

SUBSTITUTE FOR  
HOUSE BILL NO. 4956

[A bill to amend 2000 PA 92, entitled  
"Food law of 2000,"  
by amending sections 1105, 1107, 1109, 2111, 2113, 2119, 2123,  
2125, 2129, 3103, 3119, 3121, 3123, 3125, 3127, 3135, 3137, 3139,  
4101, 4103, 4105, 4107, 4111, 4113, 4116, 4117, 4125, 5101, 5105,  
5107, 6101, 6115, 6129, 6137, 6147, 6149, 7105, 7113, 7115, 7119,  
7125, 7137, 8105, and 8107 (MCL 289.1105, 289.1107, 289.1109,  
289.2111, 289.2113, 289.2119, 289.2123, 289.2125, 289.2129,  
289.3103, 289.3119, 289.3121, 289.3123, 289.3125, 289.3127,  
289.3135, 289.3137, 289.3139, 289.4101, 289.4103, 289.4105,  
289.4107, 289.4111, 289.4113, 289.4116, 289.4117, 289.4125,  
289.5101, 289.5105, 289.5107, 289.6101, 289.6115, 289.6129,  
289.6137, 289.6147, 289.6149, 289.7105, 289.7113, 289.7115,  
289.7119, 289.7125, 289.7137, 289.8105, and 289.8107), sections

1109, 3119, 4111, 4117, 6101, and 6149 as amended by 2002 PA 487 and section 4116 as added by 2004 PA 267, and by adding sections 6140, 6150, and 7106; and to repeal acts and parts of acts.]

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1105. As used in this act:

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

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

9       (ii) It bears or contains any added poisonous or added  
10       deleterious substance, other than a substance that is a pesticide  
11       chemical in or on a raw agricultural commodity; a food additive;  
12       or a color additive considered unsafe within the meaning of  
13       subparagraph (v).

14       (iii) It is a raw agricultural commodity that bears or  
15       contains a pesticide chemical considered unsafe within the  
16       meaning of subparagraph (v).

17       (iv) It bears or contains any food additive considered unsafe  
18       within the meaning of subparagraph (v) provided that where a  
19       pesticide chemical has been used in or on a raw agricultural  
20       commodity in conformity with an exemption granted or tolerance  
21       prescribed under subparagraph (v) and the raw agricultural  
22       commodity has been subjected to processing the residue of that  
23       pesticide chemical remaining in or on that processed food is,

1 notwithstanding the provisions of subparagraph (v) and this  
2 subdivision, not be considered unsafe if that residue in or on  
3 the raw agricultural commodity has been removed to the extent  
4 possible in good manufacturing practice and if the concentration  
5 of that residue in the processed food when ready to eat is not  
6 greater than the tolerance prescribed for the raw agricultural  
7 commodity.

8 (v) Any added poisonous or deleterious substance, any food  
9 additive, and pesticide chemical in or on a raw agricultural  
10 commodity, or any color additive is considered unsafe for the  
11 purpose of application of this definition, unless there is in  
12 effect a federal regulation or exemption from regulation under  
13 the federal act, meat inspection act, poultry product inspection  
14 act, or other federal acts, or a rule adopted under this act  
15 limiting the quantity of the substance, and the use or intended  
16 use of the substance, and the use or intended use of the  
17 substance conforms to the terms prescribed by the rule.

18 (vi) It is or contains a new animal drug or conversion  
19 product of a new animal drug that is unsafe within the meaning of  
20 section ~~512-360B~~ of the federal act, ~~21 U.S.C. 512-21~~ **USC 360B**.

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

24 (viii) It has been produced, prepared, packed, or held under  
25 insanitary conditions in which it may have become contaminated  
26 with filth or in which it may have been rendered diseased,  
27 unwholesome, or injurious to health.

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

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

1 functional purpose in the manufacture, packaging, or storage of  
2 such confectionery if the use of the substance does not promote  
3 deception of the consumer or otherwise result in adulteration or  
4 misbranding in violation of the provisions of this act. For the  
5 purpose of avoiding or resolving uncertainty as to the  
6 application of this subdivision, the director may issue rules  
7 allowing or prohibiting the use of particular nonnutritive  
8 substances.

9 (xiii) It is or bears or contains any color additive that is  
10 unsafe within the meaning of subparagraph (v).

11 (xiv) It has been intentionally subjected to radiation,  
12 unless the use of the radiation was in conformity with a rule or  
13 exemption under this act or a regulation or exemption under the  
14 federal act.

15 (xv) It is bottled water that contains a substance at a level  
16 higher than allowed under this act.

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

21 (c) "Bed and breakfast" means a private residence that  
22 offers sleeping accommodations to transient tenants in 14 or  
23 fewer rooms for rent, is the innkeeper's residence in which the  
24 innkeeper resides while renting the rooms to transient tenants,  
25 and serves breakfasts, **OR OTHER MEALS IN THE CASE OF A BED AND**  
26 **BREAKFAST DESCRIBED IN SECTION 1107(N) (ii)**, at no extra cost to  
27 its transient tenants. A bed and breakfast is not considered a

1 food service establishment if exempt under section ~~1107 (I) (iii) or~~  
2 ~~(iv)~~ **1107 (N) (ii) OR (iii)** .

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

19 (e) "Contaminated with filth" means contamination applicable  
20 to any food not securely protected from dust, dirt, and, as far  
21 as may be necessary by all reasonable means, from all foreign or  
22 injurious contaminations.

23 (f) "Continental breakfast" means the serving of only non-  
24 potentially-hazardous food such as a roll, pastry or doughnut,  
25 fruit juice, or hot beverage, but may also include individual  
26 portions of milk and other items incidental to those foods.

27 (g) "Critical violation" or "critical item" means a

violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

Sec. 1107. As used in this act:

(a) "Department" means the Michigan department of agriculture.

(b) "Director" means the director of the Michigan department of agriculture or his or her designee.

**(C) "EVALUATION" MEANS A FOOD SAFETY AUDIT, INSPECTION, OR FOOD SAFETY AND SANITATION ASSESSMENT, WHETHER ANNOUNCED OR UNANNOUNCED, THAT IDENTIFIES VIOLATIONS OR VERIFIES COMPLIANCE WITH THIS ACT AND DETERMINES THE DEGREE OF ACTIVE CONTROL BY FOOD ESTABLISHMENT OPERATORS OVER FOODBORNE ILLNESS RISK FACTORS.**

(D) ~~(e)~~—"Extended retail food establishment" means a retail grocery that does both of the following:

(i) Serves or provides an unpackaged food for immediate consumption.

(ii) Provides customer seating in the food service area.

**(E) "FAIR CONCESSION" MEANS A FOOD CONCESSION, STORAGE, PREPARATION, OR DISPENSING OPERATION AT A STATE OR COUNTY FAIR.**

(F) ~~(d)~~—"Federal act" means the federal food, drug, and cosmetic act, ~~chapter 675, 52 Stat. 1040, 21 U.S.C. USC 301 to 321, 331 to 333, 334 to 343-3, 344 to 346a, 347, 348 to 356e, 358 to 360, 360b to 360dd, 360hh to 363, 371 to 376, and 378 to 397.~~

(G) ~~(e)~~—"Food" means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.

(H) ~~(f)~~—"Food additive" means any substance, the intended use of which, directly or indirectly, results in or may be reasonably expected to result in its becoming a component or otherwise affecting the characteristics of any food if that substance is not generally recognized among experts as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Food additive includes any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and includes any source of radiation intended for any use. Food additive does not include any of the following:

(i) A pesticide chemical in or on a raw agricultural commodity.

(ii) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity.

(iii) A color additive.

(iv) Any substance used in accordance with a sanction or approval granted before the enactment of the food additives amendment of 1958, Public Law 85-929, ~~72 Stat. 1784~~, pursuant to the federal act, the poultry products inspection act, ~~Public Law 85-172, 71 Stat. 441~~, 21 U.S.C. ~~USC~~ 451 to 471, or the meat inspection act of March 4, 1907, chapter 2907, 34 Stat. 1258.

(I) ~~(g)~~—"Food code" means food code, ~~1999-2005~~ recommendations of the food and drug administration of the United States public health service that regulates the design,



1 construction, management, and operation of certain food  
2 establishments.

3 ~~—— (h) "Food concession" means a food storage, preparation, or~~  
4 ~~dispensing operation at a state or county fair.~~

5 (J) ~~(i)~~ "Food establishment" means an operation where food  
6 is processed, packed, canned, preserved, frozen, fabricated,  
7 stored, prepared, served, sold, or offered for sale. Food  
8 establishment includes a food processing plant, a food service  
9 establishment, and a retail grocery. Food establishment does not  
10 include any of the following:

11 (i) A charitable, religious, fraternal, or other nonprofit  
12 organization operating a home-prepared baked goods sale or  
13 serving only home-prepared food in connection with its meetings  
14 or as part of a fund-raising event.

15 (ii) An inpatient food operation located in a health facility  
16 or agency subject to licensure under article 17 of the public  
17 health code, MCL 333.20101 to 333.22260.

18 (iii) A food operation located in a prison, jail, state mental  
19 health institute, boarding house, fraternity or sorority house,  
20 convent, or other facility where the facility is the primary  
21 residence for the occupants and the food operation is limited to  
22 serving meals to the occupants as part of their living  
23 arrangement.

24 (K) ~~(j)~~ "Food processing plant" means a food establishment  
25 that processes, manufactures, packages, labels, or stores food  
26 and does not provide food directly to a consumer.

27 (I) **"FOOD SAFETY AND SANITATION ASSESSMENT" MEANS JUDGING OR**

1 ASSESSING SPECIFIC FOOD HANDLING ACTIVITIES, EVENTS, CONDITIONS,  
 2 OR MANAGEMENT SYSTEMS IN AN EFFORT TO DETERMINE THEIR POTENTIAL  
 3 EFFECTIVENESS IN CONTROLLING RISKS FOR FOODBORNE ILLNESS AND  
 4 REQUIRED COMPLIANCE WITH THIS ACT, ACCOMPANIED BY A REPORT OF  
 5 FINDINGS.

6 (M) "FOOD SAFETY AUDIT" MEANS THE METHODICAL EXAMINATION AND  
 7 REVIEW OF RECORDS, FOOD SOURCES, FOOD HANDLING PROCEDURES, AND  
 8 FACILITY CLEANING AND SANITATION PRACTICES FOR COMPLIANCE WITH  
 9 THIS ACT, ACCOMPANIED BY A REPORT OF FINDINGS. FOOD SAFETY AUDIT  
 10 INCLUDES CHECKING OR TESTING, OR BOTH, OF OBSERVABLE PRACTICES  
 11 AND PROCEDURES TO DETERMINE COMPLIANCE WITH STANDARDS CONTAINED  
 12 IN OR ADOPTED BY THIS ACT, ACCOMPANIED BY A REPORT OF FINDINGS.

13 (N) ~~(k)~~—"Food service establishment" means a fixed or mobile  
 14 restaurant, coffee shop, cafeteria, short order cafe,  
 15 luncheonette, grill, tearoom, sandwich shop, soda fountain,  
 16 tavern, bar, cocktail lounge, nightclub, drive-in, industrial  
 17 feeding establishment, private organization serving the public,  
 18 rental hall, catering kitchen, delicatessen, theater, commissary,  
 19 **FOOD CONCESSION**, or similar place in which food or drink is  
 20 prepared for direct consumption through service on the premises  
 21 or elsewhere, and any other eating or drinking establishment or  
 22 operation where food is served or provided for the public. Food  
 23 service establishment does not include any of the following:

24 (i) A motel that serves continental breakfasts only.

25 ~~——(ii) A food concession.~~

26 (ii) ~~(iii)~~—A bed and breakfast that has 10 or fewer sleeping  
 27 rooms, including sleeping rooms occupied by the innkeeper, 1 or

1 more of which are available for rent to transient tenants.

2        **(iii)** ~~(iv)~~—A bed and breakfast that has at least 11 but fewer  
3 than 15 rooms for rent, if the bed and breakfast serves  
4 continental breakfasts only.

5        **(iv)** ~~(v)~~—A child care organization regulated under 1973 PA  
6 116, MCL 722.111 to 722.128, unless the establishment is carrying  
7 out an operation considered by the director to be a food service  
8 establishment.

