



**SECTION F**  
**Official Code of Georgia Annotated, Title 26-2-370 thru 378,**  
**390 thru 393 and 410**

**ARTICLE 13 – FOOD SERVICE ESTABLISHMENTS**

**O.C.G.A. § 26-2-370 (2009):**

§ 26-2-370 (2009). Definitions

As used in this article, the term:

(1) "Food nutrition information" means the content of food including, but not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, and sodium content.

(2) 'Food service establishment' means establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either for carry out or service within the establishment. The term includes restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which retail sandwiches or salads; soda fountains; institutions, both public and private; food carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar facilities by whatever name called. Within a food service establishment, there may be a food sales component, not separately operated. This food sales component shall be considered as part of the food service establishment. This term shall not include a 'food sales establishment,' as defined in Code Section 26-2-21, except as stated in this definition. The food service component of any food sales establishment defined in Code Section 26-2-21 shall not be included in this definition. This term shall not include any outdoor recreation activity sponsored by the state, a county, a municipality, or any department or entity thereof, any indoor or outdoor public school function, or any outdoor private school function. This term also shall not mean establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products if such preparation or serving is an authorized part of and occurs upon the site of an event which:

(A) Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2;

(B) Lasts 120 hours or less; and

(C) When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.



(3) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee, or association, or combination thereof.

**HISTORY:** Ga. L. 1958, p. 371, § 1; Code 1933, § 88-1001, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1985, p. 660, § 1; Ga. L. 1992, p. 1174, § 2; Ga. L. 1998, p. 1220, § 2; Ga. L. 2000, p. 1558, § 3; Ga. L. 2001, p. 1216, § 1; Ga. L. 2008, p. 361, § 1/ HB 1303.

**O.C.G.A. § 26-2-371 (2009):**

§ 26-2-371. Permits -- Required; issued by county board of health or Department of Community Health; validity; transferability; rules and regulations by municipalities.

It shall be unlawful for any person to operate a food service establishment without having first obtained a valid food service establishment permit. Such permits shall be issued by the county board of health or its duly authorized representative, subject to supervision and direction by the Department of Community Health; but, where the county board of health is not functioning, such permit shall be issued by the Department of Community Health. Such permits shall be valid until suspended or revoked and shall not be transferable with respect to person or location. Nothing contained in this article shall prevent any municipality from adopting rules and regulations governing the licensing and operation of food service establishments.

**HISTORY:** Ga. L. 1958, p. 371, § 2; Code 1933, § 88-1002, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2009, p. 453, § 1-4/ HB 228.

**O.C.G.A. § 26-2-372 (2009):**

§ 26-2-372. Permits -- Issuance; suspension, revocation, or denial; notice and hearing

The Department of Community Health, or county boards of health acting as agents of the department, shall have the power and authority to issue permits to operate food service establishments and to suspend or revoke such permits in accordance with the rules and regulations adopted and promulgated as provided for in this article. When, in the judgment of the department or the county board of health, acting as agent of the former, it is necessary and proper that such application for a permit be denied or that the permit previously granted be suspended or revoked, the applicant or holder thereof shall be afforded notice and hearing as provided in Article 1 of Chapter 5 of Title 31. In the event that such application is finally denied, suspended, or revoked, the applicant or holder of the permit shall be notified in writing. Such written notice shall specifically state any and all reasons why the application has been denied or the permit has been suspended or revoked.

**HISTORY:** Ga. L. 1958, p. 371, § 3; Code 1933, § 88-1003, enacted by Ga. L. 1964, p. 499,

§ 1; Ga. L. 2009, p. 453, § 1-4/ HB 228. § 26-2-373.1. Use of hair nets or hats by food preparers; penalty

(a) A person who, in the ordinary course of business in a food service establishment,



prepares food which is to be consumed by humans shall wear, when preparing food, appropriate hair nets or hats or restraints to prevent contamination of such food.

(b) Notwithstanding the provisions of Code Section 26-2-377, any person who violates subsection (a) of this Code section shall be subject to a civil penalty as follows:

- (1) For a first offense, neither fine nor punishment, but only a warning; and
- (2) For a second or subsequent offense, a civil penalty not to exceed \$50.00.

(c) The county board of health or its representative which issues food service establishment permits under this article shall be authorized to impose the penalties authorized under subsection (b) of this Code section and shall provide the permit holder with notice of any violation of subsection (a) of this Code section.

