

11104904D

SENATE BILL NO. 920

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 7, 2011)

(Patron Prior to Substitute—Senator McDougle)

A BILL to amend and reenact § 3.2-5130 of the Code of Virginia, relating to the preparation of foods; regulatory inspection.

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-5130 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-5130. Inspections required to operate food establishment.

A. It is unlawful to 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:

1. Food manufacturing plants operating under a grant of inspection from the Office of Meat and Poultry Services or a permit from the Office of Dairy and Foods in the Department; and Grade A fluid milk manufacturing plants and shellfish and crustacea processing plants operating under a permit from the Virginia Department of Health;

2. Nonprofit organizations holding one-day food sales;

3. Private homes where the resident processes and prepares *the following products: (i) candies; (ii) jams; and jellies not considered to be low-acid or acidified low-acid food products and; (iii) baked goods that do not require time or temperature control after preparation if; or (iv) pickles and other processed vegetables or fruits with a finished equilibrium pH value of 4.6 or lower, provided any such products are: (i) (a) sold to an individual for his own consumption and not for resale; (ii) (b) sold at the private home or at farmers markets; and (iii) (c) labeled "NOT FOR RESALE - PROCESSED AND PREPARED WITHOUT STATE INSPECTION."*

a. Any pickles and other processed vegetables or fruits in accordance with clause (iv) shall be grown on property owned or leased by the processor and shall not include food consisting in whole or in part of milk, milk products, eggs, meat, poultry, finfish, shellfish, or crustacea.

b. Any person who prepares pickles and other processed vegetables or fruits included in accordance with clause (iv) shall:

(1) Attend, successfully complete, and maintain proof of successful completion of processing education classes recognized by the Department. Such processing education classes shall encompass food-handling techniques, food-protection principles, personal hygiene and plant sanitation practices, pH controls and other critical factors in acidification;

(2) Have recipes and manufacturing processes for such pickles and other processed vegetables or fruits reviewed for acceptability by a person recognized by the Department as a processing authority who is knowledgeable in the food canning industry;

(3) Test finished products and maintain records of such testing to ensure that finished equilibrium pH values of 4.6 or lower are being maintained; and

(4) Certify in writing, annually, to the Department that all provisions of this subdivision are being met.

c. Nothing in this subdivision shall create or diminish the authority of the Commissioner under § 3.2-5102; and

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

B. Any person who violates any provision of this section is guilty of a Class 1 misdemeanor.