

HOUSE BILL NO. 6128

November 14, 2024, Introduced by Reps. Dievendorf and Paiz and referred to the Committee on Agriculture.

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 3103, 3127, 3131, 7104, 7105, 7106, 7107,
8105, and 8107 (MCL 289.3103, 289.3127, 289.3131, 289.7104,
289.7105, 289.7106, 289.7107, 289.8105, and 289.8107), sections
3103, 3127, and 8107 as amended and section 7104 as added by 2012
PA 178 and sections 7105 and 8105 as amended and section 7106 as
added by 2007 PA 114; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3103. As used in this chapter:
- 2 (a) "Certified health department" means a county, district, or

city health department that meets the criteria for certification of health departments established by this act and that is authorized by the director to enforce this act for retail groceries, food processors, or fair concessions.

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

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

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

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

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

(i) Periodic 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~~**that** may be necessary to ensure proper implementation of this act.

1 Sec. 3127. (1) The findings of an evaluation of a food ~~service~~
2 establishment ~~shall~~**must** be recorded on an evaluation report form
3 approved by the department. A violation of a priority item or
4 priority foundation item ~~shall~~**must** be designated ~~as such~~ on the
5 **evaluation report** form. A violation by a food establishment of
6 section 12603 or 12905 of the public health code, MCL 333.12603 and
7 333.12905, is not a violation of a priority item or priority
8 foundation item of this act or the food code.

9 (2) The evaluation report ~~shall~~**must** summarize findings
10 relative to compliance with the requirements of this act ~~. The~~
11 ~~report form shall~~**and** be signed and dated by the director.

12 (3) Upon completion of the evaluation, a copy of the completed
13 evaluation report form ~~shall~~**must** be furnished to the person in
14 charge of the food ~~service~~ establishment. If the person in charge
15 does not sign the **evaluation** report form acknowledging receipt,
16 delivery of the **evaluation** report form to the person in charge
17 ~~shall~~**must** be otherwise documented by the director.

18 Sec. 3131. (1) A local health department shall develop and
19 implement a communications system with other applicable
20 governmental agencies, individuals, and organizations including,
21 but not limited to, hospital emergency rooms and state and local
22 police. The communications system ~~shall~~**must** provide the means to
23 contact specific local health department employees and basic
24 information necessary to initiate a foodborne illness outbreak
25 investigation. The information provided in the communications
26 system ~~shall~~**must** be updated annually.

27 (2) Procedures for investigating suspected foodborne illness
28 outbreaks ~~shall~~**must** be implemented consistent with procedures
29 contained in the publication entitled "Procedures to Investigate

Foodborne Illness, ~~5th~~-6th Ed.," prepared and published by the
~~international association of food protection~~ **International**
Association for Food Protection and incorporated by reference or an
equivalent plan submitted to and approved by the department.

(3) All information gathered during ~~the~~-an investigation ~~which~~
that is not exempted from disclosure under section 13 of the
freedom of information act, 1976 PA 442, MCL 15.243, ~~and shall~~-**must**
be made available to the owner, **the** operator, or ~~his or her~~-**the**
owner's or operator's employees to minimize the possibility of
reoccurrence of the foodborne illness and to assure compliance with
the **food** code and this act.

Sec. 7104. (1) ~~0.02 of chapter I and chapters~~ **Section II** ~~7~~
~~VII, IX to XIV, and XVI~~ of the guide for control of molluscan
shellfish ~~are~~-**is** incorporated by reference except to the extent
provisions of this act and rules specify different requirements.

(2) The director by rule may adopt any changes or updates to
the guide for control of molluscan shellfish.

(3) The annexes of the guide for the control of molluscan
shellfish are considered persuasive authority for interpretation of
the guide for the control of molluscan shellfish.

Sec. 7105. **(1)** All processors of seafood shall comply with
regulations of the ~~U.S. food and drug administration~~ **United States**
Food and Drug Administration in 21 CFR part 123. The requirement
that a processor of smoked fish comply with the smoked fish rules
is waived if the processor demonstrates compliance with ~~the federal~~
~~regulation described in this section.~~ **21 CFR part 123.**

(2) A fish-smoking establishment shall be in compliance with
the requirements of this section.

