

§ 3.1-398.1. (Repealed effective October 1, 2008) Inspections required to operate food establishment.

No person shall operate a food manufacturing plant, food storage warehouse, or retail food store until it has been inspected by the Commissioner. This section shall not apply to:

1. Food manufacturing plants operating under a grant of inspection from the Bureau of Meat and Poultry Inspection or a permit from the Bureau of Dairy Services of the Virginia Department of Agriculture and Consumer Services and Grade A fluid milk manufacturing plants and shellfish and crustacea processing plants operating under a permit from the Virginia Department of Health;
2. Nonprofit organizations holding one-day food sales;
3. Private homes where the resident processes and prepares candies, jams, and jellies not considered to be low-acid or acidified low-acid food products and baked goods that do not require time or temperature control after preparation if such products are: (i) sold to an individual for his own consumption and not for resale; (ii) sold at the private home or at farmers markets; and (iii) labeled "NOT FOR RESALE-PROCESSED AND PREPARED WITHOUT STATE INSPECTION." Nothing in this subdivision shall create or diminish the authority of the Commissioner under § [3.1-399](#); and
4. Retail establishments that (i) do not prepare or serve food; (ii) sell only food or beverages that are sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; (iii) do not sell infant formulas; (iv) do not sell salvaged foods; and (v) certify to the Department of Agriculture and Consumer Services that they meet the foregoing provisions of this section. Retail establishments that meet the provisions of this subdivision shall be exempt from inspection and the inspection fees; however, nothing in this section shall prevent the Department of Agriculture and Consumer Services from inspecting any retail establishment if a consumer complaint is received.

(1993, c. 936; 2003, c. 420; 2004, c. 953; 2008, c. 459.)