9        **(O)** ~~(I)~~—"Food warehouse" means a food establishment that  
10 stores or distributes prepackaged food for wholesaling.

11        Sec. 1109. As used in this act:

12        **(a)** "Imminent or substantial hazard" means a condition at a  
13 food establishment that the director determines requires  
14 immediate action to prevent endangering the health of people.

15        **(B)** "INSPECTION" MEANS THE CHECKING OR TESTING OF OBSERVABLE  
16 PRACTICES AGAINST STANDARDS ESTABLISHED IN OR ADOPTED BY THIS  
17 ACT, ACCOMPANIED BY A REPORT OF FINDINGS.

18        **(C)** "JUICE" MEANS THE AQUEOUS LIQUID EXPRESSED OR EXTRACTED  
19 FROM 1 OR MORE FRUITS OR VEGETABLES, PUREES OF THE EDIBLE  
20 PORTIONS OF 1 OR MORE FRUITS OR VEGETABLES, OR ANY CONCENTRATES  
21 OF SUCH LIQUID OR PUREE.

22        **(D)** ~~(b)~~—"Label" means a display of written, printed, or  
23 graphic matter upon the immediate container of any article and  
24 includes a requirement imposed under this act that any word,  
25 statement, or other information appearing on the display also  
26 appear on the outside container or wrapper of the retail package  
27 of the article or be easily legible through the outside container

1 or wrapper.

2 (E) ~~(e)~~—"Labeling" means all labels and other written,  
3 printed, or graphic matter upon an article, any of its containers  
4 or wrappers, or accompanying the article.

5 (F) ~~(d)~~—"License limitation" means an action by which the  
6 director imposes restrictions or conditions, or both, on a  
7 license of a food establishment.

8 (G) ~~(e)~~—"License holder" means the entity that is legally  
9 responsible for the operation of the food establishment including  
10 the owner, the owner's agent, or other person operating under  
11 apparent authority of the owner possessing a valid license to  
12 operate a food establishment.

13 (H) ~~(f)~~—"Limited wholesale food processor" means a wholesale  
14 food processor that has \$25,000.00 or less in annual gross  
15 wholesale sales made or business done in wholesale sales in the  
16 preceding licensing year, or \$25,000.00 or less of the food is  
17 reasonably anticipated to be sold for the current licensing year.  
18 Only the food sales from the wholesale food processor operation  
19 are used in computing the annual gross sales under this  
20 subdivision.

21 (I) ~~(g)~~—"Local health department" means that term as defined  
22 in section 1105 of the public health code, MCL 333.1105, and  
23 having those powers and duties as described in part 24 of the  
24 public health code, MCL 333.2401 to 333.2498.

25 (J) "MILK PRODUCT" MEANS CREAM, LIGHT CREAM, LIGHT WHIPPING  
26 CREAM, HEAVY CREAM, HEAVY WHIPPING CREAM, WHIPPED CREAM, WHIPPED  
27 LIGHT CREAM, SOUR CREAM, ACIDIFIED SOUR CREAM, CULTURED SOUR

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1 CREAM, HALF-AND-HALF, SOUR HALF-AND-HALF, ACIDIFIED SOUR HALF-  
2 AND-HALF, CULTURED SOUR HALF-AND-HALF, RECONSTITUTED OR  
3 RECOMBINED MILK AND MILK PRODUCTS, CONCENTRATED MILK,  
4 CONCENTRATED MILK PRODUCTS, SKIM MILK, LOWFAT MILK, FROZEN MILK  
5 CONCENTRATE, EGGNOG, BUTTERMILK, CULTURED MILK, CULTURED LOWFAT  
6 MILK, CULTURED SKIM MILK, YOGURT, LOWFAT YOGURT, NONFAT YOGURT,  
7 ACIDIFIED MILK, ACIDIFIED LOWFAT MILK, ACIDIFIED SKIM MILK, LOW-  
8 SODIUM MILK, LOW-SODIUM LOWFAT MILK, LOW-SODIUM SKIM MILK,  
9 LACTOSE-REDUCED MILK, LACTOSE-REDUCED LOWFAT MILK, LACTOSE-  
10 REDUCED SKIM MILK, ASEPTICALLY PROCESSED AND PACKAGED MILK, MILK  
11 PRODUCTS WITH ADDED SAFE AND SUITABLE MICROBIAL ORGANISMS, AND  
12 ANY OTHER MILK PRODUCT MADE BY THE ADDITION OR SUBTRACTION OF  
13 MILKFAT OR ADDITION OF SAFE AND SUITABLE OPTIONAL INGREDIENTS FOR  
14 PROTEIN, VITAMIN, OR MINERAL FORTIFICATION. MILK PRODUCT DOES  
15 INCLUDE DIETARY DAIRY PRODUCTS, DAIRY-BASED INFANT FORMULA, ICE  
16 CREAM AND OTHER FROZEN DESSERTS, CHEESE, [BUTTER, AND ANY OTHER PRODUCT  
DERIVED FROM MILK].

17 (K) ~~(h)~~ "Misbranded" means food to which any of the  
18 following apply:

19 (i) Its labeling is false or misleading in any particular.

20 (ii) It is offered for sale under the name of another food.

21 (iii) It is an imitation of another food unless its label  
22 bears, in type of uniform size and prominence, the word  
23 "imitation" and immediately thereafter the name of the food  
24 imitated.

25 (iv) Its container is so made, formed, or filled as to be  
26 misleading.

27 (v) It is in package form, unless it bears a label

1 containing both the name and place of business of the  
2 manufacturer, packer, or distributor and an accurate statement of  
3 the quantity of the contents in terms of weight, measure, or  
4 numerical count subject to reasonable variations as are permitted  
5 and exemptions as to small packages as are established by rules  
6 prescribed by the department.

7 (vi) Any word, statement, or other labeling required by this  
8 act is not prominently placed on the label or labeling  
9 conspicuously and in such terms as to render it likely to be read  
10 and understood by the ordinary individual under customary  
11 conditions of purchase and use.

12 (vii) It purports to be or is represented as a food for which  
13 a definition and standard of identity have been prescribed by  
14 rules as provided by this act or under the federal act, unless it  
15 conforms to such definition and standard and its label bears the  
16 name of the food specified in the definition and standard, and,  
17 insofar as may be required by the rules, the common names of  
18 optional ingredients, other than spices, flavoring, and coloring,  
19 present in such food.

20 (viii) It purports to be or is represented to be either of the  
21 following:

22 (A) A food for which a standard of quality has been  
23 prescribed by this act or rules and its quality falls below such  
24 standard unless its label bears, in such manner and form as such  
25 rules specify, a statement that it falls below such standard.

26 (B) A food for which a standard or standards of fill of  
27 container have been prescribed by this act or rules and it falls

1 below the standard of fill of container applicable, unless its  
2 label bears, in such manner and form as the rules specify, a  
3 statement that it falls below the standard.

4 (ix) It does not bear labeling clearly giving the common or  
5 usual name of the food, if one exists, and if fabricated from 2  
6 or more ingredients, the common or usual name of each ingredient  
7 except that spices, flavorings, and colorings, other than those  
8 sold as such, may be designated as spices, flavorings, and  
9 colorings, without naming each and under other circumstances as  
10 established by rules regarding exemptions based upon  
11 practicality, potential deception, or unfair competition.

12 (x) It bears or contains any artificial flavoring,  
13 artificial coloring, or chemical preservative unless the labeling  
14 states that fact and under other circumstances as established by  
15 rules regarding exemptions based upon practicality.

16 (xi) If a food intended for human consumption and offered for  
17 sale, its label and labeling do not bear the nutrition  
18 information required under section 403(q) of the federal act, 21  
19 ~~U.S.C.~~ **USC** 343.

20 (xii) It is a product intended as an ingredient of another  
21 food and, when used according to the directions of the purveyor,  
22 will result in the final food product being adulterated or  
23 misbranded.

24 (xiii) It is a color additive whose packaging and labeling are  
25 not in conformity with packaging and labeling requirements  
26 applicable to such color additive prescribed under the provisions  
27 of the federal act.

1       (I) ~~(i)~~ "Mobile food establishment" means a food  
2 establishment operating from a vehicle or watercraft that returns  
3 to a licensed commissary for servicing and maintenance at least  
4 once every 24 hours.

5       (M) ~~(j)~~ "Mobile food establishment commissary" means an  
6 operation that is capable of servicing a mobile food  
7 establishment.

8       (N) ~~(k)~~ "Person" means an individual, sole proprietorship,  
9 partnership, corporation, association, or other legal entity.

10       (O) ~~(l)~~ "Pesticide chemical" means any substance that, alone,  
11 in chemical combination, or in formulation with 1 or more other  
12 substances, is a pesticide within the meaning of the federal  
13 insecticide, fungicide, and rodenticide act, ~~chapter 125, 86~~  
14 ~~Stat. 973, 7 U.S.C. USC 136 to 136i, 136j to 136r, and 136s to~~  
15 136y, and is used in the production, storage, or transportation  
16 of raw agricultural commodities.

17       (P) ~~(m)~~ "Principal display panel" means that part of a label  
18 that is most likely to be displayed, presented, shown, or  
19 examined under normal and customary conditions of display for  
20 retail sale.

21       (Q) ~~(n)~~ "Public health code" means 1978 PA 368, MCL 333.1101  
22 to 333.25211.

23       Sec. 2111. (1) The director shall have free access at all  
24 reasonable hours to any food establishment, including a vehicle  
25 used to transport or hold food, for the purpose of ~~inspecting~~  
26 **EVALUATING** that food establishment or vehicle to determine if any  
27 of the provisions of this act are being violated. The director



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1 may secure samples or specimens of any food after paying or  
2 offering to pay for such samples in order to determine whether  
3 any provision of this act is being violated.

4 (2) The director may examine the records of the food  
5 establishment to obtain pertinent information about food,  
6 supplies, and equipment purchased, received, or used by, or  
7 pertaining to, persons employed by the food establishment or  
8 location.

9 (3) THE DIRECTOR MAY TAKE PHOTOGRAPHS OR COPY RECORDS AS  
10 PART OF AN EVALUATION. WHEN A FOOD ESTABLISHMENT IDENTIFIES BY  
11 WRITTEN DOCUMENT OR MARK THAT A CERTAIN AREA OR RECORD CONTAINS  
12 VISIBLE TRADE SECRETS, THE DIRECTOR SHALL IDENTIFY ANY  
13 PHOTOGRAPHS OF THAT AREA OR RECORD AS BEING CONFIDENTIAL AND  
14 SHALL DILIGENTLY PROTECT THE CONFIDENTIALITY.

15 Sec. 2113. (1) The director may order immediate cessation of  
16 operation of a food establishment upon a determination that  
17 continued operation would create an imminent or substantial  
18 hazard to the public health.

19 (2) A food establishment ordered to cease food operations  
20 under subsection (1) shall not resume operations until the  
21 director determines, upon ~~reinspection~~ **REEVALUATION**, that the  
conditions  
22 responsible for the order to cease operations no longer exist.  
23 The director shall offer an opportunity for ~~reinspection~~  
24 **REEVALUATION** upon request of the license holder of the  
25 establishment.

26 (3) If the director orders an immediate cessation of  
27 operation of a food establishment under subsection (1), the

1 license holder may request an administrative hearing.

2       Sec. 2119. (1) Notwithstanding section 12909(1) of the  
3 public health code, MCL 333.12909, the department may promulgate  
4 rules to prescribe criteria for food service sanitation programs  
5 by local health departments. The department in promulgating these  
6 rules shall seek the advice and counsel of local health  
7 departments and the food service industry.

8       (2) The department shall periodically conduct comprehensive  
9 ~~evaluations~~**REVIEWS** of each local health department's food  
10 service sanitation program. The ~~evaluations~~**REVIEWS** shall be  
11 based on criteria developed by the department with input from  
12 local health departments and shall include a review of both of  
13 the following:

14       (a) The adequacy of sanitary conditions in the food service  
15 establishments within the local health department jurisdiction.

16       (b) The competency and training of the food service  
17 inspection personnel.