(3) A fish-smoking establishment shall use a temperature-

1 indicating device and a temperature-recording device, and the
2 devices must meet all of the following requirements:

3 (a) Each device is installed where it can be easily read.

4 (b) The sensor of each device is situated in a location that
5 ensures it is protected from mechanical damage and accurately
6 measures the warmest temperature of the refrigeration equipment and
7 the coldest temperature of the smoking equipment, as appropriate.

8 (c) The temperature-indicating device is calibrated at the
9 routine operating temperature of the refrigeration, cooling, or
10 smoking equipment against a known, accurate standard thermometer at
11 the time of installation and at least once every year thereafter,
12 or more frequently, as indicated by the device manufacturer.

13 (4) A fish-smoking establishment must conduct accuracy checks
14 of temperature-indicating devices and temperature-recording devices
15 at the time each device is installed and at least once every year
16 thereafter, or more frequently if necessary. The fish-smoking
17 establishment must maintain records of the accuracy checks that
18 contain all of the following information:

19 (a) The time and date of the accuracy check.

20 (b) The standard and method used.

21 (c) Before any corrective action taken under subdivision (d),
22 the temperatures indicated by any temperature-indicating device or
23 temperature-recording device used or otherwise subjected to an
24 accuracy check.

25 (d) Any corrective action taken, if applicable.

26 (e) The name of the individual who performed the accuracy
27 check.

28 (5) If a temperature-indicating device has a divided fluid
29 column or cannot be adjusted to the standard used during an

1 accuracy check under subsection (3), the fish-smoking establishment
2 shall immediately repair or replace the temperature-indicating
3 device.

4 (6) All fish and smoked fish products must be clean,
5 wholesome, free from any deterioration, spoilage, adulteration, or
6 foreign odors, and processed, handled, stored, prepared, and
7 transported at or below 3.3 degrees Celsius (38 degrees
8 Fahrenheit).

9 (7) All fresh fish must be inspected and adequately washed
10 with potable water before processing. Only sound, wholesome fresh
11 fish that are free from adulteration and organoleptically
12 detectable spoilage may be processed under this section.

13 (8) All frozen fish must be either thawed promptly and
14 processed or stored at a temperature that will maintain the fish in
15 a frozen state. Any thawing of frozen fish must be carried out in
16 as rapid a manner as possible so that the internal temperature of
17 the fish does not exceed 3.3 degrees Celsius (38 degrees
18 Fahrenheit). After thawing, the fish must be adequately washed with
19 potable water before processing.

20 (9) Before smoking, all fish that will be used for smoking
21 must go through all of the following processes:

22 (a) Evisceration. Evisceration must be conducted in an area
23 that is separate from other processing operations and performed
24 with minimal disturbance of the intestinal tract contents of the
25 fish. During evisceration, the fish, including the body cavity,
26 must be washed thoroughly with a continuous flow or vigorous spray
27 of potable water. A fish must be eviscerated before freezing.

28 (b) Dry-salting or brining. Dry-salting or brining must be
29 done in a manner that ensures an adequate and consistent water

1 phase salt content of the finished product. The temperature of the
2 brine must not exceed 16 degrees Celsius (60 degrees Fahrenheit) at
3 the start of brining. If the brining time is more than 4 hours,
4 then brining must take place in a refrigerated area that is 3.3
5 degrees Celsius (38 degrees Fahrenheit) or below immediately after
6 the salting. A brining tank must be washed, rinsed, and sanitized
7 before each use, and brines must not be reused unless there is an
8 adequate process available to return the brine to an acceptable
9 microbiological level.

10 (c) Rinsing with potable water.

11 (10) After processing under subsection (9), fish that will be
12 smoked must go through all of the following:

13 (a) The fish must be arranged in the smokehouse oven or
14 chamber without overcrowding and must not touch each other to allow
15 for uniform smoke absorption, heat exposure, and dehydration.

