VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 393

An Act to amend and reenact § 35.1-14 of the Code of Virginia, relating to restaurants; on-site certified food protection managers.

[S 146]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

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

§ 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.

G. Regulations adopted by the Board pursuant to this section shall not require an establishment that sells only prepared foods to have a certified food protection manager, as defined in § 35.1-1, on site during all hours of operation.