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SENATE BILL NO. 414

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 51.2, consisting of sections numbered 3.2-5157 through 3.2-5160, relating to the Micro Market Act; penalty.*

Patrons—McDougle, Ebbin and McClellan

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 51.2, consisting of sections numbered 3.2-5157 through 3.2-5160, as follows:

CHAPTER 51.2.**MICRO MARKET ACT.****§ 3.2-5157. Definitions.**

As used in this chapter:

"Micro market" means an unattended, self-checkout retail food establishment that (i) consists of one or more micro market displays in a single location; (ii) contains a self-checkout kiosk; (iii) is located in the interior of a building; (iv) is accessible to a defined population, such as employees of a particular employer or occupants of the building in which the micro market is located; and (v) is not accessible to the general public.

"Micro market display" means any of the following in which food or beverage is displayed: (i) an open rack, (ii) a refrigerator or a refrigerated cooler, (iii) a freezer, (iv) a beverage dispenser, or (v) single-serve coffee brewer.

§ 3.2-5158. Permit required for operation of a micro market; penalty.

A. It is unlawful for any person to operate an unattended, self-checkout retail establishment that does not meet the requirements of a micro market or without having first obtained a micro market permit issued by the Department. The holder of a permit issued pursuant to this chapter shall be fully responsible for the operation of the permitted micro market.

B. The Department shall provide for food safety regulations and the related conditions upon which such permits shall be issued.

C. Any person who operates an unattended self-checkout retail establishment without the required micro market permit or violates a condition of a micro market permit is guilty of a Class 1 misdemeanor.

§ 3.2-5159. Agreement required when owner or operator is not the permit holder; approval by the Department.

In the event that the micro market permit holder is not the owner or operator of the building in which the micro market is located, such permit holder may enter into an agreement with such owner or operator that provides for the allocation of responsibilities to ensure compliance with this chapter, provided, however, that any such agreement shall be first approved by the Department.

§ 3.2-5160. Micro market establishment authorized.

Notwithstanding any other provisions of law, the owner or operator of a micro market shall not be required to have a person present or overseeing the micro market, as otherwise required by state law or regulation of the Department, provided that the following requirements are satisfied:

1. The micro market location includes video surveillance that operates 24 hours per day, seven days per week and records customers viewing, selecting, handling, and purchasing products from the micro market, and the automated self-checkout equipment used in the micro market has the capability to match a purchased product with the customer who made the purchase. In addition, the video surveillance recordings shall be maintained and made available for inspection upon request by the Department for at least 14 days after the date of the surveillance and provided by the owner or operator of the micro market to the Department within 24 hours of a request.

2. All products sold at the micro market are for a customer's individual or personal use, including perishable and nonperishable food items and nonconsumable items.

3. The only food sold at the micro market is commercially prepackaged food or ready-to-eat fruit.

4. Prepackaged food sold at the micro market is contained in tamper-evident packaging.

5. Prepackaged food sold at the micro market contains the following information on its packaging: (i) except as exempted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), nutrition labeling for the food as specified in 21 C.F.R. § 101 and 9 C.F.R. § 317, Subpart B, and (ii) a

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59 *freshness or expiration date.*

60 6. *Refrigerated or frozen food sold in the micro market is stored in a refrigerated cooler or freezer*
61 *that (i) maintains an internal temperature of 41 degrees Fahrenheit or as otherwise necessary for food*
62 *safety, as established by the Department; (ii) has self-closing doors; (iii) allows the food to be viewed*
63 *without opening the door to the refrigerated cooler or freezer; and (iv) has an automatic self-locking*
64 *feature that prevents a consumer from accessing the food upon the occurrence of any condition that*
65 *results in the failure of the refrigerated cooler or freezer to maintain the internal temperature set forth*
66 *in this subdivision.*

67 7. *The micro market location has a sign that is readily visible from the automated payment kiosk and*
68 *contains the following information: (i) the name and mailing address of the owner or operator of and, if*
69 *applicable, the business entity responsible for the micro market to whom complaints and comments*
70 *should be addressed and (ii) the telephone number, email address, and website information of such*
71 *owner or operator or responsible business entity. The information on the sign shall be printed in*
72 *English and may, at the discretion of the owner or operator of the micro market, be printed in any*
73 *other prevalent language of the customers of the micro market.*