16 (b) The surfaces of the fish to be smoked must be moist or
17 tacky to the touch before smoking.

18 (c) Liquid smoke, generated smoke, or a combination of liquid
19 smoke and generated smoke may be applied to all surfaces of the
20 fish. If only liquid smoke or only generated smoke is used, the
21 smoke must be applied before the surface protein on the fish is
22 dried to the point of forming a pellicle or barrier to smoke
23 uptake.

24 (d) If a combination of liquid smoke and generated smoke is
25 used, the liquid smoke must be applied before the surface protein
26 on the fish is dried to the point of forming a pellicle or barrier
27 to smoke uptake, and the generated smoke may be applied at any
28 stage of the process.

29 (e) During smoking, the internal temperature of the coldest

1 part of the fish must remain at or above 62.8 degrees Celsius (145
2 degrees Fahrenheit) for not less than 30 continuous minutes. The
3 temperature measurement must be collected by inserting the sensor
4 of the temperature-recording device into the thickest flesh portion
5 of the largest fish being smoked that is located at the coldest
6 area of the smokehouse.

7 (11) A fish-smoking establishment must maintain an accurate
8 record of the entire time it takes to complete all of the processes
9 described under subsections (9) and (10) for each smokehouse load.
10 The record described under this subsection must include all of the
11 following information:

12 (a) The date the process was completed.

13 (b) A lot number, unique to each smokehouse load.

14 (c) The process time.

15 (d) The temperatures collected under subsection (10) (e).

16 (e) The smokehouse and compartment number.

17 (f) The type or species and quantity of each type or species
18 of fish that were smoked.

19 (12) The individual in charge of the fish-smoking
20 establishment or the individual's designee shall review and certify
21 a record generated under subsection (11) by initialing the entry
22 for each smokehouse load record before distribution or sale of any
23 smoked fish within the load.

24 (13) Immediately after completing the processes described
25 under subsections (9) and (10), the smoked fish product must be
26 cooled to 3.3 degrees Celsius (38 degrees Fahrenheit) or below and
27 remain at or below that temperature at all times, including through
28 storage, marketing, and sale. If the smoked fish product is frozen,
29 freezing must occur immediately after the cooling described in this

1 subsection, and the smoked fish product must remain frozen at all
2 times, including through storage, marketing, and sale. If the
3 smoked fish product is air-packaged, the fish must be processed so
4 that the content of water phase salt in the fish is not less than
5 3%, based on the loin muscles of the fish.

6 (14) Each room, compartment, or holding device for the storage
7 of a smoked fish product must be equipped with an accurate
8 temperature-indicating device. Any individual responsible for
9 handling smoked fish products up to the time the smoked fish
10 product is sold to a final consumer shall use a temperature-
11 indicating device to check for compliance with the temperature
12 requirements under this section.

13 (15) A fish-smoking establishment shall, and the department
14 may, chemically analyze smoked fish products to ensure that the
15 required level of water phase salt is reached. If the department
16 chemically analyzes a smoked fish product and finds that the smoked
17 fish product does not contain the required levels of an ingredient,
18 including water phase salt, then the department may require the
19 fish-smoking establishment to conduct additional chemical analysis.
20 A fish-smoking establishment shall maintain records of the results
21 of any chemical analysis conducted under this subsection. The
22 method used to chemically analyze smoked fish products for the
23 required level of water phase salt under this subsection must be
24 determined using the methods described in the publication titled
25 "Official Methods of Analysis of the AOAC, International", 17th
26 edition. This publication is adopted by reference, and the
27 department shall post on its website the physical address and
28 internet link where a copy of this publication may be obtained.

29 (16) Areas for packaging, handling, and storing smoked fish

1 products must be separate areas within the fish-smoking
2 establishment and must be separated from any unprocessed fish and
3 equipment, objects, and employees that are used for or have come
4 into contact with waste, raw fish, or other unsanitary objects.
5 Packaging material, equipment, employees, and in-process materials
6 that enter product packaging, handling, and storage areas must be
7 treated to minimize the risk of introducing microorganisms. Air-
8 handling systems must be designed to minimize the risk of airborne
9 contamination into product packaging, handling, and storage areas
10 and to provide positive air pressure relative to the surrounding
11 areas.