18       Sec. 2123. (1) A person whose license has been limited by  
19 the director may, at any time, request a ~~reinspection~~  
20 **REEVALUATION** of the food establishment for the purpose of  
21 removing the limitation and reinstating the full license.

22       (2) Based upon its ~~reinspection~~**REEVALUATION**, if the  
23 director determines that the conditions for removal of the  
24 license limitation have been met, he or she shall remove the  
25 limitation and reinstate the full license.

26       Sec. 2125. (1) The department shall charge the following  
27 fees for the following services:

(a) A reissuance of a duplicate license, \$15.00.

(b) A free-sale letter, \$25.00 per letter in an order and \$5.00 per duplicate letter in the same order.

(c) An ~~inspection~~**EVALUATION** of a food establishment when the ~~inspection~~**EVALUATION** is a second ~~reinspection~~**REEVALUATION** of a food establishment that has already been ~~inspected~~**EVALUATED** and found to contain a critical violation or the ~~inspection~~**EVALUATION** is performed at the request of the operator, \$60.00.

(d) A review and approval of training materials, \$60.00 per hour.

(e) A special transitory food unit plan review, ~~\$177.00~~  
\$197.00.

**(F) A PLAN REVIEW AS SPECIFIED IN SECTION 8-201.11 OF THE FOOD CODE, \$197.00.**

(2) Fees collected under this section shall be deposited in the ~~general~~**DAIRY AND FOOD SAFETY** fund and ~~credited to the department~~ for enforcement of this act.

(3) The services referred to in subsection (1)(d) and (e) involve the formal review and approval procedure. The department may provide informal review or answer questions without charging a fee.

Sec. 2129. ~~(1) Upon request, the department may review and issue approval of food safety training materials and food safety training programs including, but not limited to, home study programs and computer-assisted training. Approval of food safety training materials and food safety training programs expires 3 years from the date of original issuance.~~

~~———— (2) To receive department approval, a food safety training material shall be reviewed for and contain the following:~~

~~———— (a) Accuracy and consistency with this act and the food code.~~

~~———— (b) Manager knowledge training that includes the knowledge requirements of section 2-102.11 of the food code.~~

~~———— (3) The issuance date for each original certificate issued under an approved food safety training program is the date the individual successfully completes the examination. A certificate expires 5 years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate. Certified individuals may be recertified by passing a food safety certification examination or through an approved recertification training program.~~

~~———— (4) An individual certified under a training program approved under this section shall be recognized with full faith and credit by a local unit of government throughout the state.~~

**(1) THE FOLLOWING FOOD ESTABLISHMENTS SHALL EMPLOY A MINIMUM OF 1 MANAGERIAL EMPLOYEE WHO IS CURRENTLY CERTIFIED UNDER A PERSONNEL CERTIFICATION PROGRAM ACCREDITED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE, UTILIZING THE CONFERENCE FOR FOOD PROTECTION STANDARDS:**

**(A) A FOOD SERVICE ESTABLISHMENT THAT IS NOT ANY OF THE FOLLOWING:**

**(i) A MOBILE FOOD ESTABLISHMENT.**

**(ii) OPERATING UNDER A TEMPORARY FOOD SERVICE ESTABLISHMENT**

1 LICENSE.

2 (iii) A SPECIAL TRANSITORY FOOD UNIT.

3 (iv) A VENDING MACHINE LOCATION.

4 (B) AN EXTENDED RETAIL FOOD ESTABLISHMENT.

5 (C) THE OPERATION OF A FOOD SERVICE ESTABLISHMENT WITHIN A  
6 RETAIL GROCERY.

7 (2) AN INDIVIDUAL CERTIFIED UNDER SUBSECTION (1) SHALL BE  
8 RECOGNIZED WITH FULL FAITH AND CREDIT BY THE STATE AND ALL LOCAL  
9 UNITS OF GOVERNMENT THROUGHOUT THE STATE.

10 (3) THE DEPARTMENT MAY PROMULGATE RULES TO DO ALL OF THE  
11 FOLLOWING:

12 (A) BY JANUARY 1, 2009, DEVELOP REQUIREMENTS FOR RETAIL FOOD  
13 ESTABLISHMENTS TO FOLLOW WHEN EMPLOYING CERTIFIED FOOD SAFETY  
14 MANAGERS OR PERSONNEL.

15 (B) SET A REASONABLE DATE FOR COMPLIANCE WITH THE  
16 REQUIREMENTS TAKING INTO CONSIDERATION EXISTING LOCAL PERSONNEL  
17 CERTIFICATION REQUIREMENTS.

18 (C) ESTABLISH CERTIFICATION FEES NECESSARY TO IMPLEMENT,  
19 MAINTAIN, AND TRACK CERTIFIED INDIVIDUALS DIRECTLY OR BY  
20 CONTRACT. THE DEPARTMENT MAY ANNUALLY ADJUST THE SCHEDULE OF FEES  
21 TO PROVIDE THAT THE FEE CHARGED IS SUFFICIENT TO COVER THE COST  
22 OF THE CERTIFICATION TRACKING PROGRAM.

23 (D) IMPLEMENT AND ENFORCE THE REQUIREMENTS DESCRIBED IN  
24 SUBDIVISION (A).

25 (E) THE CERTIFICATION PROGRAM DEVELOPED BY THE AMERICAN  
26 NATIONAL STANDARDS INSTITUTE, AS IT EXISTS ON THE EFFECTIVE DATE  
27 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, IS INCORPORATED BY

1 REFERENCE. THE DEPARTMENT MAY ADOPT UPDATES TO THE CERTIFICATION  
2 PROGRAM ACCREDITATION STANDARDS IN SUBSECTION (1) BY RULE.

3 (4) ~~(5)~~—This section does not prohibit any local legislative  
4 body from implementing a food handler program, an employee health  
5 certification program, or a manager certification program,  
6 provided it is not in conflict with this section.

7 Sec. 3103. As used in this chapter:

8 (a) "Certified health department" means a county, district,  
9 or city health department that meets the criteria for  
10 certification of health departments established by this act and  
11 that is authorized by the director to enforce this act for retail  
12 groceries, food processing plants, or ~~feed~~-**FAIR** concessions.

13 (b) "Foodborne illness outbreak" means an incident where any  
14 of the following occur:

15 (i) Two or more persons, not of the same household, have  
16 ingested a common food and have a similar disease, similar  
17 symptoms, or excrete the same pathogens and there is a time,  
18 place, or person association between these persons.

19 (ii) There is a single case of suspected botulism, mushroom  
20 poisoning, paralytic shellfish poisoning, or other rare disease.

21 (iii) There is a case of a disease or poisoning that can be  
22 definitely related to ingestion of a food.

23 (c) "Food service sanitation program" means the systematic  
24 activity of the department and a local health department for  
25 effective administration and enforcement of the food code and  
26 this act, including all of the following:

27 (i) Periodic ~~inspections~~-**EVALUATIONS** of food service

establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

(iii) Review of plans and specifications for new and extensively remodeled establishments.

(iv) Educational activities.

(v) Investigation of reports of foodborne illnesses.

(vi) Other activities which may be necessary to assure proper implementation of this act.

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee .....	\$ <del>2-50</del> 3.00.
(b) Temporary food service establishment...	\$ <del>2-50</del> 3.00.
(c) Food service establishment.....	\$ <del>19-00</del> 22.00.
(d) Mobile food establishment commissary...	\$ <del>19-00</del> 22.00.
(e) Special transitory food unit.....	\$ <del>30-00</del> 35.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of ~~\$117.00~~ **\$135.00**, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1)

1 shall be collected by the local health department at the time the  
2 license application is submitted. The state license fee is due  
3 and payable by the local health department to the state within 60  
4 days after the fee is collected.

5 ~~—— (4) A school or other educational institution is exempt from~~  
6 ~~paying the fees imposed under section 2444 of the public health~~  
7 ~~code, MCL 333.2444, and the additional state license fee imposed~~  
8 ~~under subsections (1) and (2) but is not exempt from the other~~  
9 ~~provisions of this chapter.~~

10 (4) ~~(5)~~ A charitable, religious, fraternal, service, civic,  
11 or other nonprofit organization that has tax-exempt status under  
12 section 501(c)(3) of the internal revenue code of 1986 is exempt  
13 from paying additional state license fees imposed under this  
14 section except for the vending machine location license fee. An  
15 organization seeking an exemption under this subsection shall  
16 furnish to the department or a local health department evidence  
17 of its tax-exempt status.

18 (5) ~~(6)~~ A veteran who has a waiver of a license fee under  
19 the circumstances described in 1921 PA 359, MCL 35.441 to 35.443,  
20 is exempt from paying the fees prescribed in this section.

21 (6) ~~(7)~~ The department shall adjust on an annual basis the  
22 fees prescribed by subsections (1) and (2) ~~, as adjusted after~~  
23 ~~November 8, 2000,~~ by an amount determined by the state treasurer  
24 to reflect the cumulative annual percentage change in the Detroit  
25 consumer price index but not to exceed 5%. As used in this  
26 subsection, "Detroit consumer price index" means the most  
27 comprehensive index of consumer prices available for the Detroit



1 area from the bureau of labor statistics of the United States  
2 department of labor or its successor. The adjustment shall be  
3 rounded to the nearest dollar to set each year's fee under this  
4 subsection, but the absolute value shall be carried over and used  
5 to calculate the next annual adjustment.

6 (7) ~~(8)~~—The local health department shall forward the  
7 license applications to the department with appropriate  
8 recommendations.

9 Sec. 3121. (1) The department or a local health department  
10 shall conduct ~~inspections~~ **EVALUATIONS** in compliance with this  
11 act.

12 (2) Records for all of the following shall be maintained by  
13 a local health department:

- 14 (a) Applications for licensure.
- 15 (b) Operation licenses.
- 16 (c) ~~Inspection~~ **EVALUATION** reports.
- 17 (d) Pertinent correspondence.
- 18 (e) Plans and specifications.
- 19 (f) Administrative actions.
- 20 (g) Other applicable information relating to the operation  
21 of each food service establishment.

22 (3) A local health department shall maintain a record of all  
23 consumer complaints, the ensuing investigation, and the result of  
24 the complaint.

25 (4) All department and local health department records shall  
26 be retained in accordance with the records retention schedule of  
27 the department.

1       Sec. 3123. (1) ~~An unannounced~~ **A** compliance inspection  
2 **EVALUATION** of each food service establishment shall be performed  
3 **BY THE DIRECTOR** at least once every 6 months ~~by a regulatory~~  
4 ~~authority~~ **OR AS REQUIRED BY A STATEWIDE DEPARTMENT APPROVED RISK-**  
5 **BASED SCHEDULE. RISK-BASED SCHEDULES SHALL BE DEVELOPED IN**  
6 **CONSULTATION WITH LOCAL HEALTH DEPARTMENTS.**

7       (2) A food service establishment which operates for 9 or  
8 fewer months each year shall be inspected at least once during  
9 the period of operation ~~by a regulatory authority~~ **THE DIRECTOR OR**  
10 **AS PRESCRIBED IN THE DEPARTMENT'S RISK-BASED SCHEDULE.**

11       Sec. 3125. (1) Subject to subsection (3), a local health  
12 department, with the approval of the director and based on  
13 criteria developed by the department in consultation with local  
14 health departments, may reduce the frequency of ~~inspections~~  
15 **EVALUATIONS** of individual food service establishments if the  
16 local health department determines that a reduced ~~inspection~~  
17 **EVALUATION** frequency will not adversely affect food service  
18 sanitation practices within the food service establishment.

19       (2) A food service establishment which, upon investigation,  
20 is implicated in a foodborne illness outbreak or chemical  
21 intoxication shall be ~~inspected~~ **EVALUATED** by ~~a regulatory~~  
22 ~~authority~~ **THE DIRECTOR** in compliance with section 3123 for not  
23 less than the next 12 months.

24       (3) A local health department shall not reduce the minimum  
25 frequency of ~~inspections~~ **EVALUATIONS** of any food service  
26 establishment to less than ~~once each 12 months~~ **THAT DESCRIBED IN**  
27 **SECTION 3123 UNLESS APPROVED BY THE DEPARTMENT.**

1       Sec. 3127. (1) The findings of an ~~inspection~~**EVALUATION** of a  
2 food service establishment shall be recorded on an ~~inspection~~  
3 **EVALUATION** report form approved by the department. The form shall  
4 identify those items considered to be critical from a public  
5 health standpoint.