(d) Hair nets shall not be required of food preparers when the preparer is a volunteer without payment for his or her services and the food is being prepared for a religious, educational, charitable, or nonprofit corporation.

**HISTORY:** Code 1981, § 26-2-373.1, enacted by Ga. L. 1997, p. 836, § 1; Ga. L. 1998, p. 128, § 26.

**O.C.G.A. § 26-2-374 (2009):**

§ 26-2-374. Contents and posting of notices relating to assistance to persons choking; relief from civil liability of persons rendering emergency aid

(a) The Department of Community Health shall print and distribute notices to every food service establishment in this state explaining the proper procedures to be taken to assist or aid persons who are choking. The notices shall contain such information as is found appropriate or necessary by the department and shall be posted and maintained by the food service establishment in a conspicuous place or places on the premises as required by the department.

(b) Any person who renders emergency aid in good faith to persons who are choking, without any charge for his services, shall not be liable for any civil damages for any act or omission in rendering such emergency aid or as a result of any act or failure to act to provide or arrange for further treatment or care for such persons.

**HISTORY:** Code 1933, § 88-1004.1, enacted by Ga. L. 1979, p. 1272, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228.

§ 26-2-375. Enforcement of article; inspection of food service and food sales establishments

(a) The Department of Community Health and the county boards of health, acting as duly authorized agents of the department, are authorized to enforce this article and rules, regulations, and standards adopted and promulgated under this article in establishments that have the majority of square footage of building floor space, including indoor and outdoor dining areas, used for the operation of food service as defined in Code Section 26-2-370. Their

duly authorized representatives are authorized to enter upon and inspect the premises of any



food service establishment as provided in Article 2 of Chapter 5 of Title 31.

(b) Notwithstanding any other provisions of this article, food sales establishments as defined in Code Section 26-2-21 shall be inspected and regulated under Article 2 of this chapter and shall not be subject to inspection or enforcement under this article.

**HISTORY:** Ga. L. 1958, p. 371, § 7; Code 1933, § 88-1006, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1985, p. 660, § 2; Ga. L. 2000, p. 1558, § 4; Ga. L. 2009, p. 453, § 1-4/HB 228.

**O.C.G.A. § 26-2-376 (2009):**

§ 26-2-376. Review of final order or determination by Department of Community Health; appeal to superior court

Any person aggrieved by any final order or determination of any county board of health denying, suspending, or revoking any permit authorized in this article may secure review thereof by the Department of Community Health by appeal in the manner prescribed in Article 1 of Chapter 5 of Title 31. Any person aggrieved by any final order or determination made by the Department of Community Health, whether originally or on appeal, may secure review thereof by appeal to the superior court in the manner prescribed in Article 1 of Chapter 5 of Title 31.

**HISTORY:** Ga. L. 1958, p. 371, § 8; Code 1933, § 88-1007, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228.

**O.C.G.A. § 26-2-377 (2009):**

§ 26-2-377. Penalty for violation of article

Any person who violates any provision of this article or any rule or regulation promulgated under this article by the Department of Community Health or by any county board of health shall be guilty of a misdemeanor.

**HISTORY:** Ga. L. 1958, p. 371, § 11; Code 1933, § 88-1008, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228.

**O.C.G.A. § 26-2-378 (2009):**

§ 26-2-378. Meat products that contain extenders to be displayed on menus or placards; applicability to minor amounts of extenders

(a) All food service establishments in this state which serve meat products that contain extenders, such as textured vegetable protein, textured soy flour, fortified textured vegetable protein, or other such products, shall display on their menus, or by placards visible to the public, information stating that the meat product contains extenders. Products which contain extenders shall not be advertised using names which designate all meat products. The menu or

other advertisement must bear the same name that appears on the package when received from the processor and the ingredients statement as listed on the label.



(b) This Code section shall not be applicable to the serving of meat products which do not contain such an amount of extenders as to require additional labeling in accordance with other laws of the United States and laws of this state relating to meat products.

**HISTORY:** Code 1933, § 88-1009, enacted by Ga. L. 1974, p. 1116, § 1.

## **ARTICLE 14 – NONPROFIT FOOD SALES AND FOOD SERVICE**

### **O.C.G.A. § 26-2-410 (2009):**

#### § 26-2-410. Definitions

As used in this article, the term:

(1) "Meat" means the carcass or any part of any carcass of any animal or any by-product thereof in any form.

