of food items otherwise allowed by federal, state, or  
157 local law;

158 (3) Preclude the sale of live animals or portions of live animals before slaughter for  
159 future delivery;

160 (4) Amend or otherwise alter any rule or regulation related to other goods and services  
161 provided where homemade food items are produced or sold;

162 (5) Exempt a cottage food operator or seller from any applicable tax law;

- 163 (6) Exempt a cottage food operator or seller from any applicable fishing or hunting law;  
164 or  
165 (7) Exempt a cottage food operator or seller from any applicable law of another state."

166 **SECTION 2.**

167 Said chapter is further amended in Article 2, relating to adulteration and misbranding of food,  
168 by revising paragraph (5) of subsection (a) of Code Section 26-2-21, relating to definitions,  
169 as follows:

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

- 181 (A) The food sales component of any food service establishment defined in Code  
182 Section 26-2-370;
- 183 (B) Food service establishments as defined in Code Section 26-2-370;
- 184 (C) Establishments engaged in the sale of food primarily for consumption off the  
185 premises if such sale is an authorized part of and occurs upon the site of a fair or  
186 festival which:
- 187 (i) Is sponsored by a political subdivision of this state; and  
188 (ii) Lasts 120 hours or less;



189 (D) Establishments engaged in the boiling, bottling, and sale of sugar cane syrup or  
190 sorghum syrup within this state, provided that such bottles contain a label listing the  
191 producer's name and street address, all added ingredients, and the net weight or volume  
192 of the product; ~~or~~

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

195 (F) Licensed cottage food operators as provided for in Code Section 26-2-471; or

196 (G) A person selling non-potentially hazardous foods, as defined in Code  
197 Section 26-2-470, at a bake sale affiliated with a nonprofit, charitable, or religious  
198 organization."

199 **SECTION 3.**

200 Said chapter is further amended in Article 6, relating to meat, poultry, and dairy processing  
201 plants, by revising paragraph (3) of Code Section 26-2-200, relating to definitions, as  
202 follows:

203 "(3) 'Meat, poultry, or dairy processing plant' means: any abattoir, slaughterhouse,  
204 poultry killing or processing plant, milk depot, milk processing plant, or any other  
205 establishment for the killing, storage, dressing, manufacture, preparation, or processing  
206 of any animal, fowl, or dairy product or any by-product thereof for human consumption.  
207 Such term shall not include licensed cottage food operators as provided for in Code  
208 Section 26-2-471."

209 **SECTION 4.**

210 Said chapter is further amended in Article 13, relating to food service establishments, by  
211 revising paragraph (2) of Code Section 26-2-370, relating to definitions, as follows:

212 "(2) 'Food service establishment' means establishments for the preparation and serving  
213 of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products

214 either for carry out or service within the establishment. Such term includes restaurants;  
215 coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places  
216 which retail sandwiches or salads; soda fountains; institutions, both public and private;  
217 mobile food service establishments; industrial cafeterias; catering establishments; and  
218 similar facilities by whatever name called. Within a food service establishment, there  
219 may be a food sales component, not separately operated. This food sales component shall  
220 be considered as part of the food service establishment. Such term shall not include:

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

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

225 (C) Any outdoor recreation activity sponsored by the state, a county, a municipality,  
226 or any department or entity thereof, any outdoor or indoor (other than school cafeteria  
227 food service) public school function, or any outdoor private school function;

228 (D) Any organization which is operating on its own property or on the property of a  
229 party that has provided written consent for the use of such property for such purpose  
230 and which is exempt from taxes under paragraph (1) of subsection (a) of Code  
231 Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or  
232 paragraph (10) of Section 501(c) of the Internal Revenue Code for the purpose of  
233 operating a house or other residential structures where seriously ill or injured children  
234 and their families are provided temporary accommodations in proximity to their  
235 treatment hospitals and where food is prepared, served, transported, or stored by  
236 volunteer personnel;

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

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

- 241 (ii) Is held on the property of such sponsor or on the property of a party that has  
242 provided written consent for use of such property for such event; and  
243 (iii) Lasts 120 hours or less; or  
244 (F) Nonprofit food sales and food service provided under a permit issued pursuant to  
245 Article 14 of this chapter; or  
246 (G) Licensed cottage food operators as provided for in Code Section 26-2-471."

247 **SECTION 5.**

248 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general  
249 provisions applicable to counties and municipal corporations, is amended by adding a new  
250 Code section to read as follows:

251 "36-60-30.

252 No county or municipality shall prohibit or regulate the production or sale of homemade  
253 food items as defined in Code Section 26-2-470. No county or municipality shall prohibit  
254 commercial delivery companies from delivering homemade food items."

255 **SECTION 6.**

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