

HOUSE BILL NO. 6130

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

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 1107, 1109, 2129, and 6101 (MCL 289.1107,
289.1109, 289.2129, and 289.6101), sections 1107 and 2129 as
amended by 2016 PA 188, section 1109 as amended by 2018 PA 92, and
section 6101 as amended by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1107. As used in this act:
- 2 (a) "Department" means the department of agriculture and rural
- 3 development.
- 4 (b) "Director" means the director of the department or ~~his or~~

1 ~~her~~ **the director's** designee.

2 (c) "Domestic residence" means a single-family dwelling or an
3 area within a rental unit where a single person or family actually
4 resides. Domestic residence does not include either of the
5 following:

6 (i) A group or communal residential setting within any type of
7 structure.

8 (ii) An outbuilding, shed, barn, or other similar structure.

9 (d) "Egg" does not include a balut, which is an embryo inside
10 a fertile egg that has been incubated for a period sufficient for
11 the embryo to reach a specific stage of development after which it
12 is removed from incubation before hatching.

13 (e) "Evaluation" means a food safety audit, inspection, or
14 food safety and sanitation assessment, whether announced or
15 unannounced, that identifies violations or verifies compliance with
16 this act and determines the degree of active control by food
17 establishment operators over foodborne illness risk factors.

18 (f) "Extended retail food establishment" means a retail
19 grocery that does both of the following:

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

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

23 (g) "Fair" means a fair or exhibition operated and managed
24 under 1929 PA 11, MCL 46.151 to 46.153, or held by an agricultural
25 or horticultural society under 1855 PA 80, MCL 453.231 to 453.240.

26 (h) "Fair concession" means a food concession, storage,
27 preparation, or dispensing operation at a state or county fair.

28 (i) "Farmers' market" means a public and recurring assembly of
29 farmers or their representatives selling directly to consumers food

1 and products that the farmers have produced themselves ~~—In~~
 2 ~~addition, the market~~ **and** may include a variety of other vendors as
 3 determined by market management.

4 (j) "Federal act" means the federal food, drug, and cosmetic
 5 act, chapter 675, 52 Stat. 1040, 21 USC 301 to 399d, as in effect
 6 on ~~October 1, 2012.~~ **the effective date of the amendatory act that**
 7 **amended this subdivision.**

8 (k) "Festival" means an event ~~—~~staged by a local community or
 9 local organization ~~—~~that centers on and celebrates a certain
 10 aspect of that community or organization. Festival includes, but is
 11 not limited to, a fair, art show, chili cook-off, car show, hot air
 12 balloon festival, religious festival, drama festival, or cultural
 13 festival.

14 (l) "First receiver" means a person ~~who—that~~ receives eggs from
 15 a producer at any place of business and candles, grades, sorts,
 16 packs, or packages the eggs.

17 (m) "Food" means articles used for food or drink for humans or
 18 other animals, chewing gum, and articles used for components of any
 19 such article.

20 (n) "Food additive" means any substance, the intended use of
 21 which, directly or indirectly, results in or may be reasonably
 22 expected to result in its becoming a component or otherwise
 23 affecting the characteristics of any food if that substance is not
 24 generally recognized among experts as having been adequately shown
 25 through scientific procedures to be safe under the conditions of
 26 its intended use. Food additive includes any substance intended for
 27 use in producing, manufacturing, packing, processing, preparing,
 28 treating, packaging, transporting, or holding food and includes any
 29 source of radiation intended for any use. Food additive does not

1 include any of the following:

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

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

6 (iii) A color additive.

7 (iv) Any substance used in accordance with a sanction or
8 approval granted before the enactment of the food additives
9 amendment of 1958, Public Law 85-929, ~~pursuant to~~**under** the federal
10 act, the poultry products inspection act, 21 USC 451 to 472, or the
11 federal meat inspection act, 21 USC 601 to 683.

12 (o) "Food code" means "Food Code, ~~2009~~**2017** Recommendations of
13 the United States Public Health Service Food and Drug
14 Administration", which regulates the design, construction,
15 management, and operation of certain food establishments.

16 (p) "Food establishment" means an operation where food is
17 processed, packed, canned, preserved, frozen, fabricated, stored,
18 prepared, served, vended, sold, ~~or~~ offered for sale, **or otherwise**
19 **provided to the public**. Food establishment includes, but is not
20 limited to, a food processor, ~~a~~ food warehouse, ~~a~~ food service
21 establishment, ~~a~~ vending machine location, ~~and a~~**or** retail grocery.
22 Food establishment does not include any of the following:

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

27 (ii) An inpatient food ~~operation~~**service establishment** located
28 in a health facility or agency subject to licensure under article
29 17 of the public health code, MCL 333.20101 to 333.22260.

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

(q) "Food processor" means a food establishment that processes, manufactures, wholesales, packages, labels, or stores food. Food processor does not include a maple syrup producer. Processing is an act, such as canning, freezing, dehydrating, drying, distilling, extracting, preserving, grinding, crushing, milling, washing, trimming, packing, or otherwise preserving or changing the form of a food.

