

# VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

## CHAPTER 512

*An Act to amend and reenact §§ 35.1-25 and 35.1-26 of the Code of Virginia, relating to restaurants; exemption from requirements.*

[H 2262]

Approved March 18, 2013

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 35.1-25 and 35.1-26 of the Code of Virginia are amended and reenacted as follows:**

**§ 35.1-25. Exemptions.**

The provisions of this title applicable to restaurants shall not apply to:

1. Boardinghouses that do not accommodate transients;
2. Cafeterias operated by industrial plants for employees only;
3. Churches,; fraternal, or school, and social organizations,; *organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and volunteer fire departments and rescue squads, which hold occasional dinners, bazaars, and other fund raisers of one or two days' duration, at which food (i) prepared in the homes of members or; (ii) prepared in the kitchen of the church, school, or organization; or (iii) purchased or donated from a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) is offered for sale to the public. Restaurants licensed pursuant to Chapter 3 that donate or sell food to the entities identified in this subdivision shall not be required to apply for any additional permits from, or pay any additional permit application fees to, the Department for the proposed occasional dinner, bazaar, or other fund raiser;*

4. Grocery stores, including the delicatessen portion ~~which~~ *that* is a part of a grocery store selling exclusively for off-premises consumption, and places manufacturing or selling packaged or canned goods;

5. Churches ~~which~~ *that* serve meals consisting of food prepared in the homes of members or in the kitchen of the church *or purchased or donated from a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.)* for their members or their invited guests; or

6. Convenience stores or gas stations that are subject to the Department of Agriculture and Consumer Services' ~~Rules and Regulations Pertaining to the Sanitary and Operating Procedures in Retail Food Stores Establishment Regulations~~ or any regulations subsequently adopted and that (i) have 15 or fewer seats at which food is served to the public on the premises of the convenience store or gas station and (ii) are not associated with a national or regional restaurant chain. Notwithstanding this exemption, such convenience stores or gas stations shall remain responsible for collecting any applicable local meals tax.

**§ 35.1-26. Cities, counties, and towns may by ordinance exempt certain fairs, youth athletic activities and fund-raisers.**

The governing body of any county, city, or town may provide by ordinance that this title shall not apply to:

1. Food booths at fairs, if such booths are promoted or sponsored by any political subdivision of the Commonwealth or by any charitable nonprofit organization or group thereof.

2. Concession stands at youth athletic activities, if such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized as being a part of the recreational program of the political subdivision where the association or organization is located by an ordinance or resolution of such political subdivision.

3. ~~Organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code that hold occasional fund-raisers for the duration of the event at which food is prepared by such organization and is offered for sale to the public.~~

The ordinance shall provide that the health officer of the county, city, or town in which the fair or activity is held, or a qualified person designated by him, shall exercise such supervision of the sale of food as the ordinance may prescribe.