House Bill 1443 (AS PASSED HOUSE AND SENATE)
By: Representatives Gaines of the 117th, Wiedower of the 119th, Gambill of the 15th, Hagan of the 156th, Cameron of the 1st, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to food service establishments, so as to provide that mobile food service establishments that have active permits may operate in the county of origin and in one or more counties other than its county of origin without obtaining an additional permit; to provide for definitions; to provide for notice to other counties prior to operation; to provide for a process for other county boards of health to verify and recognize active permits from the county of origin; to provide for circumstances under which other county boards of health may refuse to recognize permits; to provide for inspections of mobile food service establishments by other counties; to provide for administrative and inspection fees; to provide for notice requirements by county boards of health upon refusal to recognize a permit; to provide for the creation of a permit inspection data base by the Department of Public Health; to provide for violation citations and penalties; 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.

Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to food service establishments, is amended by revising Code Section 26-2-370, relating to definitions, 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. 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 mobile food service establishments; 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. 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 a mobile food service unit 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:

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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 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 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 or city.

(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, a listing of any other counties where it is authorized to operate, a listing of locations in the county where the mobile food service establishment intends to operate, a listing of the dates and times of intended operation, and any other documentation required by the county board of health. The listing of any other counties where the mobile food service establishment intends to operate shall be updated by the mobile food service establishment when it operates in additional counties. Such information shall be submitted in a manner determined by the county board of health, but an electronic delivery format shall be available; and

(2) Upon receipt of all required information, the county board of health in the outside county shall verify on the Department of Public Health's permit inspection data base 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 to operate. All county boards of health shall utilize the department's permit inspection data base. The county board of health for such outside county may charge an administrative fee, limited to the costs incurred, to confirm the mobile food service establishment's standing in other counties where it is authorized to operate. Upon verification that the permit is in good standing and there are not public health or safety concerns, a county shall recognize the permit and shall authorize the mobile food service establishment to operate in its jurisdiction and have jurisdiction over the mobile food service establishment.

(c) An outside county may refuse to recognize a mobile food service establishment's permit if the base of operation or mobile unit permit is not from another county in this state, if the base of operation or mobile unit permit is not in good standing in the county of origin or any county within which it is authorized to operate, or for public health and safety concerns. If the county refuses to recognize a mobile food service establishment's permit, the county shall provide the mobile food service establishment written notice regarding the basis for its refusal.
(d) The mobile food service establishment may be subject to periodic and unannounced inspections in any outside county where its permit has been recognized. County boards of health shall utilize discretion when inspecting mobile food service establishments that have been authorized to operate in multiple jurisdictions to ensure they are not inspected more frequently than necessary to protect public health and safety. A mobile food service establishment shall allow the county board of health access for inspection when the mobile food service establishment is physically operating in such county.

(e) Fees for inspections conducted in outside counties shall be paid in full by the next business day. Failure to pay for inspections in outside counties will result in termination of authorization to operate in that county. The inspection fee shall be limited to the administrative costs incurred by the county to complete the inspection.

(f) If any such inspection results in a violation, any outside county shall notify the county of origin and any other counties where the mobile food service establishment is authorized to operate of the violation. Any county where the mobile food service establishment operates may issue a court citation, terminate authorization for the mobile food service establishment to operate in the county, or require implementation of a remediation plan for the violation.

(g) A mobile food service establishment shall stay current with its annual inspection fees in its county of origin and shall provide any outside counties where it is authorized to operate proof of currency before operating in that county.

(h) Mobile food service establishment operators shall be required to return to their base of operation at least daily or more often if needed to service their unit with fresh water and to empty their wastewater tank.

(i) If at any time a mobile food service establishment's permit is no longer in good standing in any jurisdiction, a county may revoke the establishment's authorization to operate in its jurisdiction.
(j) The Department of Public Health may establish an expedited permit approval and recognition process for mobile food service establishments for counties to utilize that is consistent with the provisions of this Code section.

(k) The Department of Public Health may develop rules and regulations governing the operation of mobile food service establishments. Any such rules and regulations shall be tailored to address health and safety risks."

SECTION 4.

This Act shall become effective on January 1, 2023.

SECTION 5.

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