

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 35.1-25 of the Code of Virginia, relating to restaurants; certain facilities or*  
 3 *programs; exemptions.*

4 [S 677]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 35.1-25 of the Code of Virginia is amended and reenacted as follows:**8 **§ 35.1-25. Exemptions.**

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

10 1. Boardinghouses that do not accommodate transients;

11 2. Cafeterias operated by industrial plants for employees only;

12 3. Churches; fraternal or school organizations; organizations that are exempt from taxation under §  
 13 501(c)(3) of the Internal Revenue Code; and volunteer fire departments and volunteer emergency medical  
 14 services agencies that hold or participate in occasional dinners, bazaars, and other fundraisers of one or two  
 15 days' duration, at which food (i) prepared in the homes of members; (ii) prepared in the kitchen of the church,  
 16 school, or organization; or (iii) purchased or donated from a restaurant licensed pursuant to Chapter 3  
 17 (§ 35.1-18 et seq.) is offered for sale to the public. Restaurants licensed pursuant to Chapter 3 that donate or  
 18 sell food to the entities identified in this subdivision shall not be required to apply for any additional permits  
 19 from, or pay any additional permit application fees to, the Department for the proposed occasional dinner,  
 20 bazaar, or other fundraiser;

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

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

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

31 7. Concession stands at youth athletic activities, if such stands are promoted or sponsored by a youth  
 32 athletic association or by any charitable nonprofit organization or group thereof that has been recognized as  
 33 being a part of the recreational program of the political subdivision where the association or organization is  
 34 located by an ordinance or resolution of such political subdivision; ~~or~~

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

42 9. *The following facilities or programs that provide custodial care to 12 or fewer adults or children in a*  
 43 *home:*

44 *a. A family day home, as defined in § 22.1-289.02;*

45 *b. An adult day center, assisted living facility, children's residential facility, or child-caring institution, as*  
 46 *those terms are defined by the applicable regulations of the State Board of Social Services; and*

47 *c. A group home, a recovery residence, or a residential service, including a residential crisis stabilization*  
 48 *service, as those terms are defined by the applicable regulations of the State Board of Behavioral Health and*  
 49 *Developmental Services.*

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