

**SUBSTITUTE FOR
HOUSE BILL NO. 5058**

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending section 1105 (MCL 289.1105), as amended by 2014 PA 516.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1105. (1) As used in this act:

2 (a) "Adulterated" means ~~food to which~~ any of the following
3 ~~apply~~: **as applied to food:**

4 (i) It bears or contains any poisonous or deleterious substance
5 that may render it injurious to health unless the substance is not
6 an added substance and the quantity of that substance in the food
7 does not ordinarily render it injurious to health.

8 (ii) It bears or contains any added poisonous or added
9 deleterious substance, other than a substance that is a pesticide

1 chemical in or on a raw agricultural commodity, ~~or~~ a food additive,
2 ~~or~~ a color additive considered unsafe within the meaning of
3 subsection (2).

4 (iii) It is a raw agricultural commodity that bears or contains
5 a pesticide chemical considered unsafe within the meaning of
6 subsection (2).

7 (iv) It bears or contains any food additive considered unsafe
8 within the meaning of subsection (2). However, if a pesticide
9 chemical ~~has been~~ **is** used in or on a raw agricultural commodity in
10 conformity with an exemption granted or limitation prescribed under
11 subsection (2) and the raw agricultural commodity ~~has been~~ **is**
12 subjected to processing, the residue of that pesticide chemical
13 remaining in or on that processed food is, notwithstanding the
14 provisions of subsection (2) and this subdivision, not considered
15 unsafe if that residue in or on the raw agricultural commodity ~~has~~
16 ~~been~~ **is** removed to the extent possible in good manufacturing
17 practice and if the concentration of that residue in the processed
18 food when ready to eat is not greater than the tolerance prescribed
19 for the raw agricultural commodity.

20 (v) It is or contains a new animal drug or conversion product
21 of a new animal drug that is unsafe within the meaning of section
22 ~~360b-512~~ of the federal act, 21 USC 360b.

23 (vi) It consists in whole or in part of a diseased,
24 contaminated, filthy, putrid, or decomposed substance or it is
25 otherwise unfit for food.

26 (vii) It has been produced, prepared, packed, or held under
27 unsanitary conditions in which it may have become contaminated with
28 filth or in which it may have been rendered diseased, unwholesome,
29 or injurious to health.

1 (viii) It is the product of a diseased animal or ~~an~~ animal that
2 has died other than by slaughter or ~~that~~ has been fed uncooked
3 garbage or uncooked offal from a slaughterhouse.

4 (ix) Its container is composed, in whole or in part, of any
5 poisonous or deleterious substance that may render the contents
6 injurious to health.

7 (x) A valuable constituent ~~has been~~ **is** in whole or in part
8 omitted or abstracted from the food; a substance ~~has been~~ **is**
9 substituted wholly or in part for the food; damage or inferiority
10 ~~has been~~ **is** concealed in any manner; or a substance ~~has been~~ **is**
11 added to, ~~the food or mixed~~ **with**, or packed with the food ~~so as to~~
12 increase its bulk or weight, reduce its quality or strength, or
13 make it appear better or of greater value than it is.

14 (xi) It is confectionery and has partially or completely
15 imbedded in it any nonnutritive object except if, as provided by
16 rules, the object is of practical functional value to the
17 confectionery product and would not render the product injurious or
18 hazardous to health; it is confectionery and bears or contains any
19 alcohol other than alcohol not in excess of ~~1/2 of 1%~~ **0.5%** by
20 volume derived solely from the use of flavoring extracts; or it is
21 confectionery and bears or contains ~~any~~ **a** nonnutritive substance
22 except a nonnutritive substance such as harmless coloring, harmless
23 flavoring, harmless resinous glaze not in excess of ~~4/10 of 1%~~,
24 **0.4%**, harmless natural wax not in excess of ~~4/10 of 1%~~, **0.4%**,
25 harmless natural gum and pectin or any chewing gum by reason of its
26 containing harmless nonnutritive masticatory substances which is in
27 or on the confectionery by reason of its use for some practical
28 functional purpose in the manufacture, packaging, or storage of
29 such confectionery if the use of the substance does not promote

1 deception of the consumer or otherwise result in adulteration or
2 misbranding in violation of this act. For the purpose of avoiding
3 or resolving uncertainty as to the application of this subdivision,
4 the director may issue rules allowing or prohibiting the use of
5 particular nonnutritive substances.

6 (xii) It is, ~~or~~ bears, or contains any color additive that is
7 unsafe within the meaning of subsection (2).

8 (xiii) It ~~has been~~ **is** intentionally subjected to radiation,
9 unless the use of the radiation ~~was~~ **is** in conformity with a rule or
10 exemption under this act or a regulation or exemption under the
11 federal act.

12 (xiv) It is bottled water that contains a substance at a level
13 higher than allowed under this act.

14 (b) "Advertisement" means a representation disseminated in any
15 manner or by any means, other than by labeling, for the purpose of
16 inducing, or which is likely to induce, directly or indirectly, the
17 purchase of food.