12 (17) A package, carton, wrapper, or other container, including
13 a package sold from a bulk display and wrapped at the time of sale,
14 used to ship, wrap, or hold unfrozen a smoked fish product must be
15 labeled with all of the following information:

16 (a) The name of the smoked fish product.

17 (b) The name and address of the fish-smoking establishment.

18 (c) The ingredients and net weight as required under the
19 weights and measures act, 1964 PA 283, MCL 290.601 to 290.635.

20 (d) The lot number, unique to each smokehouse load as required
21 under subsection (11).

22 (e) The following warning statements:

23 (i) "Perishable—Keep under refrigeration at 38 degrees
24 Fahrenheit (3.3 degrees Celsius) or below."

25 (ii) "Not to be sold or consumed after ____.". The blank must
26 be completed with a date that is not more than 14 days after the
27 date listed in the record under subsection (11) (a), unless a fish-
28 smoking establishment can demonstrate to the department that a
29 longer period of time is safe. A date under this subsection must

1 not be changed or altered once included in the warning statement.

2 (18) A package, carton, wrapper, or other container, including
3 a package sold from a bulk display and wrapped at the time of sale,
4 used to ship, wrap, or hold a frozen smoked fish product must be
5 labeled, and the label must contain the following information:

6 (a) All of the information required under subsection (17) (a)
7 to (d) .

8 (b) A warning statement that states "Perishable: Keep frozen.
9 Thaw in refrigerator before consumption."

10 (19) A label described under subsection (17) or (18) must be
11 written in English and use distinctive and plain lettering or
12 Arabic numerals and be permanently affixed to each package, carton,
13 wrapper, or other container.

14 (20) Smoked fish that was processed under subsections (9) and
15 (10) on different dates are considered different smokehouse lots
16 and must not be commingled.

17 (21) A fish-smoking establishment must maintain any record
18 described under this section for 2 years.

19 (22) A fish-smoking establishment may request a variance under
20 this section by submitting an application on a form and in a manner
21 prescribed by the department. An application must include all of
22 the following information:

23 (a) A statement of the proposed variance from the requirements
24 of this section.

25 (b) An analysis of the rationale for how the potential health
26 hazards addressed under this section will be alternatively
27 addressed by the proposed variance. The department may require that
28 any of the following information be included in the analysis under
29 this subdivision:

(i) A letter from a process authority. As used in this subdivision, "process authority" means a person that is recognized by a national association and has expert knowledge of complex processing requirements for specific foods and can provide analysis.

(ii) Copies of relevant articles from scientific journals.

(iii) Studies of at least 3 completed processes described under subsections (9) and (10) that demonstrate the desired result is reliably achieved.

(iv) Laboratory analyses that demonstrate both of the following:

(A) For *Clostridium botulinum*, zero toxin production in the smoked fish product for a time period beyond the shelf life of the smoked fish product of not less than 1/3 of the shelf life, demonstrated through inoculated pack studies under normal and moderate abuse conditions.

(B) No detectable *Listeria monocytogenes* in the smoked fish product.

(v) Federal, state, or local government regulations or advisories.

(c) A hazard analysis and critical control points plan.

(23) After an application for a variance is received under subsection (22), the department may grant or deny a variance. If the department grants a variance, the fish-smoking establishment must comply with all of the following:

(a) Comply with an HACCP plan and any procedures that are submitted as a basis for the variance.

(b) Maintain records that include procedures for monitoring critical control points and verification of the effectiveness of an

1 operation or process.

2 (c) Complete any necessary corrective actions if there is a
3 failure at a critical control point.

4 (d) Notify the department, in writing, if there is any change,
5 replacement, or modification to the information required under
6 subsection (22).

