

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 3.2-5130 of the Code of Virginia, relating to cottage food laws; sale of certain*
 3 *food over phone and internet.*

4 [H 402]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 3.2-5130 of the Code of Virginia is amended as follows:**8 **§ 3.2-5130. Inspections required to operate food establishment.**

9 A. It is unlawful to operate as a food manufacturer, food storage warehouse, or retail food establishment
 10 until (i) such food manufacturer, food storage warehouse, or retail food establishment has been inspected by
 11 the Commissioner and (ii) the Commissioner has issued a permit pursuant to subsection C of § 3.2-5100 for
 12 the operation of the food manufacturer, food storage warehouse, or retail food establishment. If the inspection
 13 finds no significant health hazards to the public, any food manufacturer, food storage warehouse, or retail
 14 food establishment may operate until receipt of the permit. Such permit shall be processed within 30 days of
 15 the inspection date.

16 B. If the Commissioner determines that conditions exist in a food manufacturer, food storage warehouse,
 17 or retail food establishment that would render such entity significantly out of compliance with an applicable
 18 provision of this chapter or regulation adopted pursuant to this chapter, the Commissioner may, in accordance
 19 with the Administrative Process Act (§ 2.2-4000 et seq.), deny, suspend, or revoke the permit of such entity.
 20 If the Commissioner determines that conditions exist in a food manufacturer, food storage warehouse, or
 21 retail food establishment that present a significant and immediate public health hazard, the Commissioner
 22 may suspend the permit of such entity and shall seek an expedited informal fact-finding proceeding pursuant
 23 to § 2.2-4019.

24 C. The provisions of subsections A and B shall not apply to:

25 1. Food manufacturers operating under a grant of inspection from the Office of Meat and Poultry Services
 26 or a permit from the Office of Dairy and Foods in the Department; and Grade A fluid milk manufacturing
 27 plants and shellfish and crustacea processing plants operating under a permit from the Virginia Department of
 28 Health;

29 2. Nonprofit organizations holding one-day food sales;

30 3. Private homes where the resident processes and prepares candies, jams, and jellies not considered to be
 31 low-acid or acidified low-acid food products, dried fruits, dry herbs, dry seasonings, dry mixtures, coated and
 32 uncoated nuts, vinegars and flavored vinegars, popcorn, popcorn balls, cotton candy, dried pasta, dry baking
 33 mixes, roasted coffee, dried tea, cereals, trail mixes, granola, and baked goods if such products are (i) those
 34 that do not require time or temperature control after preparation; (ii) sold ~~in person in the Commonwealth at~~
 35 ~~any location, through the internet, or by phone~~ to an individual ~~in the Commonwealth~~ for his own
 36 consumption and not for resale or consignment; (iii) sold ~~at the private home, at a temporary event that~~
 37 ~~operates for a period of no more than 14 consecutive days, or at a farmers market delivered in person, by~~
 38 ~~mail, or by delivery service to an individual in the Commonwealth for his own consumption and not for resale~~
 39 ~~or consignment~~; (iv) not offered for sale to be used in or offered for consumption in retail food
 40 establishments; and (v) affixed with a label placed on the principal display panel or, for a product in
 41 packaging not large enough to bear such a label, offered for sale with a sign displaying the name, physical
 42 address ~~or post office box number~~, and telephone number of the person preparing the food product, the date
 43 the food product was processed, and the statement "NOT FOR RESALE — PROCESSED AND PREPARED
 44 WITHOUT STATE INSPECTION." Nothing in this subdivision shall create or diminish the authority of the
 45 Commissioner under § 3.2-5102 or shall prohibit a resident selling a food product in accordance with this
 46 subdivision from advertising such food product on the Internet;

47 4. Private homes where the resident processes and prepares pickles and other acidified vegetables that
 48 have an equilibrium pH value of 4.6 or lower if such products are (i) sold ~~in person in the Commonwealth at~~
 49 ~~any location, through the internet, or by phone~~ to an individual ~~in the Commonwealth~~ for his own
 50 consumption and not for resale or consignment; (ii) sold ~~at the private home, at a temporary event that~~
 51 ~~operates for a period of no more than 14 consecutive days, or at a farmers market delivered in person, by~~
 52 ~~mail, or by delivery service to an individual in the Commonwealth for his own consumption and not for resale~~
 53 ~~or consignment~~; (iii) not offered for sale to be used in or offered for consumption in retail food
 54 establishments; (iv) affixed with a label placed on the principal display panel displaying the name, physical
 55 address ~~or post office box number~~, and telephone number of the person preparing the food product, the date
 56 the food product was processed, and the statement "NOT FOR RESALE — PROCESSED AND PREPARED

57 WITHOUT STATE INSPECTION"; and (v) not exceeding \$9,000 in gross sales in a calendar year. Nothing
58 in this subdivision shall create or diminish the authority of the Commissioner under § 3.2-5102 or shall
59 prohibit a resident selling a food product in accordance with this subdivision from advertising such food
60 product on the Internet;

61 5. Private homes where the resident processes and prepares honey produced by his own hives, if: (i) the
62 resident sells less than 250 gallons of honey annually; (ii) the resident does not process and sell other food
63 products in addition to honey, except as allowed by subdivisions 3 and 4; (iii) the product complies with the
64 other provisions of this chapter; and (iv) the product is labeled "PROCESSED AND PREPARED WITHOUT
65 STATE INSPECTION. WARNING: Do Not Feed Honey to Infants Under One Year Old." Nothing in this
66 subdivision shall increase or diminish the authority of the Commissioner under § 3.2-5102; and

67 6. Retail establishments that (i) do not prepare or serve food; (ii) sell only food or beverages that are
68 sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; (iii)
69 do not sell infant formulas; (iv) do not sell salvaged foods; and (v) certify to the Department that they meet
70 the provisions of this subdivision.

71 D. Nonprofit organizations, private homes, and retail establishments that qualify for an exception under
72 subsection C shall be exempt from the permit and inspection requirements of this chapter and the inspection
73 fees. Nothing in this section shall prevent the Department from inspecting any nonprofit organization, private
74 home, or retail establishment if a consumer complaint is received.

75 E. Any person who violates any provision of this section is guilty of a Class 1 misdemeanor.

76 **2. That the Department of Agriculture and Consumer Services (the Department) shall convene the**
77 **Home Food Processing Operator Work Group (the Work Group) for the purpose of examining**
78 **structural, equipment, and facility standards for those private homes in the Commonwealth producing**
79 **products that do not meet the exemptions from the inspection and permitting requirements in**
80 **§ 3.2-5130 of the Code of Virginia, as amended by this act, pursuant to subdivisions C 3 and 4 of**
81 **§ 3.2-5130 of the Code of Virginia, as amended by this act. The Work Group shall consist of**
82 **representatives from the Department, a representative from the Department of Health, a**
83 **representative of the Institute for Justice, and any other relevant stakeholders as determined by the**
84 **Department. The Work Group shall complete its meetings by November 1, 2026, and report its**
85 **findings and recommendations to the Chairs of the Senate Committee on Agriculture, Conservation**
86 **and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources**
87 **by the first day of the 2027 Regular Session of the General Assembly.**