(2) "Mobile vehicle" means any vehicle that is mobile and includes land vehicles, air vehicles, and water vehicles.

(3) "Poultry" means domestic fowl including, but not limited to, water fowl such as geese and ducks; birds which are bred for meat or egg production; game birds such as pheasants, partridge, quail, and grouse, as well as guinea fowl, pigeons, doves, and peafowl; ratites; and all other avian species.

(4) "Seafood" means all fresh or frozen fish and all fresh or frozen shellfish, such as shrimp, oysters, clams, scallops, lobsters, crayfish, and other similar fresh or frozen edible products, but such term shall not include canned or salted seafood.

**HISTORY:** Code 1981, § 26-2-410, enacted by Ga. L. 1998, p. 1377, § 1; Ga. L. 1999, p. 81, § 26; Ga. L. 2008, p. 458, § 26/SB 364.

### **O.C.G.A. § 26-2-391 (2009):**

#### § 26-2-391. Permits for nonprofit food sales and food service at events; duration of permit; issuance of subsequent permits

A county or municipality shall be authorized to issue permits for the operation of nonprofit food sales and food service at events sponsored by the county, municipality, or an organization. A permit shall be valid for a period of 120 hours or less and another permit shall not be issued to the organization holding such permit until five days have elapsed from the date of the expiration of the permit. No fees shall be charged to an organization for the

issuance of any such permit by a county or municipality.

**HISTORY:** Code 1981, § 26-2-391, enacted by Ga. L. 1992, p. 1174, § 3; Ga. L. 1998, p. 1220, § 3.



**O.C.G.A. § 26-2-392 (2009):**

§ 26-2-392. Standards for food, labeling, and containers; protection from contamination; temperature; prohibited foods; utensils and equipment; ice; transport to other location; reuse at another event; handwashing facilities; unapproved facilities

(a) This Code section applies to food items prepared and offered for sale by organizations at events covered under this article. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a licensed food processing establishment is prohibited.

(b) At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be either 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times.

(c) The preparation of the following potentially hazardous foods is prohibited unless the organization has an established hazard control program:

- (1) Pastries filled with cream or synthetic cream;
- (2) Custards;
- (3) Products similar to the products listed in paragraphs (1) and (2) of this subsection; or
- (4) Salads containing meat, poultry, eggs, or fish.

(d) Frozen desserts shall only be produced using commercially pasteurized mixes or ingredients. Suitable utensils must be provided to eliminate hand contact with the cooked product. All utensils and equipment shall be cleaned periodically as necessary to prevent a buildup of food.

(e) Ice that is consumed or that contacts food shall be from an approved source and protected from contamination until used. Ice used for cooling stored food shall not be used for human consumption. Food shall be served in an individual-meal type of container and handed to the customer. Food items shall not be transported for sale at any other location or sold, held, or reused at another event.

(f) A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of, at least, running water and individual paper towels.

(g) This Code section shall in no way be construed to allow the sale of food items which have



been packaged, bottled, or canned in unapproved facilities.

(h) County boards of health are authorized to provide staff assistance to organizations at events covered under this article for the purpose of providing food safety instruction.

**HISTORY:** Code 1981, § 26-2-392, enacted by Ga. L. 1992, p. 1174, § 3; Ga. L. 1998, p. 1220, § 3.

**O.C.G.A. § 26-2-393 (2009):**

§ 26-2-393. Enforcement of article

(a) The county or municipality issuing a permit for the operation of a nonprofit food sales and food service event shall be authorized to enforce the provisions of this article; provided, however, no adverse action against an organization may be taken by a county or municipality or any agent of a county or municipality, including a denial of a permit or revocation of a permit, or citation for violation of this article, without the written approval of such action by the district health director.

(b) Any organization which is aggrieved or adversely affected by any final order or action of a county board of health or district health director may have review thereof by appeal to the commissioner of community health or his or her designee. Appeals to the commissioner shall be heard after not more than eight hours.

**HISTORY:** Code 1981, § 26-2-393, enacted by Ga. L. 1992, p. 1174, § 3; Ga. L. 1998, p. 1220, § 3; Ga. L. 2009, p. 453, § 1-6/HB 228.