6       (2) The ~~inspection~~**EVALUATION** report shall summarize  
7 findings relative to compliance with the requirements of this  
8 act. The report form shall be signed and dated by the local  
9 health department representative.

10       (3) Upon completion of the ~~inspection~~**EVALUATION**, a copy of  
11 the completed ~~inspection~~**EVALUATION** report form shall be  
12 furnished to the person in charge of the food service  
13 establishment. The person in charge shall sign the report form  
14 acknowledging receipt.

15       Sec. 3135. (1) The department shall make available to any  
16 local health department an application form to be completed as a  
17 request for certification. The application shall provide  
18 information needed to substantiate the request to become a  
19 certified health department.

20       (2) A local health department seeking certification shall  
21 have sufficient trained administrative, ~~inspection~~**EVALUATION**,  
22 and support personnel and sufficient equipment to enforce  
23 applicable laws and rules consistent with current state standards  
24 in all licensed establishments within its jurisdictional  
25 boundaries.

26       (3) A certified health department shall demonstrate to the  
27 department the ability to conduct ~~inspections~~**EVALUATIONS** and

1 related activities in accordance with the department's ~~food~~  
2 ~~inspection information management~~ **ELECTRONIC EVALUATION** system  
3 within prescribed time limitations utilized by the department.  
4 ~~Inspection~~ **EVALUATION**, investigation, and legal actions and  
5 related activities shall be reported to the department on forms  
6 furnished by the department.

7 (4) A certified health department must be capable of  
8 conducting necessary sampling and ~~produce~~ **PRODUCT** surveillance  
9 equal to state standards.

10 Sec. 3137. (1) The department shall conduct a general review  
11 and evaluation of reports and related data made by certified  
12 health departments under this act as often as considered  
13 necessary by the department.

14 (2) An ~~inspection~~ **EVALUATION** quality assurance program  
15 consisting of field evaluation of performed ~~inspections~~  
16 **EVALUATIONS** conducted by the certified health department shall be  
17 routinely conducted by the department at a ratio of approximately  
18 1 per 100 ~~inspections~~ **EVALUATIONS** made.

19 (3) A certified health department shall report annually to  
20 the department a summary of all inspections, investigations,  
21 samplings, legal actions, and any other actions of a significant  
22 nature on a form furnished by the department. This report shall  
23 be made annually on the basis of the state fiscal year.

24 (4) ~~Review or evaluation~~ **A REVIEW** disclosing adverse  
25 findings shall be reported in writing by the department to the  
26 health officer of the certified health department within 30 days  
27 after the review ~~or evaluation~~ under subsection (1) is completed.

1       Sec. 3139. (1) If a certified health department fails to  
2 meet the requirements established in this act or rules  
3 promulgated under this act, written notice of deficiencies shall  
4 be furnished to the health officer of that certified health  
5 department within 30 days after completion of the review ~~or~~  
6 ~~evaluation~~ under section 3137. This notice shall offer an  
7 opportunity to the health officer of the certified health  
8 department for a hearing with the director. If a hearing is not  
9 requested, certification issued under this chapter shall be  
10 revoked within 30 days following the notice to the health officer  
11 of the certified health department. If a hearing is held and  
12 deficiencies are not corrected within the time period specified  
13 in the hearing, certification shall be revoked within the time  
14 period specified in the hearing.

15       (2) If requested by the health officer of the certified  
16 health department in a written notice to the director,  
17 certification issued under this chapter shall be revoked within  
18 30 days of receipt of the written notice.

19       (3) Revocation of certification issued under this chapter  
20 does not restrict a health department from reapplication for  
21 certification.

22       Sec. 4101. (1) Except as provided in section 4105, a person  
23 shall not operate a food establishment unless licensed by the  
24 department as a food establishment.

25       (2) Separate areas for food service or preparation located  
26 in 1 building and **ACTIVELY** operated under 1 management are  
27 considered to be 1 food establishment and only 1 license is

1 required. **THE DIRECTOR MAY REQUIRE SEPARATE LICENSES FOR THESE**  
2 **AREAS IF MANAGED SEPARATELY EVEN THOUGH UNDER THE SAME OWNER.**

3 (3) Except as otherwise provided in this act, a city,  
4 county, or other local unit of government shall not adopt or  
5 enforce licensing ordinances or regulations for persons regulated  
6 under this act.

7 Sec. 4103. (1) An applicant shall submit an application for  
8 a food establishment license at least 30 calendar days before the  
9 date planned for its opening ~~, OR the change of ownership. , or~~  
10 ~~the expiration of the current license.~~ **FOR TEMPORARY FOOD**  
11 **ESTABLISHMENTS APPLYING LESS THAN 4 DAYS FROM OPENING, THE**  
12 **DIRECTOR MAY CHARGE TWICE THE APPLICABLE LICENSE FEE TO PERFORM**  
13 **THE LICENSING EVALUATION.**

14 (2) Application for the license under subsection (1) shall  
15 be submitted upon the forms ~~furnished~~ **APPROVED** by the department  
16 and shall contain the reasonable information required by the  
17 department to process the application.

18 (3) An application for a mobile food establishment license  
19 shall include all of the following information:

20 (a) The location and dates of the operation.

21 (b) The name and address of the commissary that will service  
22 the applicant.

23 (4) Within 10 days after a change in the servicing  
24 commissary, the mobile food establishment licensee shall submit  
25 an affidavit containing the name and address of the new  
26 commissary servicing the licensee.

27 (5) The director may issue a temporary food establishment

1 license.

2       Sec. 4105. (1) Except as otherwise provided for in  
3 subsection (2), a person, establishment, or organization that is  
4 1 or more of the following is exempt from the licensure  
5 requirements under this act:

6       (a) Subject to subsection (2), an establishment licensed  
7 under 1 of the following acts while conducting activities within  
8 the scope of that act:

9	<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Law Sections</u>
10	<del>184</del>	<del>1913</del>	<del>445.331 to 445.341</del>
11	<del>222</del>	<del>1913</del>	<del>288.101 to 288.117</del>
12	141	1939	285.61 to <del>285.82a</del> <b>285.88</b>
13	228	1959	286.371 to 286.379
14	158	1964	290.451 to 290.466
15	<del>233</del>	<del>1965</del>	<del>288.21 to 288.29a</del>
16	<del>298</del>	<del>1968</del>	<del>288.321 to 288.334</del>
17	266	2001	<b>288.471 TO 288.540</b>
18	267	2001	<b>288.561 TO 288.740</b>

19       (b) A ~~produce stand~~ **PERSON** that ~~offers~~ **IS OFFERING** only  
20 whole uncut fresh fruits and vegetables **DIRECTLY TO CONSUMERS.**

21       (c) Consumers or nonprofit cooperatives of consumers **IN**  
22 **COMPLIANCE WITH THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL**  
23 **450.2101 TO 450.3192**, providing products **FROM REGULATED SOURCES**  
24 only for their own use.

25       (d) Nonprofit cooperatives **IN COMPLIANCE WITH THE NONPROFIT**  
26 **CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192**, who are  
27 growers ~~or producers~~ selling unprocessed products of their own

1 production OR ARE PRODUCERS SELLING UNPROCESSED PRODUCTS OF THEIR  
2 OWN PRODUCTION FROM REGULATED SOURCES.

3 (e) Retail outlets for the sale of prepackaged honey or  
4 maple syrup produced in Michigan if the outlet is operated by the  
5 producer and the processing facility is licensed under this act.

6 (f) A temporary food establishment with no food preparation  
7 using only single-service articles and serving only non-  
8 potentially-hazardous food or beverage.

9 (g) A retail food establishment that does both of the  
10 following:

11 (i) Only sells prepackaged, non-potentially-hazardous foods.

12 (ii) Offers only an incidental amount of food, such as the  
13 sale of single-service packages.

14 (H) A MOBILE FOOD ESTABLISHMENT, SUCH AS AN ICE CREAM TRUCK,  
15 THAT OFFERS ONLY PREPACKAGED, SINGLE-SERVING FROZEN DESSERTS.

16 (I) AN EVENT NOT OPEN TO THE GENERAL PUBLIC HELD BY A  
17 NONPROFIT TRADE ASSOCIATION REPRESENTING FOOD ESTABLISHMENTS,  
18 SUPPLIERS, OR MANUFACTURERS WHERE LIMITED FOOD PREPARATION TAKES  
19 PLACE FOR THE PURPOSE OF ADVERTISING, DISPLAYING, PROMOTING, AND  
20 SAMPLING PREPARED FOOD.

21 (J) ~~(h)~~—A commercial fishing guide service that serves lunch  
22 to a party of not more than 12 clients on or adjacent to a body  
23 of water, river, or stream while pursuing, capturing, catching,  
24 killing, taking, or attempting to take fish. As used in this  
25 subparagraph, "commercial fishing guide service" means a service  
26 provided for a fee or other valuable consideration, regardless of  
27 whether the fee or other valuable consideration is paid directly



or indirectly, to assist another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

(K) ~~(i)~~—A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

**(I) FEEDING OPERATIONS SET UP IN RESPONSE TO AN EMERGENCY OR DISASTER.**

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

Sec. 4107. To qualify for a food establishment license, an applicant shall do all of the following:

(a) Submit an application ~~on a form provided by the department~~ **AS REQUIRED BY SECTION 4103.**

(b) Be an owner of the food establishment or an officer of the legal entity owning the food establishment.

(c) Comply with the requirements of this act and rules promulgated under this act.

1 (d) Allow the director access to the proposed food  
2 establishment in order to determine compliance with the  
3 applicable requirements of this act and rules.

4 (e) Pay the applicable license fees at the time the  
5 application is submitted.

6 Sec. 4111. (1) The department shall impose the following  
7 license fees for each year or portion of a year:

8 (a) Retail food establishment: \$67.00.

9 (b) Extended retail food establishment: \$172.00.

10 (c) Wholesale food processor: \$172.00.

11 (d) Limited wholesale food processor: \$67.00.

12 (e) Mobile food establishment: \$172.00.

13 (f) Temporary food establishment: \$25.00.

14 (g) Special transitory food unit: ~~\$117.00~~ **\$135.00**.

15 (h) Mobile food establishment commissary: \$172.00.

16 (i) Food warehouse: \$67.00.

17 (j) Food service establishment: the amounts described in  
18 subsection (2).

19 (2) If a local health department no longer conducts a food  
20 service sanitation program, the department, in consultation with  
21 the commission of agriculture, shall set the food sanitation fees  
22 to be imposed for the department's services performed under  
23 subsection (1)(j). The fees imposed shall equal, as nearly as  
24 possible, 1/2 of the department's cost of providing the service.  
25 The conduct of the services resulting from a cessation of a food  
26 service sanitation program is considered an imminent or  
27 substantial hazard that allows the department to impose the

1 service fees for up to 12 months after the date of cessation by  
2 the local health department. After the 12-month period, the  
3 department shall collect the fees only in the amount provided by  
4 amendment of this act or as authorized pursuant to appropriation.

5 (3) ANY LICENSE FEE PAID ON AN INITIAL APPLICATION IS  
6 NONREFUNDABLE.

7 (4) THE DEPARTMENT MAY CHARGE A CONVENIENCE FEE AND COLLECT  
8 FROM THE APPLICANT ANY ADDITIONAL COSTS ASSOCIATED WITH THE  
9 METHOD OF FEE PAYMENT FOR THE LICENSE OR PERMIT FEES DESCRIBED IN  
10 THIS CHAPTER, NOT TO EXCEED THE COSTS TO THE DEPARTMENT.

11 Sec. 4113. (1) The department shall impose, for a renewal  
12 application postmarked or delivered in person beginning May 1 of  
13 each year, a late fee of an additional \$10.00 for each business  
14 day the application is late. The late fee for a new application  
15 submitted after the establishment has opened for business is an  
16 additional \$10.00 for each business day the application is late.  
17 The total late fee shall not exceed \$100.00.

