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FOOD, DRUGS, AND COSMETICS Standards, Labeling, and Adulteration of Food: Change Certain Provisions Relating to Unlawful Acts and the Use or Possession of Certain Cans, Bottles, and Other Receptacles

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FOOD, DRUGS, AND COSMETICS

Standards, Labeling, and Adulteration of Food: Change Certain Provisions Relating to Unlawful Acts and the Use or Possession of Certain Cans, Bottles, and Other Receptacles

CODE SECTION: O.C.G.A. § 26-2-249 (amended)
BILL NUMBER: HB 1139
ACT NUMBER: 812
GEORGIA LAWS: 2000 Ga. Laws 1298
SUMMARY: The Act amends the “Georgia Dairy Act of 1980” by clarifying the use and possession of milk, cream, or ice cream containers. The Act allows a business involved in the processing, distribution, or retail sale of dairy products to temporarily possess any receptacle that is marked with the brand or trademark of another business until it is returned to the rightful owner or purchased from the rightful owner.
EFFECTIVE DATE: July 1, 2000

History

HB 1139 was introduced to clarify ownership of the crates that contain milk, ice cream, and dairy products when they are delivered to grocery stores and cafeterias.¹ The bill’s authors sought to make sure that the dairies who owned and paid for these crates got them back.² These crates and milk containers are expensive, so it is only fair that the containers are returned to their rightful owners.³

1. *See* Telephone Interview with Rep. Johnny Floyd, House District No. 138 (May 15, 2000) [hereinafter Floyd Interview]. These crates bear the name of the manufacturer or owner. *See id.*

2. *See id.*

3. *See id.*

HB 1139

Representatives Henry Reaves of the 178th District, Johnny Floyd of the 138th District, and Ann Purcell of the 147th District, sponsored HB 1139.⁴ The bill was introduced on the House floor on January 12, 2000.⁵ The bill was assigned to the House Agriculture & Consumer Affairs Committee, which favorably reported the bill with no changes.⁶ Representative Johnny Floyd proposed a floor amendment to add the additional language, "or if purchased from the rightful owner," which allowed a purchaser to retain possession of a dairy product receptacle that has the brand name or trademark of another person or entity.⁷ After the adoption of the floor amendment, the House passed HB 1139 unanimously on January 25, 2000.⁸

The bill was then assigned to the Senate Agricultural Committee, where it was approved with no changes.⁹ The Senate unanimously passed the bill on February 17, 2000.¹⁰ The General Assembly then forwarded the bill to Governor Roy Barnes, who signed HB 1139 into law on May 1, 2000.¹¹

The Act

The Act amends Code section 26-2-249, regarding the lawful use or possession of any branded or registered cream can, milk can, or ice cream container for any purpose other than the handling, storing, or shipping of milk, cream, or ice cream.¹² The former Code section provided that no person other than the rightful owner thereof shall use or possess any can, bottle, or other receptacle if marked with the brand or trademark of the

4. See HB 1139, as introduced, 2000 Ga. Gen. Assem.

5. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

6. See *id.*

7. Compare HB 1139, as introduced, 2000 Ga. Gen. Assem., with HB 1139 (HFA), 2000 Ga. Gen. Assem. See Audio Recording of House Proceedings, Jan. 25, 2000 (remarks by Rep. Johnny Floyd) <<http://www.ganet.org/services/leg/audio/2000archive.html>>.

8. See Georgia House of Representatives Voting Record, HB 1139 (Jan. 25, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

9. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

10. See Georgia Senate Voting Record, HB 1139 (Feb. 17, 2000).

11. See 2000 Ga. Laws 1298, § 2, at 1299.

12. Compare 1996 Ga. Laws 1219, § 18, at 1229-30 (formerly found at O.C.G.A. § 26-2-249(7) (Supp. 1999)), with O.C.G.A. § 26-2-249(7) (Supp. 2000).

owner.¹³ The Act allows a business that is involved in the normal processing, distribution, or retail sale of dairy products to temporarily possess a can, bottle, or other receptacle that is marked with the brand or trademark of another person or entity until it returns such receptacle to the rightful owner in the normal course of business.¹⁴

Additionally, the Act allows a business that has purchased the bottle, can, or receptacle from the rightful owner to retain possession of such bottle, can, or receptacle.¹⁵ This provision allows the original owner to sell the cartons and crates to a salvage store or other business, such as a nursery, which often uses these products for craft projects.¹⁶

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13. See 1996 Ga. Laws 1219, § 18, at 1229-30 (formerly found at O.C.G.A. § 26-2-249(7) (1999)).

14. Compare 1996 Ga. Laws 1219, § 18, at 1229-30 (formerly found at O.C.G.A. § 26-2-249(7) (1999)), with O.C.G.A. § 26-2-249(7) (Supp. 2000). Such businesses include cafeterias and supermarkets. See Floyd Interview, *supra* note 1.

15. Compare 1996 Ga. Laws 1219, § 18, at 1229-30 (formerly found at O.C.G.A. § 26-2-249(7) (Supp. 1999)), with O.C.G.A. § 26-2-249(7) (Supp. 2000).

16. See Floyd Interview, *supra* note 1.