

Code of Virginia

Title 35.1. Hotels, Restaurants, Summer Camps, and Campgrounds

Subtitle .

Chapter 1. General Provisions

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§ 35.1-1. Definitions.

As used in this title, unless the context requires a different meaning:

"Bed-and-breakfast operation" means a residential-type establishment that provides (i) two or more rental accommodations for transient guests and food service to a maximum of 18 transient guests on any single day for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

"Board" or "State Board" means the State Board of Health.

"Campground" means any area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for manufactured homes as defined in this section and in §§ [32.1-203](#) and [36-85.3](#), or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions and conditions from providing his sanitary facilities within his property lines.

"Camping unit" means any device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer, travel trailer, camping trailer, pickup camper, or motor home.

"Campsite" means any plot of ground within a campground used or intended for occupation by the camping unit.

"Certified food protection manager" means a person who has demonstrated proficiency in food safety issues, regulations, and techniques in maintaining a safe-food environment by passing a test and receiving a certification as part of a program that is accredited by the Board.

"Commissioner" means the State Health Commissioner.

"Department" means the State Department of Health.

"Hotel" means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including facilities known by varying nomenclatures or designations as hotels, motels, travel lodges, tourist homes, or hostels.

"Person" means an individual, corporation, partnership, association, or any other legal entity.

"Restaurant" means:

1. Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under § [53.1-68](#).
2. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public, including operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service.
3. Mobile points of service to which food is distributed by a place or operation described in subdivision 2 unless the point of service and of consumption is in a private residence.
4. Any place or operation that prepares or stores food for distribution to child or adult day centers or schools, regardless of whether the receiving day center or school holds a restaurant license.

"Restaurant" does not include any place manufacturing packaged or canned foods that are distributed through grocery stores or other similar retailers for sale to the public.

"Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education, recreation, religious instruction or activities, physical education, or health of persons under 18 years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

Code 1950, §§ 35-1, 35-25, 35-43, 35-54; 1960, c. 186; 1964, c. 327; 1981, c. 468; 1995, c. [797](#); 2018, c. [450](#); 2019, c. [275](#); 2023, c. [342](#); 2024, cc. [37](#), [150](#).

§ 35.1-1.1. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this title the Board, the Commissioner, or the Department is required to send any mail or notice by certified mail and such mail or notice is sent by certified mail, return receipt requested, then an additional, identical mail or notice that is sent by the Board, the Commissioner, or the Department may be sent by regular mail.

2011, c. [566](#).

§ 35.1-2. Enforcement.

This title shall be enforced by the State Board of Health and the State Health Commissioner as executive officer of the Board, acting through duly designated officers.

Code 1950, §§ 35-5, 35-17, 35-28; 1981, c. 468.

§ 35.1-3. Commissioner vested with Board's authority.

The Commissioner shall be vested with all the authority of the Board pursuant to this title when it is in session, subject to such rules and regulations as may be prescribed by the Board.

1981, c. 468.

§ 35.1-4. Applicability of Administrative Process Act.

The Administrative Process Act (§ 2.2-4000 et seq.) shall govern the procedures for rendering all case decisions, as defined in § 2.2-4001, and for issuing all orders and regulations promulgated pursuant to the authority of this title.

Code 1950, §§ 35-24, 35-42, 35-52; 1970, c. 273; 1981, c. 468.

§ 35.1-5. Right of entry to inspect, etc.; warrants.

Upon presentation of appropriate credentials and upon consent of the owner or custodian, the Commissioner or his designee shall have the right to enter at any reasonable time onto the premises of any hotel, restaurant, summer camp, or campground to inspect, investigate, evaluate, conduct tests, or take samples for testing as he reasonably deems necessary in order to determine whether any provision of this title, any regulation of the Board, any order of the Board or Commissioner, or any condition in a license issued by the Board or Commissioner pursuant to this title is being violated. If the Commissioner or his designee is denied entry, he may apply to an appropriate circuit court for an inspection warrant authorizing such investigation, evaluation, inspection, testing, or taking of samples for testing as provided in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2.

Code 1950, §§ 35-4, 35-20, 35-27, 35-30; 1981, c. 468.

§ 35.1-6. Orders.

The Board is authorized to issue orders to require any person to comply with the provisions of this title or any regulations promulgated by the Board, or to comply with any case decision, as defined in § 2.2-4001, of the Board or Commissioner. Any such order shall be issued only after a hearing with at least thirty days notice to the affected person of the time, place, and purpose thereof. Such order shall become effective not less than fifteen days after mailing a copy thereof by certified mail to the last known address of such person. The provisions of this section shall not affect the authority of the Board to issue separate orders and regulations to meet any emergency as provided in § 35.1-12.

1981, c. 468.

§ 35.1-7. Penalties, injunctions, civil penalties and charges for violations.

A. Any person willfully violating, or refusing, failing, or neglecting to comply with any regulation or order of the Board or Commissioner, or any provision of this title, shall be guilty of a Class 3 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

B. Any person violating, or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or Commissioner, or any provision of this title, may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey and comply with such regulation, order, or provision of this title. The proceeding may be by injunction, mandamus, or other appropriate remedy.

C. Without limiting the remedies which may be obtained pursuant to subsection B, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed \$10,000 for each violation. Each day of violation shall constitute a separate offense.

D. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide in an order issued by the Board against such person, for the payment of civil charges for past violation in specific sums not to exceed the limit set forth in subsection C. Such civil charges shall be in place of any appropriate civil penalty which could be imposed under subsection C.

Code 1950, §§ 35-7, 35-21, 35-41, 35-53; 1981, c. 468.

§ 35.1-8. Repealed.

Repealed by Acts 1989, c. 258.

§ 35.1-9. Local ordinance superseded; exceptions.

This title and the regulations of the Board shall supersede all local ordinances regulating hotels, restaurants, summer camps, and campgrounds other than those adopted pursuant to the provisions of [§ 35.1-26](#), except that any locality may adopt ordinances regarding (i) the sale, preparation, and handling of food; (ii) swimming pools, saunas and other similar facilities; (iii) the keeping of guest registers by hotels; and (iv) the display of signs alongside or in plain view of any public roadway to preclude false or misleading advertising thereon to the extent prohibited by [§ 18.2-217](#), provided such ordinances are equivalent to or more stringent than the provisions of this title or Title 18.2 in the case of the display signs alongside or in plain view of any public roadway to preclude false or misleading advertising thereon to the extent prohibited by [§ 18.2-217](#), and the regulations of the Board. Nothing in this section shall be construed to limit or affect in any way the powers given to localities under Title 15.2, or under any city charter, or under any other general or special act.

1981, c. 468; 1983, c. 242.

§ 35.1-10. Measures to prevent transmission of disease.

Nothing in this title applicable to restaurants shall prevent the Commissioner from taking whatever action he deems necessary to control the spread of preventable diseases as set forth in Title 32.1, including but not limited to the exclusion of employees, the medical examination of any employee, the immediate closing of a hotel, restaurant, summer camp, or campground, and the taking of samples for testing.

Code 1950, §§ 35-31, 35-40; 1971, Ex. Sess., c. 155; 1981, c. 468; 1993, c. 336.