18 (2) The department shall not issue or renew a license until  
19 the fee and any late fee, **REINSPECTION FEES, AND FINES** have been  
20 paid. A hearing is not required regarding the department's  
21 refusal to issue or renew a license under this section **EXCEPT AS**  
22 **ALLOWED UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA**  
23 **306, MCL 24.201 TO 24.328.**

24 (3) The department may waive the late fee for producers of  
25 maple syrup, honey, and other seasonal agricultural products if  
26 the license application is submitted not less than 30 days before  
27 the applicant engages in processing, packing, freezing, storing,

1 selling, or offering for sale the food or drink described in this  
2 subsection.

3 (4) The late fee shall be retained by any certified health  
4 department or, in an area where there is no certified health  
5 department, by the department.

6 (5) The department shall use the late fee for the  
7 administration and enforcement of this act.

8 Sec. 4116. (1) Beginning the effective date of the  
9 amendatory act that added this subsection and notwithstanding any  
10 other provision of this act, the department shall issue an  
11 initial license not later than 90 days after the applicant files  
12 a completed application and shall issue a renewal license not  
13 later than 120 days after the applicant files a completed  
14 application. Receipt of the application is considered the date  
15 the application is received by any agency or department of the  
16 state of Michigan. If the application is considered incomplete by  
17 the department, the department shall notify the applicant in  
18 writing, or make the information electronically available, within  
19 30 days after receipt of the incomplete application, describing  
20 the deficiency and requesting the additional information. The  
21 period regarding license issuance and renewal is tolled upon  
22 notification by the department of a deficiency until the date the  
23 requested information is received by the department. The  
24 determination of the completeness of an application does not  
25 operate as an approval of the application for the license and  
26 does not confer eligibility upon an applicant determined  
27 otherwise ineligible for issuance of a license.

1           (2) If the department fails to issue or deny a license  
2 within the time required by this section **TO AN ESTABLISHMENT THAT**  
3 **IS OTHERWISE READY TO OPERATE AND IS PREVENTED FROM OPERATING,**  
4 the department shall return the license fee and shall reduce the  
5 license fee for the applicant's next renewal application, if any,  
6 by 15%. The failure to issue a license within the time required  
7 under this section does not allow the department to otherwise  
8 delay the processing of the application, and that application,  
9 upon completion, shall be placed in sequence with other completed  
10 applications received at that same time. The department shall not  
11 discriminate against an applicant in the processing of the  
12 application based upon the fact that the license fee was refunded  
13 or discounted under this subsection.

14           (3) Beginning October 1, 2005, the director of the  
15 department shall submit a report by December 1 of each year to  
16 the standing committees and appropriations subcommittees of the  
17 senate and house of representatives concerned with agricultural  
18 and food issues. The director shall include all of the following  
19 information in the report concerning the preceding fiscal year:

20           (a) The number of initial and renewal applications the  
21 department received and completed within the appropriate time  
22 period described in subsection (1).

23           (b) The number of applications denied.

24           (c) The number of applicants not issued a license within the  
25 appropriate time period and the amount of money returned to  
26 licensees and registrants under subsection (2).

27           (4) As used in this section, "completed application" means

1 an application complete on its face and submitted with any  
2 applicable licensing fees as well as any other information,  
3 records, approval, security, or similar item required by law or  
4 rule from a local unit of government, a federal agency, or a  
5 private entity but not from another department or agency of the  
6 state of Michigan. In the case of an initial application,  
7 completed application includes the completion of construction or  
8 renovation of any facility and the passing of a satisfactory  
9 inspection-EVALUATION.

10       Sec. 4117. (1) Except as provided in subsections (2) and  
11 (3), money collected under this chapter by the department shall  
12 be credited to the ~~general fund of the state~~ **DAIRY AND FOOD**  
13 **SAFETY FUND THAT IS CREATED AS A RESTRICTED FUND WITHIN THE STATE**  
14 **TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS,**  
15 **FROM APPROPRIATIONS OR FROM ANY OTHER SOURCE, FOR DEPOSIT INTO**  
16 **THE FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE**  
17 **FUND. THE MONEY IN THE FUND SHALL NOT LAPSE TO THE GENERAL FUND**  
18 **AT THE END OF THE FISCAL YEAR AND SHALL CARRY OVER TO THE**  
19 **FOLLOWING FISCAL YEARS. THE STATE TREASURER SHALL CREDIT TO THE**  
20 **FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. THE DEPARTMENT**  
21 **SHALL ADMINISTER THE FUND AND SHALL EXPEND MONEY FROM THE FUND**  
22 **FOR THE PURPOSE OF ADMINISTERING THIS ACT AND ENFORCING THE**  
23 **PROVISIONS OF THIS ACT, THE GRADE A MILK LAW OF 2001, 2001 PA**  
24 **266, MCL 288.471 TO 288.540, AND THE MANUFACTURING MILK LAW OF**  
25 **2001, 2001 PA 267, MCL 288.561 TO 288.740. THE DEPARTMENT SHALL**  
26 **BE THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.**

27       (2) A consumer food safety education fund is created as a

1 revolving fund in the department of treasury. The consumer food  
2 safety education fund shall be administered by the department and  
3 funded by adding \$3.00 to the fee for each food establishment  
4 license in all categories except vending machines and in cases of  
5 fee-exempt food establishments. The money in the fund shall be  
6 used to provide statewide training and education to consumers on  
7 food safety. An advisory committee consisting of at least 9  
8 people representing consumers, industry, government, and academia  
9 shall advise the department on the use of the funds. Money  
10 remaining in the fund at the end of the fiscal year shall be  
11 carried forward into the next fiscal year.

12 (3) An industry food-safety education fund is created as a  
13 revolving fund in the department of treasury. The industry food-  
14 safety education fund shall be administered by the department and  
15 funded by adding \$2.00 to the fee for each food service  
16 establishment license in all categories except vending machines  
17 and in cases of fee-exempt food establishments. The money in the  
18 fund shall be used to provide food safety training and education  
19 to food service establishment employees and agents of the  
20 director who enforce this act. The advisory committee created in  
21 subsection (2) shall advise the department on the use of the  
22 funds. Money remaining in the fund at the end of the fiscal year  
23 shall be carried forward into the next fiscal year.

24 (4) As used in this section, "fee-exempt food establishment"  
25 means a food establishment exempt from all state and local food  
26 establishment license fees under ~~either of the following~~  
27 ~~circumstances:~~

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1 ~~—— (a) The education institution exemption under section~~  
2 ~~3119(4).~~

3 ~~—— (b) A nonprofit organization that has an exemption under~~  
4 ~~section 3119(5)—3119(4)~~ combined with an exemption from the local  
5 health department sanitation service fee under section 2444 of  
6 the public health code, MCL 333.2444.

7       Sec. 4125. (1) Before a food establishment license is  
8 issued, the director shall determine if the applicant meets the  
9 minimum requirements of this act and rules promulgated under this  
10 act.

11       (2) After an opportunity for a hearing pursuant to the  
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
13 24.328, the director may revoke or suspend a food establishment  
14 license or a registration for bottled water issued under this act  
15 for failure to comply with requirements of this act or a rule  
16 promulgated under this act. A person whose registration for  
17 bottled water is revoked or suspended shall discontinue the sale  
18 and offering for sale of the bottled water until he or she  
19 complies with this act and the director issues a new registration  
20 or removes the suspension.

21       (3) **FOR A PERSON WHOSE FOOD ESTABLISHMENT LICENSE HAS BEEN**  
22 **REVOKED FOR EGREGIOUS VIOLATIONS UNDER SECTION 5101(A), (B), (C),**  
23 **[OR] (K), THE DIRECTOR MAY REFUSE TO ISSUE OR REISSUE A LICENSE TO**  
24 **ANY ESTABLISHMENT IN WHICH THAT PERSON HAS OWNERSHIP OR**  
25 **MANAGEMENT INTEREST FOR A PERIOD OF 2 YEARS.**

26       (4) ~~(3)~~ Based upon facts submitted by a person familiar with  
27 those facts or upon information and belief alleging that an



1 imminent threat to the public health, safety, or welfare exists,  
2 the director may summarily suspend a license or registration  
3 issued under this act. A person whose license or registration has  
4 been summarily suspended under this section may petition the  
5 director to dissolve the order. Upon receipt of such a petition,  
6 the director shall immediately schedule a hearing to decide  
7 whether to grant or deny the petition to dissolve. The presiding  
8 officer shall grant the requested relief dissolving the summary  
9 suspension order unless sufficient evidence is presented that an  
10 imminent threat to the public health, safety, or welfare exists  
11 requiring emergency action and continuation of the director's  
12 summary suspension order.

13       Sec. 5101. (1) A person shall not do or cause to be done any  
14 of the following:

15       (a) Manufacture, sell, deliver, hold, or offer for sale  
16 adulterated or misbranded food.

17       (b) Adulterate or misbrand food.

18       (c) Receive in commerce food that is adulterated or  
19 misbranded and deliver or proffer the delivery of that food for  
20 pay or otherwise.

21       (d) Sell, deliver for sale, hold for sale, or offer for sale  
22 food unless that person holds a license issued under chapter IV.

23       (e) Disseminate a false advertisement.

24       (f) Refuse to permit entry or ~~inspection~~**EVALUATION**, or to  
25 permit the taking of a sample, as authorized by section 2111.

26       (g) Give a false guaranty or undertaking, except by a person  
27 who relied on a guaranty or undertaking to the same effect signed

1 by and containing the name and address of the person from whom he  
2 or she received the food in good faith.

3 (h) Remove or dispose of seized or embargoed food in  
4 violation of section 2105.

5 (i) Alter, mutilate, destroy, obliterate, or remove all or  
6 part of the label or do any other act with respect to a food  
7 while the food is held for sale resulting in the food being  
8 adulterated or misbranded.

9 (j) Forge, counterfeit, simulate, or falsely represent, or  
10 without proper authority use any mark, stamp, tag, label, or  
11 other identification device authorized or required by this act or  
12 rules promulgated under this act.

13 (k) Permit filthy or insanitary conditions to exist in a  
14 food establishment in which food intended for human consumption  
15 is manufactured, received, kept, stored, served, sold, or offered  
16 for sale.

17 (l) Falsely identify a country, state, or other place of  
18 origin of food on a label, tag, or other document with intent to  
19 deceive or defraud.

20 (m) Fail to establish or maintain any record or make any  
21 report required under this act or the federal act, or refuse to  
22 permit access to or verification or copying of any such required  
23 record.

24 (n) Interfere with the director in the conduct of his or her  
25 responsibilities under this act.

26 (o) Make a false statement, representation, or certification  
27 in any application, report, plan, or other document that is

1 required to be maintained under this act or rules promulgated  
2 under this act.

3 (p) Remove a tag, seal, or mark placed by the director.

4 (q) Operate without a license, registration, permit, or  
5 endorsement.

6 (r) Violate a provision of this act or a rule promulgated  
7 under this act.

8 (2) Each day a violation of this section occurs is a  
9 separate violation of this section.

10 Sec. 5105. (1) Upon finding that a person violated a  
11 provision of this act or rule promulgated under this act, the  
12 department may impose an administrative fine of not more than  
13 \$500.00 for the first offense and not more than \$1,000.00 for a  
14 second or subsequent offense and the actual costs of the  
15 investigation of the violation. Each day of any continuing  
16 violation is not considered a separate violation of this act or  
17 rule promulgated under this act. Under no circumstances shall the  
18 department impose upon any licensee or registrant administrative  
19 fines in the aggregate amount of more than \$4,000.00 per location  
20 for a firm with annual gross receipts of \$500,000.00 or less and  
21 \$8,000.00 per location for a firm with annual gross receipts of  
22 over \$500,000.00 during any 12-month period.

23 (2) Any administrative fines and costs collected under this  
24 section shall be ~~paid to the state treasury and credited to the~~  
25 ~~general~~ **DEPOSITED INTO THE DAIRY AND FOOD SAFETY** fund.

26 (3) This section does not require the department to issue an  
27 administrative fine for minor violations of this act whenever the

1 department believes that the public interest will be adequately  
2 served under the circumstances by a suitable written notice or  
3 warning.