7 (24) The department may revoke a variance granted under
8 subsection (23) or may require resubmission of an application for a
9 variance under subsection (22) if any inspection, monitoring,
10 analysis, or other official activity conducted by the department
11 under this act finds that a condition exists that creates a
12 potential food safety hazard. The department may set an expiration
13 date for a variance granted under subsection (23) after which a
14 fish-smoking establishment must resubmit an application for a
15 variance under subsection (22). If the department sets an
16 expiration date under this subsection, the department shall notify
17 the fish-smoking establishment of the expiration date in writing.

18 (25) Notwithstanding any other provision of law, an HACCP plan
19 submitted with an application for a variance under subsection (22)
20 must specify, for each type of smoked fish product, all of the
21 following information:

22 (a) The identity of the smoked fish product or categorization
23 of like products that the HACCP plan addresses.

24 (b) The potential food safety hazards, such as
25 microbiological, chemical, or physical hazards, that may cause a
26 smoked fish product to be unsafe for human consumption.

27 (c) A diagram that depicts the fish-smoking establishment's
28 entire processing procedures and identifies each critical control
29 point.

1 (d) Employee and supervisory training plans that address food
2 safety issues.

3 (e) The standard operating procedures for the HACCP plan,
4 including clearly identifying all of the following:

5 (i) Each critical control point, including all of the
6 following:

7 (A) Raw material thawing.

8 (B) Brining or dry salting.

9 (C) Smoking.

10 (D) Cooling after smoking.

11 (E) Post-smoke processing, if any.

12 (ii) The critical limits that must be met at each critical
13 control point specified in subparagraph (i) to prevent food safety
14 hazards.

15 (iii) The method and frequency for monitoring and controlling
16 each critical control point by an employee designated by the fish-
17 smoking establishment.

18 (iv) The method and frequency with which the fish-smoking
19 establishment verifies that an employee is following standard
20 operating procedures and monitoring critical control points.

21 (v) The action taken by the fish-smoking establishment if the
22 critical limits for each critical control point are not met.

23 (26) If a fish-smoking establishment engages in any of the
24 following processes, the fish-smoking establishment must apply for
25 a variance under subsection (22):

26 (a) Producing cold process smoked fish.

27 (b) Subjecting smoked fish to reduced oxygen packaging.

28 (c) Using additives that reduce the level of, combine with, or
29 replace, in whole or in part, the sodium chloride used in the

1 smoked fish product at the required level, such as sodium nitrite,
2 potassium chloride, or any other approved food additive.

3 (27) This section does not apply to any of the following
4 smoked fish products:

5 (a) Finnan haddie, smoked cod fillet, smoked Scottish kipper,
6 or any other smoked fish product that is clearly labeled to be
7 cooked before it is consumed.

8 (b) Boneless, smoked salted herring; smoked, dry salted
9 herring; smoked blind robbin; or any other smoked fish that has a
10 water phase salt content of not less than 10%.

11 (c) Commercially sterile smoked fish, either canned or in
12 sterile packaging.

13 (28) As used in this section:

14 (a) "Cold process smoked fish" means a smoked fish that has
15 not been subjected to sufficient heat to coagulate the protein
16 throughout the fish.

17 (b) "Critical control point" means a point, step, or procedure
18 in a food process at which control can be applied and, as a result,
19 a food safety hazard can be prevented, eliminated, or reduced to
20 acceptable levels.

21 (c) "Critical limit" means the maximum or minimum value to
22 which a physical, biological, or chemical parameter must be
23 controlled at a critical control point to prevent, eliminate, or
24 reduce to an acceptable level the occurrence of the identified food
25 safety hazard.

26 (d) "Fish" means all freshwater or saltwater finfish,
27 mollusks, crustaceans, and other aquatic organisms, other than
28 birds or mammals, that are intended for human consumption.

29 (e) "Fish-smoking establishment" means a food establishment

1 that is not regulated under 21 CFR 123 and that processes fish into
2 smoked fish products.

3 (f) "Liquid smoke" means an aqueous solution of wood smoke
4 that, when suitably diluted, may be used to impart a smoke flavor.

