

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 459

An Act to amend and reenact § 3.1-398.1 of the Code of Virginia, relating to food inspection.

[S 272]

Approved March 7, 2008

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:

1. *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;~~

2. *Nonprofit* organizations holding one-day food sales; ~~or (ii) any retail;~~

3. *Private homes where the resident processes and prepares candies, jams, and jellies not considered to be low-acid or acidified low-acid food products and baked goods that do not require time or temperature control after preparation if such products are: (i) sold to an individual for his own consumption and not for resale; (ii) sold at the private home or at farmers markets; and (iii) labeled "NOT FOR RESALE—PROCESSED AND PREPARED WITHOUT STATE INSPECTION."* Nothing in this subdivision shall create or diminish the authority of the Commissioner under § 3.1-399; and

4. *Retail* establishments that ~~(a)~~ (i) do not prepare or serve food; ~~(b)~~ (ii) sell only food or beverages that are sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; ~~(c)~~ (iii) do not sell infant formulas; ~~(d)~~ (iv) do not sell salvaged foods; and ~~(e)~~ (v) certify to the Department of Agriculture and Consumer Services that they meet the foregoing provisions of this section. Retail establishments that meet the provisions of ~~clause (ii)~~ *this subdivision* shall be exempt from inspection and the inspection fees; however, nothing in this section shall prevent the Department of Agriculture and Consumer Services from inspecting any retail establishment if a consumer complaint is received.