4 (4) The conditions warranting administrative fines to  
5 achieve compliance with the provisions of the food code are  
6 limited to critical or repeated violations that remain  
7 uncorrected beyond the time frame for correction approved,  
8 directed, or ordered by the director under food code section 8-  
9 405.11(A) and (B) and section 8-406.11(A) and (B). The department  
10 shall not impose an administrative fine for a noncritical  
11 violation of the food code unless at least 30 calendar days have  
12 been allowed for correction after the ~~inspection~~**EVALUATION**.

13 Sec. 5107. (1) Except as otherwise provided under this act,  
14 a person who violates any provision of this act or rules  
15 promulgated under this act is guilty of a misdemeanor and shall  
16 be punished by a fine of not less than \$250.00 or more than  
17 \$2,500.00 or by imprisonment for not more than 90 days, or both.

18 (2) Notwithstanding the other provisions of this act, a  
19 person who knowingly violates section 5101(1)(b) or (l) is guilty  
20 of a felony punishable by imprisonment for not more than 4 years  
21 or by a fine of not more than \$10,000.00 plus twice the amount of  
22 any economic benefit associated with the violation, or both.

23 (3) If a violation results in a conviction under this act,  
24 the court shall assess against the defendant the costs of the  
25 department's investigation. The assessment for costs of  
26 investigation shall be ~~paid to the state treasury and credited to~~  
27 ~~the department~~**DEPOSITED INTO THE DAIRY AND FOOD SAFETY FUND** for

1 the enforcement of this act.

2       Sec. 6101. (1) Chapters 1 through 8 of the food code are  
3 incorporated by reference except as amended and modified as  
4 follows:

5 ~~—— (a) Section 3-401.11(B) is modified so that the oven~~  
6 ~~temperature for high humidity oven temperature reads "54°C~~  
7 ~~(130°F) or higher".~~

8       **(A)** ~~(b)~~ Where provisions of this act and rules promulgated  
9 under this act specify different requirements.

10       **(B)** ~~(c)~~ Section 3-201.11(D) **3-501.16(A)(2)** is modified so  
11 that "subparagraph 3-401.11(C)(1)" reads "subparagraph 3-  
12 401.11(D)(1)" **3-501.16(A)(2)(B) IS STRICKEN.**

13 ~~—— (d) Section 6-101.11 is modified to add after subparagraph~~  
14 ~~(A)(3): "(B) In a temporary food establishment:".~~

15       (2) The director, by promulgation of a rule, may adopt any  
16 changes or updates to the food code.

17       (3) The annexes of the food code are considered persuasive  
18 authority for interpretation of the food code.

19       Sec. 6115. (1) After completion of the construction,  
20 alteration, conversion, or remodeling and before the opening of a  
21 food service establishment, the license applicant or license  
22 holder shall notify the director of the completion, shall submit  
23 an application for a license to operate the food service  
24 establishment, and shall arrange for a preopening ~~inspection~~  
25 **EVALUATION.**

26       (2) During the preopening ~~inspection~~ **EVALUATION**, the  
27 director shall determine whether the food establishment was

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1 constructed, altered, converted, or remodeled in accordance with  
2 the approved plans and specifications.

3 (3) Local health departments may specify when requests for  
4 preopening inspections are to be submitted.

5 Sec. 6129. (1) **THE DIRECTOR SHALL CONSIDER THE RISK-BASED**  
6 **EVALUATION METHODOLOGY AS [DESCRIBED] IN FOOD CODE ANNEX 5, SECTION**  
7 **4 A-H FOR CONDUCTING EVALUATIONS OF FOOD ESTABLISHMENTS.**

8 (2) ~~(1)~~ The completed ~~inspection~~ **EVALUATION** report shall  
9 specify a period of time for correction of noted violations. The  
10 license holder shall correct the violations within the time  
11 specified in the report.

12 (3) ~~(2)~~ All violations which are marked as critical on the  
13 inspection report form shall be corrected immediately unless  
14 otherwise specified. The director shall ~~conduct a follow-up~~  
15 ~~inspection to~~ confirm corrections **WITHIN 30 DAYS AFTER THE REPORT**  
16 **IS ISSUED.**

17 Sec. 6137. (1) To qualify for a special transitory food unit  
18 license, an applicant shall allow a review and receive approval  
19 of plans and specifications as specified in chapter VI. This  
20 review and approval must include the menu and standard operating  
21 procedures for the unit.

22 (2) A special transitory food unit license holder shall do  
23 all of the following:

24 (a) Keep a copy of the approved standard operating  
25 procedures in the unit and available for review upon ~~inspection~~  
26 **EVALUATION** by the director.

27 (b) Operate in compliance with standard operation procedures

1 approved by the director.

2 (c) Before serving food within the jurisdiction of a local  
3 health department, notify the local health department in writing  
4 of each location in the jurisdiction at which food will be served  
5 and the dates and hours of service. The license holder shall mail  
6 the notice by first-class mail or deliver the notice not less  
7 than 4 business days before any food is served or prepared for  
8 serving within the jurisdiction of the local health department.

9 (d) While in operation, request and receive 2 ~~inspections~~  
10 **EVALUATIONS** per licensing year **SPACED GENERALLY OVER THE SPAN OF**  
11 **THE OPERATING SEASON**. A local health department and the  
12 department shall charge a fee of \$90.00 for such an ~~inspection~~  
13 **EVALUATION**.

14 (e) Send a copy of all ~~inspections~~**EVALUATION** reports to the  
15 regulatory authority that approved the license within 30 days  
16 after receipt.

17 (3) If a license holder fails to comply with any of the  
18 requirements of this section or the food code, the food  
19 establishment is ineligible for licensure as a special transitory  
20 temporary food establishment for the following licensing year and  
21 must apply for temporary or other type of food establishment  
22 licenses.

23 **SEC. 6140. (1) ONLY PASTEURIZED INGREDIENTS FROM A**  
24 **DEPARTMENT-APPROVED SOURCE SHALL BE USED FOR MILK AND MILK**  
25 **PRODUCTS MANUFACTURED, SOLD, SERVED, OR PREPARED AT A RETAIL FOOD**  
26 **ESTABLISHMENT. SUCH INGREDIENTS INCLUDE, BUT ARE NOT LIMITED TO,**  
27 **MILK, MILK SOLIDS, WHEY, NONFAT DRY MILK, CONDENSED MILK, CREAM,**

1 SKIM MILK, EGGS, AND EGG PRODUCTS.

2 (2) INGREDIENTS THAT MAY BE SUBSEQUENTLY ADDED TO MILK OR  
3 MILK PRODUCTS ARE THOSE FLAVORINGS OR OTHER INGREDIENTS THAT HAVE  
4 BEEN FOUND TO BE SAFE AND SUITABLE AND ADDED IN A MANNER TO  
5 PREVENT CONTAMINATION, INCLUDING, BUT NOT LIMITED TO, THE  
6 FOLLOWING:

7 (A) INGREDIENTS PERMITTED BY A STANDARD OF IDENTITY FOR MILK  
8 OR MILK PRODUCTS UNDER THE FEDERAL ACT OR REGULATIONS.

9 (B) FRESH FRUITS AND VEGETABLES ADDED TO CULTURED MILK AND  
10 CULTURED MILK PRODUCTS PROVIDED THE RESULTANT EQUILIBRIUM PH  
11 LEVEL (4.6 OR BELOW WHEN MEASURED AT 24 DEGREES CELSIUS (75  
12 DEGREES FAHRENHEIT)) OF THE FINISHED PRODUCT IS REACHED WITHOUT  
13 UNDUE DELAY AND IS MAINTAINED DURING THE SHELF LIFE OF THE  
14 PRODUCT.

15 (C) INGREDIENTS SUBJECTED TO PRIOR HEATING SUFFICIENT TO  
16 DESTROY PATHOGENIC MICROORGANISMS SUCH AS ROASTED NUTS OR DRIED  
17 FRUITS.

18 (D) INGREDIENTS HAVING A WATER ACTIVITY ( $A_w$ ) VALUE OF 0.85  
19 OR LESS.

20 (E) INGREDIENTS HAVING A HIGH ACID CONTENT (PH LEVEL OF 4.6  
21 OR BELOW WHEN MEASURED AT 24 DEGREES CELSIUS (75 DEGREES  
22 FAHRENHEIT)) OR HIGH ALKALINITY (PH LEVEL GREATER THAN 11 WHEN  
23 MEASURED AT 24 DEGREES CELSIUS (75 DEGREES FAHRENHEIT)).

24 (F) DRY SUGARS AND SALTS.

25 (G) FLAVOR EXTRACTS HAVING A HIGH ALCOHOL CONTENT.

26 (H) SAFE AND SUITABLE BACTERIAL CULTURES AND ENZYMES.

27 (I) OTHER INGREDIENTS THAT HAVE BEEN FOUND TO BE SAFE AND



SUITABLE BY THE U.S. FOOD AND DRUG ADMINISTRATION.

(3) RETAIL FOOD ESTABLISHMENTS THAT MANUFACTURE AND WHOLESALE MILK AND MILK PRODUCTS MUST ADDITIONALLY BE LICENSED PURSUANT TO AND MEET REQUIREMENTS OF THE MANUFACTURING MILK LAW, 2001 PA 267, MCL 288.561 TO 288.740, OR THE GRADE A MILK LAW, 2001 PA 266, MCL 288.471 TO 288.540.

Sec. 6147. If a food ~~service~~ establishment is affected by fire, flooding, accidents, explosions, or other disaster that may create an imminent or substantial hazard **AND UNLESS OTHERWISE DIRECTED**, all food ~~service~~ operations shall cease ~~—The~~ **AND THE** licensee shall immediately report **TO THE DIRECTOR** the disaster ~~to the local health department and request an evaluation of the food service establishment to determine~~ **AND** the effect of the disaster on the operation of the establishment. **THE DEPARTMENT MAY RECOGNIZE EMERGENCY PLANS THAT, IF BEING FOLLOWED, SERVE AS A MEANS TO USE TEMPORARY ALTERNATIVE PROCEDURES FOR CONTINUITY OF OPERATION.**

Sec. 6149. (1) As used in this section:

~~—— (a) "Disclosure" means a written identification as to which items are, or can be, ordered raw or undercooked in their entirety, or items that contain an ingredient that is raw or undercooked.~~

**(A)** ~~(b)~~ "Publicly available" means accessible to consumers, without their having to request it, before their placing their food orders or making their selections.

~~—— (c) "Reminder" means a written notice concerning the significant health risk of consuming raw or undercooked animal~~

1 ~~foods.~~

2 (B) ~~(d)~~—"Selection information" means whatever consumers  
3 read to make their order selections, such as menu, table tent,  
4 placard, chalkboard, or other written means.

