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HOUSE BILL NO. 1839

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend and reenact §§ 3.2-5101 and 28.2-803 of the Code of Virginia, relating to home food operations.*

Patrons—Lingamfelter (By Request), Anderson, Bell, Robert B., Marshall, R.G., Morrissey and Pogge;
Senator: McDougle

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-5101 and 28.2-803 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-5101. Board authorized to adopt regulations; exception.

A. Whenever in the judgment of the Commissioner action will promote honesty and fair dealing in the interest of consumers, the Board shall adopt regulations fixing and establishing for any food or class of food: labeling requirements; a reasonable definition and standard of identity; and a reasonable standard of quality and fill of container, or tolerances or limits of variability. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Board shall, for the purpose of promoting honesty and fair dealing in the interest of the consumers, designate the optional ingredients that shall be named on the label. The definitions and standards so adopted may conform so far as practicable to the definitions and standards promulgated by the Secretary of Health and Human Services under authority conferred by Section 401 of the federal act.

B. Any regulations adopted pertaining to this section shall not apply to nonprofit organizations holding one-day food sales. The Commissioner may disseminate to nonprofit organizations educational materials related to the safe preparation of food for human consumption.

C. *The provisions of this chapter and regulations adopted pursuant hereto shall not apply to a private home or farm and curtilage where the residents or owners process or prepare any food product made from fruit, grain, herbs, honey, meat, milk, mushroom, nut, poultry, seafood, vegetable, or any other ingredient that has otherwise been obtained in accordance with existing law, provided that such products are sold directly to the end consumer and labeled with the producer's name, producer's address, and product ingredients and the following disclosure: "This product is not subject to Virginia's food safety laws or regulations."*

For the purposes of this subsection:

"Farm" means an agricultural establishment with five or fewer full-time equivalent employees not including members of the producer's family.

"Home" means the residence of the producer of the food product.

§ 28.2-803. Examination, analysis and inspection.

A. The State Health Commissioner may in his discretion, or shall at the request of the Governor, the Marine Resources Commission, or the Commissioner of Marine Resources, conduct an examination or analysis of crustacea, finfish and shellfish, whether on the planting grounds, in an establishment, or in any other place in this Commonwealth, from which the products are to be taken or sold for food purposes.

B. The State Health Commissioner in making such examination may analyze the water and bottom sediment in and adjacent to the crustacea, finfish, or shellfish growing areas for evidence of pollution, and he may survey the sanitary conditions and pollution hazards adjacent to shellfish growing areas, both in the water and on shore.

C. The State Health Commissioner in conducting his analysis shall examine the establishments in which crustacea, finfish and shellfish are handled and the sanitary conditions surrounding the establishment, *except that no such examination shall occur in home food operations authorized under subsection C of § 3.2-5101.* At that time, he may analyze the crustacea, finfish and shellfish in the establishment.

INTRODUCED

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