

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

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 a process for other county boards of health to verify and recognize active permits from
7 the county of origin; to provide for circumstances under which other county boards of health
8 may refuse to recognize permits; to provide for inspections of mobile food service
9 establishments by other counties; to provide for administrative and inspection fees; to
10 provide for notice requirements by county boards of health upon refusal to recognize a
11 permit; to provide for the creation of a permit inspection data base by the Department of
12 Public Health; to provide for violation citations and penalties; to provide for related matters;
13 to provide for an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

19 "26-2-370.

20 As used in this article, the term:

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

24 (2) 'Food service establishment' means establishments for the preparation and serving of
25 meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either
26 for carry out or service within the establishment. ~~This~~ Such term includes restaurants;
27 coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places
28 which retail sandwiches or salads; soda fountains; institutions, both public and private;
29 ~~food carts; itinerant restaurants~~ mobile food service establishments; industrial cafeterias;
30 catering establishments; and similar facilities by whatever name called. Within a food
31 service establishment, there may be a food sales component, not separately operated.
32 This food sales component shall be considered as part of the food service establishment.

33 ~~This~~ Such term shall not include:

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

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

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

41 (D) Any organization which is operating on its own property or on the property of a
 42 party that has provided written consent for the use of such property for such purpose
 43 and which is exempt from taxes under paragraph (1) of subsection (a) of Code Section
 44 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of
 45 Section 501(c) of the Internal Revenue Code for the purpose of operating a house or
 46 other residential structures where seriously ill or injured children and their families are
 47 provided temporary accommodations in proximity to their treatment hospitals and
 48 where food is prepared, served, transported, or stored by volunteer personnel;

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

- 52 (i) Is sponsored by a political subdivision of this state;
- 53 (ii) Is held on the property of such sponsor or on the property of a party that has
 54 provided written consent for use of such property for such event; and
- 55 (iii) Lasts 120 hours or less; or

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

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

60 ~~(3)~~(4) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee,
 61 or association, or combination thereof."

62 SECTION 2.

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

67 "26-2-371.

68 It shall be unlawful for any person to operate a food service establishment without having
69 first obtained a valid food service establishment permit. Such permits shall be issued by
70 the county board of health or its duly authorized representative, subject to supervision and
71 direction by the Department of Public Health; but, where the county board of health is not
72 functioning, such permit shall be issued by the Department of Public Health. Except as
73 provided for in Code Section 26-2-379, such ~~Such~~ permits shall be valid until suspended
74 or revoked and shall not be transferable with respect to person or location. When a mobile
75 food service establishment has been permitted in any county, that permit shall be
76 recognized by all counties pursuant to Code Section 26-2-379. Except as provided for in
77 Code Section 26-2-379, nothing ~~Nothing~~ contained in this article shall prevent any
78 municipality from adopting rules and regulations governing the licensing and operation of
79 food service establishments."

80

SECTION 3.

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

82 "26-2-379.

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

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

90 (1) Prior to operating in a county outside the mobile food service establishment's county
91 of origin, a mobile food service establishment shall submit to the county board of health
92 in the outside county a copy of its mobile food service establishment permit from its

93 county of origin, its permit for its base of operations, a listing of any other counties where
94 it is authorized to operate, a listing of locations in the county where the mobile food
95 service establishment intends to operate, a listing of the dates and times of intended
96 operation, and any other documentation required by the county board of health. The
97 listing of any other counties where the mobile food service establishment intends to
98 operate shall be updated by the mobile food service establishment when it operates in
99 additional counties. Such information shall be submitted in a manner determined by the
100 county board of health, but an electronic delivery format shall be available; and

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

112 (c) An outside county may refuse to recognize a mobile food service establishment's
113 permit if the base of operation or mobile unit permit is not from another county in this
114 state, if the base of operation or mobile unit permit is not in good standing in the county
115 of origin or any county within which it is authorized to operate, or for public health and
116 safety concerns. If the county refuses to recognize a mobile food service establishment's
117 permit, the county shall provide the mobile food service establishment written notice
118 regarding the basis for its refusal.

119 (d) The mobile food service establishment may be subject to periodic and unannounced
120 inspections in any outside county where its permit has been recognized. County boards of
121 health shall utilize discretion when inspecting mobile food service establishments that have
122 been authorized to operate in multiple jurisdictions to ensure they are not inspected more
123 frequently than necessary to protect public health and safety. A mobile food service
124 establishment shall allow the county board of health access for inspection when the mobile
125 food service establishment is physically operating in such county.

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

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

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

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

142 (i) If at any time a mobile food service establishment's permit is no longer in good standing
143 in any jurisdiction, a county may revoke the establishment's authorization to operate in its
144 jurisdiction.

145 (j) The Department of Public Health may establish an expedited permit approval and
146 recognition process for mobile food service establishments for counties to utilize that is
147 consistent with the provisions of this Code section.

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

151 **SECTION 4.**

152 This Act shall become effective on January 1, 2023.

153 **SECTION 5.**

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