5 (2) To satisfy section 3-603.11 of the food code, the food  
6 establishment ~~must meet the prescriptions of this section~~ **MAY**  
7 **PROVIDE THE FOLLOWING STATEMENT ON SELECTION INFORMATION SO THAT**  
8 **IT IS PUBLICLY AVAILABLE: "ASK YOUR SERVER ABOUT MENU ITEMS THAT**  
9 **ARE COOKED TO ORDER OR SERVED RAW. CONSUMING RAW OR UNDERCOOKED**  
10 **MEATS, POULTRY, SEAFOOD, SHELLFISH, OR EGGS MAY INCREASE YOUR**  
11 **RISK OF FOODBORNE ILLNESS."**

12 ~~—— (3) The food establishment shall make a disclosure in the~~  
13 ~~selection information that an item contains raw or undercooked~~  
14 ~~food of animal origin by either or both of the following methods:~~

15 ~~—— (a) Items are described to include the disclosure, such as~~  
16 ~~"oysters on the half shell (raw oysters)", "raw egg caesar~~  
17 ~~salad", "eggs (may be requested undercooked)", and "hamburgers~~  
18 ~~(can be cooked to order)". The disclosure is not limited to those~~  
19 ~~items and descriptions in this subdivision but includes items and~~  
20 ~~descriptions of a similar nature.~~

21 ~~—— (b) Items are asterisked with a footnote that states the~~  
22 ~~items are served raw or undercooked, contain, or may contain raw~~  
23 ~~or undercooked ingredients.~~

24 ~~—— (4) A reminder of the significantly increased risk~~  
25 ~~associated with eating foods subject to the disclosure in raw or~~  
26 ~~undercooked form is satisfied by 1 of the following methods:~~

27 ~~—— (a) Items requiring disclosure are asterisked on the~~

~~selection information to a footnote that states 1 of the following disclosures:~~

~~—— (i) "Regarding the safety of these items, written information is available on request.".~~

~~—— (ii) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.".~~

~~—— (iii) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.".~~

~~—— (b) Either of the reminders listed under subdivision (a) (ii) or (iii) is used and appears at least once in the selection information on the first interior page or the page where the first item requiring disclosure appears. When the option described in this subdivision is used, the word "NOTICE" shall appear before the reminder statement.~~

~~—— (c) A publicly available placard supplies the reminder of the significantly increased risk and meets the following requirements:~~

~~—— (i) It is titled "NOTICE" and contains 1 of the reminders listed in subdivision (a) (ii) or (iii).~~

~~—— (ii) It is posted near the customer entrances of the establishment and is clearly visible to the customers.~~

~~—— (iii) All letters in the title are capitalized in bold, arial font not less than 44 point font size and, if menu items are on the placard, then all letters are equally readable as the menu items on the placard.~~

~~—— (iv) All letters in the reminder are arial font not less than~~

1 ~~36-point font size.~~

2 ~~—— (v) The reminder is placed at approximately eye level and is~~  
3 ~~easily readable from the point at which consumers would normally~~  
4 ~~stand to read it.~~

5 ~~—— (vi) The reminder maintains visibility in layout, format, and~~  
6 ~~graphics in contrast to other posted materials.~~

7 ~~—— (d) The United States food and drug administration model~~  
8 ~~consumer advisory brochure or equivalent as determined by the~~  
9 ~~director is publicly available.~~

10 (3) ~~(5) A reminder~~ **STATEMENT USED UNDER SUBSECTION (2)** may  
11 be tailored to be product specific if a food establishment either  
12 has a limited menu or offers only specific animal-derived foods  
13 in raw or undercooked, ready-to-eat form.

14 (4) ~~(6)~~ The language for the menu items shall match the  
15 language used for the disclosure and the reminder. The disclosure  
16 and reminder may also be in additional languages.

17 (5) ~~(7)~~ The text for disclosures and reminders shall meet  
18 the following requirements:

19 (a) The text size for statements on handheld menus or table  
20 tents shall be visually equivalent to at least 11-point font size  
21 or may be visually equivalent to the font size of menu item  
22 descriptions.

23 (b) Text color provides a clear contrast to background.

24 (6) ~~(8)~~ Table tents, placards, or chalkboards that are used  
25 exclusively to list food items that are offered as daily, weekly,  
26 or temporary specials are exempt from the requirements of this  
27 section when those food items also appear in the primary

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1 selection information that contains the disclosures and reminders

2 meeting the requirements of this section.

[SEC. 6150. (1) AS USED IN THIS SECTION:

(A) "ARTIFICIAL TRANS FAT" MEANS AN UNSATURATED FAT OR FATTY ACID THAT IS PRODUCED BY THE PARTIAL HYDROGENATION OF PLANT OILS AND THAT CONTAINS 1 OR MORE INSTANCES OF ATOMS BONDED IN A TRANS CONFIGURATION.

(B) "PUBLICLY AVAILABLE" MEANS ACCESSIBLE TO CONSUMERS, WITHOUT THEIR HAVING TO REQUEST IT, BEFORE PLACING THEIR FOOD ORDERS OR MAKING THEIR SELECTIONS.

(C) "SELECTION INFORMATION" MEANS WHATEVER CONSUMERS READ TO MAKE THEIR ORDER SELECTIONS, SUCH AS A MENU, TABLE TENT, PLACARD, CHALKBOARD, OR OTHER WRITTEN MEANS.

(2) A FOOD SERVICE ESTABLISHMENT MAY, BUT IS NOT REQUIRED TO, PROVIDE ON THE SELECTION INFORMATION, SO THAT IT IS PUBLICLY AVAILABLE, A STATEMENT REGARDING THE PRESENCE OR LACK OF ARTIFICIAL TRANS FAT IN ANY FOOD SERVED BY THE FOOD SERVICE ESTABLISHMENT.

(3) A STATEMENT DESCRIBED IN SUBSECTION (2) MAY BE TAILORED TO BE PRODUCT-SPECIFIC IF A FOOD SERVICE ESTABLISHMENT HAS A LIMITED MENU.

(4) THE TEXT FOR A STATEMENT DESCRIBED IN SUBSECTION (2) MAY BE IN MORE THAN 1 LANGUAGE AND MAY MEET THE REQUIREMENTS OF SECTION 6149.]

3 Sec. 7105. ALL PROCESSORS OF SEAFOOD SHALL COMPLY WITH

4 REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR

5 PART 123. The requirement that a processor of smoked fish obtain

6 a ~~variance under~~ COMPLY WITH the smoked fish rules is waived if

7 the processor demonstrates compliance with ~~21 C.F.R. part 123,~~

8 the ~~"seafood HACCP plan"~~ THE FEDERAL REGULATION DESCRIBED IN THIS

9 SECTION.

10 SEC. 7106. (1) ALL PROCESSORS OF JUICE SHALL COMPLY WITH THE

11 REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR

12 PART 120.

13 (2) AN ESTABLISHMENT THAT PRESSES APPLE CIDER SHALL HAVE AT

14 LEAST 1 ACTIVE EMPLOYEE CURRENTLY CERTIFIED UNDER A PROGRAM

15 DESCRIBED IN SECTION 2129 OR HAVING COMPLETED A CURRENT COURSE

16 RECOGNIZED BY THE DEPARTMENT AS PERTINENT TO SAFE CIDER

17 PRODUCTION.

18 Sec. 7113. As used in this chapter:

19 (a) "Added fat" means the addition of fat tissue originating

20 from portions consisting of less than 12% muscle tissue in each

21 portion.

22 (b) "Added water" ~~or ice~~ means greater moisture content  
23 than normally found in meat **AND, EXCEPT FOR POULTRY, IS**  
24 **DETERMINED BY TOTAL MOISTURE MINUS 4 TIMES THE PERCENTAGE OF**  
25 **PROTEIN. ADDED WATER MAY BE IN THE FORM OF WATER OR ICE.**

26 (c) "Artificial coloring" means coloring containing any dye  
27 or pigment which was manufactured by a process of synthesis or

1 other similar artifice or by extraction of a natural dye or  
2 pigment from a plant or other material from which the dye or  
3 pigment was formed.

4 (d) "Artificial flavoring" means any flavoring containing  
5 any sapid or aromatic constituent manufactured by synthesis or  
6 similar process.

7 (e) "Binders" means food and nonfood substances used as an  
8 ingredient in comminuted meats for binding, stabilizing,  
9 thickening, or maintaining viscosity of the product.

10 (f) "By-products or variety meats" means hearts, livers,  
11 brains, tongues, tripe, stomach, lungs, melts, eyes, weasand  
12 meats, head meat, cheek meat, salivary glands, udder, lips, ears,  
13 snouts, skin, feet, spleens, slaughterhouse by-products, spinal  
14 cords, cracklings or crackling meal, packinghouse by-products,  
15 processing plant by-products, partially defatted fatty tissues,  
16 and partially defatted chopped meat.

17 (g) "Comminuted" means chopped, diced, flaked, ground, or  
18 otherwise reduced to minute particles.

19 (h) "Extenders" means food substances used as an ingredient  
20 in comminuted meats primarily for replacement of meat  
21 ingredients.

22 (i) "Fat" means the quantity of adipose tissue determined by  
23 chemical analysis.

24 (j) "Fresh meat" means meat that has undergone no cooking,  
25 heating, or other processing except boning, cutting, comminuting,  
26 or freezing.

27 (k) "Lamb" means meat derived from sheep less than 1 year of

1 age.

2 (l) "Meat" means the edible part of clean, sound striated  
3 muscle of cattle, swine, sheep, deer **AND OTHER CERVIDS**, goat,  
4 turkey, **DUCK, RATITE**, or chicken slaughtered in compliance with  
5 all applicable laws, with or without the accompanying and  
6 overlying fat, and sinew, nerve, gland, and blood vessels which  
7 normally accompany the muscle tissues and which are not separated  
8 from it in the process of dressing. **MEAT DOES NOT INCLUDE**  
9 **SPECIFIED RISK MATERIALS.**

10 (m) "Skeletal meat" means the meat that is attached to a  
11 part of the skeleton including head and cheek meat.

12 (N) **"SPECIFIED RISK MATERIALS" MEANS ITEMS ASSOCIATED WITH**  
13 **THE NERVOUS SYSTEM OF BEEF CATTLE THAT ARE PROHIBITED FROM HUMAN**  
14 **FOOD AS DEFINED IN 9 CFR 310.22.**

15 (O) ~~(n)~~—"Veal" means meat derived from a calf not more than  
16 1 year of age.

17 Sec. 7115. Sausage consists only of skeletal meat either  
18 fresh, cured, salted, pickled, or smoked. **POULTRY SAUSAGE MAY**  
19 **CONTAIN ACCOMPANYING SKIN IN NATURAL PROPORTIONS.** Sausage may  
20 contain the following:

21 (a) Salt or spice, **CURE AGENTS SUCH AS** sodium or potassium  
22 nitrate ~~—OR~~ sodium or potassium nitrite, **CURE ACCELERATORS SUCH**  
23 **AS SODIUM ERYTHORBATE** or ascorbic acid, **ALL** that comply with  
24 applicable regulations of the United States department of  
25 agriculture food safety inspection service or any other curing  
26 agents determined appropriate by the department **OR** pursuant to  
27 rules promulgated under this act. As used in this subdivision,



1 "curing agent" OR **"CURING ACCELERATOR"** means any substance added  
2 to meat to cause or enhance preservation of the meat product.

3 (b) Added edible animal fat from the animals specified, eggs  
4 or egg products, chives, tomatoes, parsley, peppers, onions,  
5 garlic, celery, seasoning, or other natural flavoring, honey,  
6 syrup, sugar, pure refined dextrose, or subsequent cooking or  
7 smoking.

8 (c) Not more than 3-1/2% by weight nonfat dry milk, dry  
9 whole milk, or calcium-reduced milk if it is declared in  
10 conjunction with the product name.

11 (d) Fruits, vegetables, or nuts, or a combination thereof,  
12 if the name of the product is so qualified.

13 ~~(e) The total percentage of moisture in the finished product~~  
14 ~~shall not exceed 4 times the percentage of protein, which shall~~  
15 ~~not be~~ **NOT** less than 12% **PROTEIN**. The protein content requirement  
16 shall not apply to pork sausage, breakfast sausage, or roasted  
17 sausage but the finished product shall contain not more than 50%  
18 of fat. ~~To~~ **FRESH SAUSAGE SHALL CONTAIN NO ADDED WATER, EXCEPT TO**  
19 ~~facilitate chopping or mixing, water or ice may be used in~~  
20 ~~uncooked sausage~~ **AND** in an amount not to exceed 3% of the total  
21 ingredients. **COOKED SAUSAGE SHALL NOT EXCEED 40% FAT AND ADDED**  
22 **WATER.**

23 (f) Fresh and fresh frozen sausage, smoked and unsmoked dry  
24 sausage, may contain **ANTIOXIDANTS SUCH AS** butylated  
25 hydroxyanisole, butylated hydroxytoluene or propyl gallate, or a  
26 combination of these antioxidants, with or without citric acid,  
27 in amounts ~~not to exceed specifications established under 9~~

~~C.F.R. 318.7 and 9 C.F.R. part 319~~ **THAT COMPLY WITH APPLICABLE  
REGULATIONS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD  
SAFETY INSPECTION SERVICE.** When such antioxidants are added, the  
label on the product shall declare the presence of antioxidants  
in the manner required by the United States department of  
agriculture ~~meat~~-**FOOD SAFETY** inspection service.

