



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5280 (Substitute H-2 as passed by the House)
House Bill 5837 (Substitute H-1 as passed by the House)
House Bill 5843 (Substitute H-1 as passed by the House)
Sponsor: Representative John Proos (H.B. 5280)
Representative Pam Byrnes (H.B. 5837)
Representative Vicki Barnett (H.B. 5843)
House Committee: Agriculture
Senate Committee: Agriculture and Bioeconomy

Date Completed: 6-30-10

CONTENT

House Bills 5280 (H-2) and 5837 (H-1) would amend the Food Law to exempt a cottage food operation from the licensure and evaluation requirements of the Law, if the products were prepackaged and sold in person, indicated that they were homemade, and met other labeling requirements. Gross sales of cottage food products at a particular cottage food operation could not exceed \$15,000 annually.

House Bill 5843 (H-1) would amend the Food Law to exempt from licensure retail outlets and processing facilities for producers with gross sales of \$15,000 or less of honey or maple syrup, if the honey or syrup met certain labeling requirements.

House Bill 5280 (H-2) and 5837 (H-1) are tie-barred to one another. House Bill 5843 (H-1) is tie-barred to the other two bills.

House Bill 5280 (H-2)

Exemption for Cottage Food Operations

The Food Law generally prohibits a person from operating a food establishment unless it is licensed by the Michigan Department of Agriculture (MDA). The MDA or the local health department must conduct periodic evaluations to verify compliance with the Law and determine the degree of active control over foodborne illness risk factors.

Under the bill, a cottage food operation would be exempt from the licensing and evaluation provisions of the Law. This exemption would not include an exemption from the adulteration and other standards in the bill or the Law, and would not limit the MDA's ability to take appropriate enforcement action for violations of the Law.

Those provisions would not require a cottage food operation to meet the Federal standards in 21 CFR 110 (which contains good manufacturing practice regulations for manufacturing, packing, and holding human food) or the 2005 Federal Food Code.

An exemption under the bill would not affect the application of other State or Federal laws or any applicable ordinances enacted by any local unit of government.

Packaging, Labeling Requirements

Cottage food products would have to be prepackaged and properly labeled before sale.

At a minimum, a cottage food operation would have to place on the label the following information:

- The name and address of the cottage food operation.
- The name of the product.
- The ingredients of the product, in descending order of predominance by weight.
- The net weight or volume of the product.
- Allergen labeling as specified by Federal labeling requirements.
- If any nutritional claim were made, appropriate labeling as specified by Federal labeling requirements.

In addition, the label would have to include the following statement printed in at least the equivalent of 11-point font size in a color that provided a clear contrast to the background: "Made in a home kitchen that has not been inspected by the Michigan Department of Agriculture."

Sales Restrictions

Cottage food products could be sold directly from the cottage food operation to the consumer only, and not by internet or mail order. The bill would prohibit sales by consignment or at wholesale.

The bill would limit the gross sales of cottage food products to \$15,000 annually. The determination of the annual gross sales would have to be computed on the basis of the amount of gross sales within or at a particular domestic residence and could not be computed on a per-person basis within that residence. The MDA could request in writing documentation to verify the annual gross sales figure.

Cottage food products could be stored only in the primary domestic residence.

House Bill 5837 (H-1)

The bill would add definitions of "cottage food operation", "cottage food product", and "domestic residence" to the Food Law.

"Cottage food operation" would mean a person who produces or packages cottage food products only in a kitchen of that person's primary residence within the State.

"Cottage food product" would mean a food that is not potentially hazardous, as defined in the Federal Food Code. Examples would include jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety.

The term would not include all potentially hazardous food regulated under 21 CFR 113 and 114, including meat and poultry products, salsa, milk products, bottled water and other beverages, and home-produced ice products. The term also would not include canned low-acid fruits or acidified vegetables or other canned foods except jams, jellies, and preserves, as defined in 21 CFR 150.

(In Title 21 of the Code of Federal Regulations, Part 113 deals with thermally processed low-acid foods packaged in hermetically sealed containers. Part 114 contains good

manufacturing practice regulations for acidified food. Part 150 deals with fruit butters, jellies, preserves, and related products.)

"Domestic residence" would mean a single-family dwelling or an area within a rental unit where a single person or family actually resides. A domestic residence would not include a group or communal residential setting within any type of structure, or an outbuilding, shed, barn, or other similar structure.

House Bill 5843 (H-1)

Under the bill, retail outlets and processing facilities would be exempt from licensure under the Food Law for producers with gross sales of \$15,000 or less of honey or maple syrup. The honey and maple syrup would have to have labeling substantially similar to that for cottage food products as described above.

MCL 289.4101 et al. (H.B. 5280)
289.1105 (H.B. 5837)
289.4105 (H.B. 5843)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have a minimal fiscal impact on the State. As a result of the provisions in the bills exempting a certain segment of those engaged in food sales from obtaining a \$70 annual food handling license, the Michigan Department of Agriculture reports that it could experience a reduction in fee revenue used to fund food inspections. The Department states that there are 1,165 small food processors and, of that total, 460 are processors of maple syrup, jams/jellies, and honey. It is estimated that 50% of the 460 could leave the system at \$70 per license. The Department also estimates that, of the remaining 705 small food processors, approximately one quarter could consider leaving the licensure system, also forgoing the cost of \$70 per license. The Department estimates that the financial impact of these bills would be a loss in revenue of approximately \$30,000. The MDA also would be required to perform fewer inspections.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.