5 (g) "Loin muscle" means the longitudinal quarter of the great
6 lateral muscle of a fish that is free from skin, scales, visible
7 blood clots, bones, gills, and nonstriated parts.

8 (h) "Reduced oxygen packaging" means packaging that reduces
9 the amount of oxygen in a package by mechanical evacuation of the
10 oxygen, displacing the oxygen with another gas or combination of
11 gases, or otherwise controlling the oxygen content in a package to
12 a level below the level of 21% normally found in the surrounding
13 atmosphere. Reduced oxygen packaging includes altered atmosphere,
14 modified atmosphere, controlled atmosphere, low oxygen, and vacuum
15 packaging.

16 (i) "Smoked fish product" means a freshwater or saltwater
17 finfish that is prepared by treating it with sodium chloride and
18 subjecting it to the direct action of the smoke from burning wood,
19 wood sawdust, or similar burning material or from liquid smoke
20 flavoring applied to the surface in a gaseous, liquid, or vaporized
21 state with or without heat. Smoked fish includes products composed,
22 in whole or in part, from smoked fish, such as sausage, pate, or
23 snack dip.

24 (j) "Temperature-indicating device" means an accurate,
25 standard thermometer or equivalent device, such as a resistance
26 temperature device or thermocouple.

27 (k) "Temperature-recording device" means a device that is
28 capable of providing a continuous record of the temperature
29 conditions being monitored.

(l) "Water phase salt" means the percentage of sodium chloride in the water phase of the finished fish product calculated by multiplying the percentage of sodium chloride by 100 and dividing that number by the sum of the percentage of sodium chloride and the percentage of moisture in the finished product.

Sec. 7106. ~~(1) All processors of juice shall comply with the regulations of the U.S. food and drug administration in 21 CFR part 120.~~

~~(2) An~~ **A food** establishment that presses apple cider ~~shall~~ **must** have at least 1 active employee currently certified under a program described in section 2129 or having completed a current course recognized by the department as pertinent to safe cider production.

Sec. 7107. (1) Bottled water ~~shall~~ **must** be obtained from a water supply approved by the department of ~~environmental quality~~ **environment, Great Lakes, and energy** and in compliance with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(2) A copy of the current sanitary survey report from the department of ~~environmental quality~~ **environment, Great Lakes, and energy** under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, and the water sample results required under that act ~~shall~~ **must** be available at the **in-state** bottling plant for the director to demonstrate approval of the source and supply of the water.

(3) Bottled water ~~shall~~ **must** not contain any substance in excess of the maximum contaminant level adopted for drinking water under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(4) A water dispensing machine ~~shall~~ **must** be clearly and

1 conspicuously labeled with the declaration of identity of the
2 product dispensed.

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

4 (a) Make, publish, disseminate, circulate, or place before the
5 public any advertisement containing ~~any~~**an** assertion,
6 representation, or statement ~~which~~**that** is untrue, deceptive, or
7 misleading or falsely represents the kind, classification, grade,
8 or quality of meat.

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

11 (c) Designate or use any brand name of a company unless the
12 meat ~~so~~**that is** advertised or displayed for sale is of a quality
13 ~~which~~**that** the use or designation of the brand name of ~~such~~**a**
14 company would reasonably indicate.

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

17 (a) Any meat of the ovine species that is 2 years old or over
18 as "yearling" or "lamb". ~~Such~~**This** meat ~~shall~~**must** be clearly
19 designated "mutton".

20 (b) Any meat described by the use of words associated with
21 grading terminology unless ~~such~~**the** meat advertised for sale
22 actually bears the "USDA" federal stamp designating ~~such~~**the** grade
23 or is of equal quality as the federal grade would designate.

24 (c) Any ham unless the advertisement or display states whether
25 the ham is whole, bone-in, semi-boneless, or boneless.

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

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

29 (f) Any meat or meat product ~~which~~**that** has been branded or

1 marked as imitation by a manufacturer or processor unless the
2 advertisement or display clearly states that ~~such-the~~ meat or meat
3 product is an imitation.