(g) Sausage shall not contain any extenders, artificial  
flavors, artificial color, binders, excess added water or ice,  
boric acid or borates, sulphites, sulfur dioxide, sulphurous  
acid, or any other harmful preservative, by-products, or variety  
meats. Extenders necessary to produce low-fat products may be  
permitted as described in rules promulgated under this act. No  
other parts of the animal or any other substance excepting as  
above specified shall be permitted in sausage.

(h) Harmless lactic acid bacterial starters may be used in  
an amount not to exceed 1/2 of 1%. When used, the harmless  
bacterial starter shall be included in the list of ingredients in  
the order of its predominance.

(i) The following products are considered to be sausage,  
whether processed or inserted in either natural or artificial  
casings or other containers: wieners, bologna, ring bologna,  
knackwurst, bratwurst, roasted sausage, breakfast sausage, pork  
sausage, chicken sausage, turkey sausage, leona, beer salami,  
cooked salami, Polish sausage, minced luncheon, kielbasa,  
bockwurst, all varieties of dry or semi-dry sausage, and other  
meat food products prepared in sausage form and excluding loaves,  
liver products, headcheese, sulze, blood sausage, potato sausage,

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1 kishka, tongue sausage, and New York or New England pressed  
2 luncheon.

3 (j) "Fresh pork sausage", "Polish sausage", "fresh  
4 kielbasa", and "fresh country-style sausage" are sausages  
5 prepared from fresh pork meat.

6 (k) "Italian-style sausage" shall be uncured, unsmoked, and  
7 contain at least 85% meat or meat and fat with no more than 35%  
8 fat. ~~It~~ **ITALIAN SAUSAGE CONTAINS FENNEL [OR ANISE AND may contain]**  
9 red and green pepper, onion, and garlic. Italian sausage shall be  
10 prepared from fresh pork meat.

11 (l) "Fresh beef sausage" is prepared with fresh beef meat and  
12 shall not contain more than 30% fat.

13 (m) "~~Poultry meat~~ **POULTRY SAUSAGE OR POULTRY-MEAT** sausage"  
14 shall be made from fresh ~~chicken and turkey~~ **POULTRY** meat  
15 containing the natural proportions of light and dark meat unless  
16 otherwise designated. The name shall be identified by the species  
17 contained if the product contains all its meat from 1 species. It  
18 shall not contain more than 30% fat. **POULTRY-MEAT SAUSAGE SHALL**  
19 **NOT CONTAIN SKIN.**

20 (n) ~~"Venison"~~ **"CERVID** sausage" shall be made from the meat of  
21 ~~deer~~ **CERVIDAE** from approved sources. **THE NAME SHALL BE IDENTIFIED**  
22 **BY THE SPECIES CONTAINED IF THE PRODUCT CONTAINS ALL ITS MEAT**  
23 **FROM 1 SPECIES, SUCH AS "VENISON SAUSAGE" OR "ELK SAUSAGE".** A  
24 person shall not offer for sale, sell, or expose for sale any  
25 other product described as ~~venison~~ **CERVID** sausage. Fat of another  
26 species and approved source may be added to ~~venison~~ **CERVID**  
27 sausage.

(o) Sausage containing wild game and made on commercial order shall be labeled "not for sale". Wild game from more than 1 owner shall not be mixed into sausage unless a licensed processor butchered all the wild game. Processors shall reject any carcass that shows evidence of spoilage or contamination. Wild game and wild-game product and processing times shall be kept separate from other meat and meat processing, including, but not limited to, storage in separate or structurally-partitioned coolers. Food contact surfaces shall be thoroughly washed and sanitized after the processing of wild game and before the resumption of any other processing.

Sec. 7119. Other comminuted meat food products, including nonspecific loaves and liver products, headcheese, blood sausage, kishka, tongue sausage, chili con carne with beans, or any other meat food products that may be allowed, shall be produced in compliance with applicable regulations of the United States department of agriculture ~~meat~~ **FOOD SAFETY** inspection service.

Sec. 7125. Ground lamb, chicken, turkey, and veal shall not contain any added water or ice, artificial flavoring, by-products or variety meats, binders, extenders, artificial color, vegetable coloring, or chemical preservatives. No other parts of the animal or any other substance shall be permitted except as follows:

(a) Ground lamb shall consist of comminuted fresh lamb meat, with or without added lamb fat, and shall not contain more than 25% fat.

(b) Ground ~~chicken~~ **POULTRY** shall consist of comminuted fresh ~~chicken~~ **POULTRY** meat, **WITH OR WITHOUT ACCOMPANYING SKIN IN**

1 **NATURAL PROPORTIONS**, with or without added ~~chicken~~-**POULTRY** fat,  
 2 and shall not contain more than ~~15%-20%~~ fat. **THE NAME SHALL BE**  
 3 **IDENTIFIED BY THE SPECIES CONTAINED IN THE PRODUCT.**

4 (c) Ground ~~turkey~~-**POULTRY MEAT** shall consist of comminuted  
 5 fresh ~~turkey~~-**POULTRY** meat, with or without added ~~turkey~~-**POULTRY**  
 6 fat, and shall not contain more than 15% fat. **THE NAME SHALL BE**  
 7 **IDENTIFIED BY THE SPECIES CONTAINED IN THE PRODUCT.**

8 (d) Ground veal shall consist of comminuted fresh veal meat,  
 9 with or without added veal fat, and shall not contain more than  
 10 20% fat.

11 (e) Ground pork shall consist of comminuted fresh pork with  
 12 or without the addition of pork fat as such and shall not contain  
 13 more than 30% fat. Ground pork shall not contain extenders,  
 14 binders, variety meats, by-products, added water or ice,  
 15 artificial flavor or color, vegetable coloring, chemical  
 16 preservative, boric acid or borates, sulphites, sulfur dioxide,  
 17 or sulphurous acid. No other parts of the animal or any other  
 18 substance is permitted in ground pork.

19 Sec. 7137. Food may not contain unapproved food additives or  
 20 additives that exceed amounts specified in 21 ~~C.F.R.~~-**CFR** parts  
 21 170 to 180 relating to food additives, generally recognized as  
 22 safe or prior sanctioned substances that exceed amounts specified  
 23 in 21 ~~C.F.R.~~-**CFR** parts 181 to 186, substances that exceed amounts  
 24 ~~specified in 9 C.F.R. 318.7~~ **ESTABLISHED UNDER APPLICABLE**  
 25 **REGULATIONS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD**  
 26 **SAFETY INSPECTION SERVICE**, or pesticide residues that exceed  
 27 provisions specified in 40 ~~C.F.R.~~-**CFR** part 185.

Sec. 8105. (1) A person shall not do any of the following:

(a) Make, publish, disseminate, circulate, or place before the public any advertisement containing any assertion, representation, or statement which is untrue, deceptive, or misleading or falsely represents the kind, classification, grade, or quality of meat.

(b) Use any term of quality without using or having for sale the quality of meat advertised or offered for sale.

~~(c) Use the term "USDA" unless the official grade is also designated.~~

**(C)** ~~(d)~~ Designate or use any brand name of a company unless the meat so advertised or displayed for sale is of a quality which the use or designation of the brand name of such company would reasonably indicate.

(2) A person shall not advertise or display for sale any of the following:

(a) Any meat of the ovine species that is 2 years old or over as "yearling" or "lamb". Such meat shall be clearly designated "mutton".

(b) Any meat described by the use of ~~the words "prime", "choice", or "good"~~ **ASSOCIATED WITH GRADING TERMINOLOGY** unless such meat advertised for sale actually bears the "USDA" federal stamp designating such grade or is of equal quality as the federal grade would designate.

(c) Any ham unless the advertisement or display states whether the ham is ~~skinned or regular~~ **WHOLE, BONE-IN, SEMI-BONELESS, OR BONELESS.**

1 (d) Any ham portion described by the use of the words "one-  
2 half" or "half ham" that has had a center slice removed.

3 (e) Any pork shoulder described as "ham".

4 (f) Any meat or meat product which has been branded or  
5 marked as imitation by a manufacturer or processor unless the  
6 advertisement or display clearly states that such meat or meat  
7 product is an imitation.

8 (3) A person shall not substitute in any sale any inferior  
9 or cheaper cut of meat without informing the purchaser that such  
10 substitution is being made.

11 (4) A person shall not keep or display any canned meats or  
12 canned meat products at a temperature exceeding 6° centigrade  
13 (41° Fahrenheit) if the label of such meats or meat products  
14 specifies that they shall be kept under refrigeration.

15 (5) Whenever it becomes necessary for the purposes of this  
16 act to procure a sample or samples of meat or meat products, the  
17 person in charge of the place where ~~inspection~~**EVALUATION** is made  
18 must permit the sample or samples to be obtained upon being  
19 tendered the advertised or offered price of the item being  
20 procured.

21 Sec. 8107. (1) As used in this section:

22 (a) "Date" means the recommended last day of sale.

23 (b) "Perishable food" means any food in package form which  
24 the manufacturer, packer, or retailer, in conjunction with the  
25 department, determines as having a significant risk of spoilage,  
26 loss of value, or loss of palatability within 90 days of the date  
27 of packaging.

1 (c) "Prepackaged" means packaged prior to being displayed or  
2 offered for sale.

3 (2) A retail food establishment shall not sell or offer for  
4 sale a prepackaged perishable food unless there is clearly and  
5 conspicuously stamped upon or attached to the package a date  
6 identified by month and day except that bakery products with a  
7 shelf life of 7 days or less may be dated with a day of the week  
8 or an abbreviation.

9 (3) The date may be displayed with or without explanatory  
10 terms. If explanatory terms are used, such terms shall be limited  
11 to 1 of the following: "Sell by \_\_\_\_\_", "Sell before \_\_\_\_\_",  
12 "Last date of sale \_\_\_\_\_", "Recommended last date of sale \_\_\_\_\_",  
13 or "Recommended sale date \_\_\_\_\_". Other meaningful terms may be  
14 used if specifically approved by the department.

15 (4) ~~This~~ **EXCEPT FOR MEAT THAT HAS BEEN REMOVED FROM**  
16 **FEDERALLY INSPECTED RETAIL PACKAGES, THIS** section does not  
17 prohibit the sale of food after the date if the product is  
18 wholesome and sound and is clearly identified as having passed  
19 the date.

20 (5) The retail or final seller is responsible for the proper  
21 advertisement of perishable food sold after the date.

22 (6) A person who prepackages perishable food shall do all of  
23 the following:

24 (a) Establish a meaningful date that takes into  
25 consideration the food quality and characteristics of the food,  
26 its packaging, and customary conditions encountered in commercial  
27 channels.



1 (b) Allow a reasonable period after the date for consumption  
2 of the food without physical spoilage.

3 (c) Keep a record of the method of determination of the  
4 date.

5 (7) A retailer who purchases prepackaged perishable food  
6 may, upon written agreement with the person prepackaging such  
7 food, determine, identify, and be responsible for the date placed  
8 on, or attached to, each package of such food.

9 (8) The date shall not be altered. A person shall not rewrap  
10 or repackage a perishable food, in its original form and texture,  
11 with a date on the package different from the original.

12 (9) The date shall be calculated to allow a reasonable  
13 period for the subsequent consumption of the food, but shall not  
14 allow for a period which would result in a health nuisance as  
15 described in section 2107.

16 (10) This section does not apply to fresh fruits and  
17 vegetables, canned food, and frozen food ~~, nor~~ **AND DOES NOT APPLY**  
18 to milk and milk products dated in accordance with ~~section 1 of~~  
19 ~~the fluid milk act of 1965, 1965 PA 233, MCL 288.21~~ **THE GRADE A**  
20 **MILK LAW OF 2001, 2001 PA 266, MCL 288.471 TO 288.540.**

21 (11) The requirements of this section do not apply to any of  
22 the following:

23 (a) An individually packaged food item that is a component  
24 of a larger food item if the larger food item is identified with  
25 a date the same as or earlier than the date of that component.

26 (b) Perishable foods packaged under, and in compliance with,  
27 federal laws and regulations, if providing information equal to

1 or greater than the information required by this section.

2 (c) Smoked fish under the smoked fish rules.

3 Enacting section 1. Sections 1115, 1117, and 6151 of the  
4 food law of 2000, 2000 PA 92, MCL 289.1115, 289.1117, and  
5 289.6151, are repealed.