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SENATE BILL NO. 141

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 8, 2024)

(Patron Prior to Substitute—Senator Mulchi)

A BILL to amend and reenact § 35.1-25 of the Code of Virginia, relating to State Department of Health; regulation of certain organizations; sale of food.

Be it enacted by the General Assembly of Virginia:

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

§ 35.1-25. Exemptions.

A. 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 organizations, organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, and volunteer fire departments and volunteer emergency medical services agencies that (i) hold or (ii) not exceeding \$3,000 in gross sales in a calendar year, participate in occasional dinners, bazaars, and other fund-raisers fundraisers of one or two days' duration, at which food (i) (a) prepared in the homes of members; (ii) (b) prepared in the kitchen of the church, school, or organization; or (iii) (c) 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 fundraiser;

4. Grocery stores, including the delicatessen portion 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 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;

6. Convenience stores or gas stations that are subject to the Department of Agriculture and Consumer Services' Retail Food 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;

7. Concession stands at youth athletic activities, if such stands are promoted or sponsored by a youth athletic association or by any charitable nonprofit organization or group thereof that 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; or

8. Any bed-and-breakfast operation that prepares food for and offers food to guests, regardless of the time the food is prepared and offered, if (i) the premises of the bed-and-breakfast operation is a home that is owner occupied or owner-agent occupied, (ii) the bed-and-breakfast operation prepares food for and offers food to transient guests of the bed and breakfast only, (iii) the number of guests served by the bed-and-breakfast operation does not exceed 18 on any single day, and (iv) guests for whom food is prepared and to whom food is offered are informed in a manner established by the Board in regulations that the food is prepared in a kitchen that is not licensed as a restaurant and is not subject to regulations governing restaurants.

B. No regulation issued by the Board shall require any restaurant that is operated by (i) a nonprofit civic service organization, (ii) a volunteer fire department, or (iii) a volunteer emergency medical services agency to employ a certified food protection manager.