4 (3) A person shall not substitute in any sale any inferior or
5 cheaper cut of meat without informing the purchaser that ~~such-a~~
6 substitution is being made.

7 (4) A person shall not keep or display any canned meats or
8 canned meat products at a temperature exceeding ~~6° centigrade (41°~~
9 **5 degrees Celsius (41 degrees Fahrenheit)** if the label of ~~such-the~~
10 meats or meat products specifies that they ~~shall-must~~ be kept under
11 refrigeration.

12 (5) Whenever it becomes necessary for the purposes of this act
13 to procure a sample or samples of meat or meat products, the ~~person~~
14 **individual** in charge of the ~~place-food establishment~~ where
15 evaluation is made must permit the sample or samples to be obtained
16 upon being tendered the advertised or offered price of the item
17 being procured.

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

19 (a) "Date" means 1 of the following:

20 (i) For perishable food, the recommended last day of sale.

21 (ii) For nonperishable food, the recommended last day of sale
22 or consumption, if any.

23 (b) "Prepackaged" means packaged ~~prior-to-before~~ being
24 displayed or offered for sale.

25 (2) A retail food establishment shall not sell or offer for
26 sale a prepackaged perishable food unless the package bears a label
27 with a date identified by month and day, except that bakery
28 products with a shelf life of 7 days or less may be dated with a
29 day of the week or an abbreviation. A retail food establishment may

1 sell or offer for sale a prepackaged nonperishable food with or
2 without a label that bears a date.

3 (3) The date for prepackaged perishable food may be displayed
4 with or without explanatory terms. If explanatory terms are used,
5 the terms ~~shall~~**must** be limited to 1 of the following: "Sell by
6 _____", "Sell before _____", "Last date of sale _____",
7 "Recommended last date of sale _____", or "Recommended sale date
8 _____". Other meaningful terms may be used if specifically approved
9 by the department.

10 (4) A retail food establishment shall not sell or offer for
11 sale any of the following foods under the following circumstances:

12 (a) After the date, meat that has been removed from a
13 federally inspected retail package.

14 (b) After the date, nonperishable food or prepackaged
15 perishable food unless the food is wholesome, ~~and~~ sound, and ~~is~~
16 clearly identified as having passed the date.

17 (c) Nonperishable food that is no longer wholesome or sound.

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

20 (6) A person ~~who~~**that** prepackages nonperishable food and
21 ~~chooses to label~~**labels** the food with a date or ~~who~~**that**
22 prepackages perishable food shall do all of the following:

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

26 (b) If the date is the recommended last day of sale, allow a
27 reasonable period after the date for consumption of the food
28 without physical spoilage.

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

1 (7) A retailer ~~who~~**that** purchases prepackaged perishable food
 2 may, upon written agreement with the person prepackaging ~~such~~**the**
 3 food, determine, identify, and be responsible for the date that
 4 each package of such food bears on a label.

5 (8) The date ~~shall~~**must** not be altered. A person shall not
 6 rewrap or repackage a food, in its original form and texture, with
 7 a date on the package different from the original.

8 (9) If the date is the recommended last day of sale, the date
 9 ~~shall~~**must** be calculated to allow a reasonable period for the
 10 subsequent consumption of the food, but ~~shall~~**must** not allow for a
 11 period ~~which~~**that** would result in a ~~health~~-nuisance as described in
 12 section 2107.

13 (10) This section does not apply to fresh fruits and
 14 vegetables and frozen food, and ~~does~~**subsections (1), (2), (3), and**
 15 **(6)** do not apply to milk and milk products dated in accordance with
 16 the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

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

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

22 (b) Perishable foods packaged under, and in compliance with,
 23 federal laws and regulations, if providing information equal to or
 24 greater than the information required by this section.

25 (c) Smoked fish **product meeting the requirements** under ~~the~~
 26 ~~smoked fish rules~~**section 7105**.

27 Enacting section 1. Sections 5109 and 7103 of the food law,
 28 2000 PA 92, MCL 289.5109 and 289.7103, are repealed.