18 (c) "Agricultural use operation" means a maple syrup
19 production facility or similar food establishment that finishes a
20 raw commodity and is integral to the agricultural production of,
21 and is located at, a farm. An agricultural use operation is not
22 considered a food processor or retail processing operation for
23 purposes of personal or real property but must meet those same
24 standards and licensing requirements ~~as prescribed in~~ **under** this
25 act.

26 (d) "Bed and breakfast" means a private residence that offers
27 sleeping accommodations to transient tenants in 14 or fewer rooms
28 for rent, is the innkeeper's residence ~~in which~~ **where** the innkeeper
29 resides while renting the rooms to transient tenants, and serves

1 breakfasts, or other meals in the case of a bed and breakfast
 2 described in section 1107(t) (ii), at no extra cost to its transient
 3 tenants. A bed and breakfast is not a food service establishment if
 4 exempt under section 1107(t) (ii) or (iii).

5 (e) "Color additive" means a dye, pigment, or other substance
 6 that is made by a process of synthesis or similar artifice or is
 7 extracted, isolated, or otherwise derived, with or without
 8 intermediate or final change of identity from a vegetable, animal,
 9 mineral, or other source, or when added or applied to a food or any
 10 part of a food is capable alone or through reaction with other
 11 substances of imparting color to the food. Color additive does not
 12 include ~~any~~ a material that is exempt or hereafter is exempted
 13 under the federal act. This subdivision does not apply to ~~any~~ a
 14 pesticide chemical, soil or plant nutrient, or other agricultural
 15 chemical solely because of its effect in aiding, retarding, or
 16 otherwise affecting, directly or indirectly, the growth of other
 17 natural physiological process of produce of the soil and thereby
 18 affecting its color, whether before or after harvest. Color
 19 includes black, white, and intermediate grays.

20 (f) "Consumer" means an individual who is a member of the
 21 public ~~—that~~ takes possession of food, ~~is—does~~ not ~~functioning~~
 22 **function** in the capacity of an operator of a food establishment or
 23 food processor, and does not offer the food for resale.

24 (g) "Contaminated with filth" means contaminated as a result
 25 of not being securely protected from dust, dirt, and, as far as may
 26 be necessary by all reasonable means, from all foreign or injurious
 27 ~~contaminations.~~ **contaminants.**

28 (h) "Continental breakfast" means the serving of only ~~non-~~
 29 ~~potentially-hazardous~~ **non-potentially hazardous** food such as a

1 roll, pastry or doughnut, fruit juice, or hot beverage, but may
 2 also include individual portions of milk and other items incidental
 3 to those foods.

4 (i) "Core item" means a provision in the food code that is not
 5 designated as a priority item or a priority foundation item. Core
 6 item includes both of the following:

7 (i) ~~(A)~~—An item that usually relates to general sanitation,
 8 operational controls, sanitation standard operating procedures
 9 (SSOPs), facilities or structures, equipment design, or general
 10 maintenance.

11 (ii) ~~(B)~~—The requirements of ~~section~~**sections** 2129(2) and
 12 6152(1).

13 (j) "Cottage food operation" means ~~a person~~**an individual** who
 14 produces or packages cottage food products only in a kitchen of
 15 that ~~person's~~**individual's** primary domestic residence within this
 16 state.

17 (k) "Cottage food product" means a food that is not
 18 potentially hazardous food as that term is defined in the food
 19 code. ~~Examples of cottage~~**Cottage** food product ~~include,~~**includes,**
 20 but ~~are~~**is** not limited to, jams, jellies, dried fruit, candy,
 21 cereal, granola, dry mixes, vinegar, dried herbs, and baked goods
 22 that do not require temperature control for safety. Cottage food
 23 product does not include any **of the following:**

24 (i) **A** potentially hazardous food regulated under 21 CFR parts
 25 113 and 114 ~~, examples of which include,~~**including,** but ~~are~~ not
 26 limited to, meat and poultry products, ~~+~~salsa, ~~+~~milk products, ~~+~~
 27 bottled water and other beverages, ~~+~~and home-produced ice
 28 products. ~~Cottage food product also does not include canned~~

29 (ii) **Canned** low-acid fruits or acidified vegetables. ~~and other~~

1 **(iii) Other** canned foods except for jams, jellies, and preserves
2 as **those terms are** defined in 21 CFR part 150.

3 (2) Any added poisonous or deleterious substance, food
4 additive, pesticide chemical in or on a raw agricultural commodity,
5 or color additive is considered unsafe for the purpose of
6 subsection (1)(a), unless there is in effect a federal regulation
7 or exemption from regulation under the federal act, the federal
8 meat inspection act, 21 USC 601 to 683, the poultry products
9 inspection act, 21 USC 451 to 472, or another federal statute, or a
10 rule limiting the quantity of the substance, and the use or
11 intended use of the substance, and the use or intended use of the
12 substance conforms to the terms prescribed by the federal
13 regulation or exemption or the rule.

14 **(3) A food or dietary supplement is not adulterated solely**
15 **because the food or dietary supplement contains or has added to it**
16 **any quantity of industrial hemp-derived cannabinoids if the food or**
17 **dietary supplement meets the requirements under section 7136.**

18 Enacting section 1. This amendatory act does not take effect
19 unless House Bill No. 5617 of the 101st Legislature is enacted into
20 law.