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SENATE BILL NO. 470

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact §§ 3.2-5121 and 35.1-14 of the Code of Virginia, relating to sale of rabbits; regulations.*

Patrons—Reeves and McDougle

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-5121 and 35.1-14 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-5121. Authority to adopt regulations; conformity with federal regulations; hearings; enforcement of article; review of regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article, unless that authority is specifically granted to the Commissioner. The Board may make the regulations adopted under this article conform, insofar as practicable, with those adopted under the federal act. Notwithstanding any other requirement under the Administrative Process Act (§ 2.2-4000 et seq.) to the contrary, the Commissioner may adopt any regulation under the federal act without public hearing. Such regulation shall be effective upon filing with the Registrar of Regulations. The Board, at its next regular meeting, shall adopt the regulation after notice but without public hearing unless a petition is filed in accordance with subsection F.

B. The Board may adopt any edition of the Food and Drug Administration's Food Code, or supplement thereto, or any portion thereof, as regulations, with any amendments as it deems appropriate. In addition, the Board may repeal or amend any regulation adopted pursuant to this subsection. No regulations adopted or amended by the Board pursuant to this subsection shall establish requirements for any license, permit, or inspection unless such license, permit, or inspection is otherwise provided for in this title. The provisions of the Food and Drug Administration's Food Code shall not apply to farmers selling their own farm-produced products directly to consumers for their personal use, whether such sales occur on such farmer's farm or at a farmers' market, unless such provisions are adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

C. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the adoption of any regulation pursuant to subsection B if the Board of Health adopts the same edition of the Food and Drug Administration's Food Code, or the same portions thereof, pursuant to subsection C of § 35.1-14, and the regulations adopted by the Board and the Board of Health have the same effective date. In the event that the Board of Health adopts regulations pursuant to § 2.2-4012.1, the effective date of the Board's regulations may be any date on or after the effective date of the regulations adopted by the Board of Health.

Notwithstanding any exemption to the contrary, a regulation adopted pursuant to subsection B shall be subject to the requirements set out in §§ 2.2-4007.03, 2.2-4007.04, and 2.2-4007.05, and shall be published in the Virginia Register of Regulations. After the close of the 60-day comment period, the Board may adopt a final regulation, with or without changes. Such regulation shall become effective 15 days after publication in the Virginia Register, unless the Board has withdrawn or suspended the regulation, or a later date has been set by the Board. The Board shall also hold at least one public hearing on the proposed regulation during the 60-day comment period. The notice for such public hearing shall include the date, time, and place of the hearing.

D. Hearings authorized or required by this article shall be conducted by the Board, the Commissioner, or such officer, agent, or employee as the Board may designate for the purpose.

E. The Commissioner shall coordinate enforcement of this article with the applicable federal agencies charged with enforcement of the federal act, in order to avoid unnecessary or unjustified conflict between enforcement of this article and the federal act as to Virginia food manufacturers, processors, packers, and retailers.

F. The Board or Commissioner shall from time to time for good cause shown to review the regulations and enforcement guidelines adopted pursuant to this article. If the Commissioner finds that any federal regulation or enforcement guideline that includes any tolerance or action level that does not protect the health and welfare of the citizens of the Commonwealth, he shall petition the appropriate federal agency to change the federal regulation or enforcement guideline.

G. The Commissioner or any interested party for good cause shown may request the Board to hold a public hearing concerning any regulation or enforcement guideline. If the Board after hearing finds that

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the regulation or enforcement guideline does not protect the health and welfare of the citizens of the Commonwealth, it shall adopt a new regulation or enforcement guideline. Within the limits of personnel and funds available all state agencies and institutions shall cooperate and assist in furnishing information and data as to whether the regulations or enforcement guidelines in question protect the health and welfare of the citizens of the Commonwealth.

H. No regulation adopted or amended by the Board pursuant to subsection B shall require that commercially slaughtered or processed rabbits that are offered for sale or service be slaughtered or processed under (i) the voluntary inspection program that is conducted by the state agency that has animal health jurisdiction or (ii) a voluntary inspection program that is administered by the U.S. Department of Agriculture. However, nothing in this subsection shall exempt any person who is commercially slaughtering or processing rabbits that are offered for sale or service from any other applicable provision of this chapter.

§ 35.1-14. Regulations governing restaurants; advisory standards for exempt entities.

A. Regulations of the Board governing restaurants shall include but not be limited to the following subjects: (i) a procedure for obtaining a license; (ii) the safe and sanitary maintenance, storage, operation, and use of equipment; (iii) the sanitary maintenance and use of a restaurant's physical plant; (iv) the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods; (v) procedures for vector and pest control; (vi) requirements for toilet and cleansing facilities for employees and customers; (vii) requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; (viii) requirements for an approved water supply and sewage disposal system; (ix) personal hygiene standards for employees, particularly those engaged in food handling; (x) the appropriate use of precautions to prevent the transmission of communicable diseases; and (xi) training standards that address food safety and food allergy awareness and safety.

B. In its regulations, the Board may classify restaurants by type and specify different requirements for each classification.

C. The Board may adopt any edition of the Food and Drug Administration's Food Code, or supplement thereto, or any portion thereof, as regulations, with any amendments as it deems appropriate. In addition, the Board may repeal or amend any regulation adopted pursuant to this subsection. No regulations adopted or amended by the Board pursuant to this subsection, however, shall establish requirements for any license, permit, or inspection unless such license, permit, or inspection is otherwise provided for in this title. The provisions of the Food and Drug Administration's Food Code shall not apply to farmers selling their own farm-produced products directly to consumers for their personal use, whether such sales occur on such farmer's farm or at a farmers' market, unless such provisions are adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Board may issue advisory standards for the safe preparation, handling, protection, and preservation of food by entities exempt from the provisions of this title pursuant to § 35.1-25 or 35.1-26.

E. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the adoption of any regulation pursuant to subsection C if the Board of Agriculture and Consumer Services adopts the same edition of the Food Code, or the same portions thereof, pursuant to subsection B of § 3.2-5121 and the regulations adopted by the Board and the Board of Agriculture and Consumer Services have the same effective date. In the event that the Board of Agriculture and Consumer Services adopts regulations pursuant to § 2.2-4012.1, the effective date of the Board's regulations may be any date on or after the effective date of the regulations adopted by the Board of Agriculture and Consumer Services.

Notwithstanding any exemption to the contrary, a regulation promulgated pursuant to subsection C shall be subject to the requirements set out in §§ 2.2-4007.03, 2.2-4007.04, and 2.2-4007.05, and shall be published in the Virginia Register of Regulations. After the close of the 60-day comment period, the Board may adopt a final regulation, with or without changes. Such regulation shall become effective 15 days after publication in the Virginia Register, unless the Board has withdrawn or suspended the regulation, or a later date has been set by the Board. The Board shall also hold at least one public hearing on the proposed regulation during the 60-day comment period. The notice for such public hearing shall include the date, time and place of the hearing.

F. The Board shall adopt regulations pursuant to subsection C that allow the receipt for sale or service of rabbits that are slaughtered or processed in a facility that complies with regulations adopted by the Board of Agriculture and Consumer Services pursuant to the provisions of subsection H of § 3.2-5121.