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HOUSE BILL NO. 766

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation, and Natural Resources
on March 1, 2004)

(Patron Prior to Substitute— Delegate Hurt)

A BILL to amend and reenact § 3.1-398.1 of the Code of Virginia, relating to inspections of food stores.

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-398.1 of the Code of Virginia is amended and reenacted as follows:

§ 3.1-398.1. Inspections required to operate food establishment.

No person shall operate a food manufacturing plant, food storage warehouse, or retail food store until it has been inspected by the Commissioner. This section shall not apply to food manufacturing plants operating under a grant of inspection from the Bureau of Meat and Poultry Inspection or a permit from the Bureau of Dairy Services of the Virginia Department of Agriculture and Consumer Services and Grade A fluid milk manufacturing plants and shellfish and crustacea processing plants operating under a permit from the Virginia Department of Health. This section shall also not apply to: *(i) any nonprofit organizations holding one-day food sales, or (ii) any retail establishments that do not prepare or serve food and that sell only food or beverages that are sealed in packaging by the manufacturer, officially inspected during the manufacturing process, and are not infant formulas, salvaged foods, or potentially hazardous foods.*

In order to qualify for the exemption provided by clause (ii) of this section, the owner of the retail establishment shall certify to the Department of Agriculture and Consumer Services that the owner's retail establishment meets the provisions of clause (ii). Retail establishments that meet the provisions of clause (ii) shall be exempt from inspection and the inspection fee. The Department of Agriculture and Consumer Services shall include in its yearly inspection fee billing statements for food establishments a means for food establishments to certify that they meet the provisions of clause (ii) and are exempt from inspection and the fee. The owner of any retail establishment that is exempted pursuant to clause (ii) shall notify the Department of Agriculture and Consumer Services in writing when the owner's retail establishment no longer meets the provisions of clause (ii).

For the purpose of clause (ii) of this section:

"Potentially hazardous food" means any food that requires hot (greater than or equal to 135 degrees Fahrenheit) or cold (less than or equal to 45 degrees Fahrenheit) holding to insure the microbiological safety of the food.

"Salvaged food" means any food product that has had its contents or container subjected to damage or contamination or its label removed or obliterated due to an accident, prolonged storage, fire, flood, adverse weather condition, chemical exposure or other natural or man-made disaster, which when reconditioned meets all safety and labeling requirements of the Code of Virginia.

SENATE SUBSTITUTE

HB766S1