(r) "Food safety and sanitation assessment" means judging or assessing specific food handling activities, events, conditions, or management systems to determine their potential effectiveness in controlling risks for foodborne illness and their compliance with this act, accompanied by a report of findings.

(s) "Food safety audit" means the methodical examination and review of records, food sources, food handling procedures, and facility cleaning and sanitation practices for compliance with this act, accompanied by a report of findings. Food safety audit includes checking or testing, or both, of observable practices and procedures to determine compliance with standards contained in or adopted by this act, accompanied by a report of findings.

(t) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment,

1 private organization serving the public, rental hall, catering
2 kitchen, delicatessen, theater, commissary, food concession, or
3 similar place in which food or drink is prepared for direct
4 consumption through service on the premises or elsewhere, and any
5 other eating or drinking establishment or operation where food is
6 served or provided for the public. Food service establishment does
7 not include any of the following:

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

9 (ii) A bed and breakfast that has 10 or fewer sleeping rooms
10 for rent.

11 (iii) A bed and breakfast that has more than 10 sleeping rooms
12 for rent, if the bed and breakfast serves continental breakfasts
13 only.

14 (iv) A child care organization regulated under 1973 PA 116, MCL
15 722.111 to 722.128, unless the establishment is carrying out an
16 operation considered by the director to be a food service
17 establishment.

18 (v) A vending machine location. However, if a food service
19 establishment operates a vending machine location on the same
20 premises, the vending machine location is considered part of the
21 food service establishment.

22 (u) "Food warehouse" means a food establishment that stores or
23 distributes food for wholesale.

24 Sec. 1109. As used in this act:

25 (a) "Guide for the control of molluscan shellfish" means
26 section II, ~~model ordinance, national shellfish sanitation program~~
27 ~~guide for the control of molluscan shellfish, 2009,~~ **"Model**
28 **Ordinance, National Shellfish Sanitation Program Guide for the**
29 **Control of Molluscan Shellfish", 2019,** recommendations of the ~~U.S.~~

1 **United States** Department of Health and Human Services, Public
2 Health Service, Food and Drug Administration.

3 (b) "HACCP plan" means a written document that delineates the
4 formal procedures for following the hazard analysis and critical
5 control point principles developed by the National Advisory
6 Committee on Microbiological Criteria for Foods.

7 (c) "Imminent or substantial hazard" means a condition at a
8 food establishment that the director determines requires immediate
9 action to prevent endangering the **public** health. ~~of people.~~

10 (d) "Inspection" means the checking or testing of observable
11 practices against standards established in or adopted by this act,
12 accompanied by a report of findings.

13 (e) "Juice" means the aqueous liquid expressed or extracted
14 from 1 or more fruits or vegetables, purees of the edible portions
15 of 1 or more fruits or vegetables, or any concentrates of ~~such the~~
16 liquid or puree **of 1 or more fruits or vegetables.**

17 (f) "Label" means a display of written, printed, or graphic
18 matter on the immediate container of ~~any an~~ article and includes a
19 requirement imposed under this act that any word, statement, or
20 other information appearing on the display also appear on the
21 outside container or wrapper of the retail package of the article
22 or be easily legible through the outside container or wrapper.

23 (g) "Labeling" means all labels and other written, printed, or
24 graphic matter ~~upon on~~ an article ~~, or~~ any of its containers or
25 wrappers, or accompanying the article.

26 (h) "License holder" means the person ~~who that~~ is legally
27 responsible for the operation of a food establishment including the
28 owner, the owner's agent, or ~~other person operating another~~
29 **individual who operates** under **the** apparent authority of the owner

1 and ~~who~~ possesses a valid license to operate a food establishment.

2 (i) "License limitation" means an action by which the director
3 imposes restrictions or conditions, or both, on a license of ~~a~~**the**
4 food establishment.

5 (j) "Limited food processor" means a food processor that had
6 in the preceding licensing year or is reasonably anticipated to
7 have in the current licensing year \$25,000.00 or less in annual
8 gross wholesale sales made or business done in wholesale sales.
9 Only the food sales from the food processor operation must be used
10 in computing the annual gross sales under this subdivision.

11 (k) "Local health department" means that term as defined in
12 section 1105 of the public health code, MCL 333.1105, and having
13 those powers and duties as described in part 24 of the public
14 health code, MCL 333.2401 to 333.2498.

15 (l) "Low-risk food" means any of the following:

16 (i) Raw or prepackaged food that is not ~~potentially hazardous~~
17 ~~food (time/temperature~~**time/temperature** control for safety
18 ~~food)~~**food, as that term is defined in the food code.**

19 (ii) ~~Potentially hazardous food (time/temperature~~**Food that is**
20 **time/temperature** control for safety ~~food)~~**food, as that term is**
21 **defined in the food code,** that is prepared in a licensed facility
22 and is not prepared on-site.

23 (iii) Commercially processed ~~potentially hazardous food~~
24 ~~(time/temperature~~**that is time/temperature** control for safety ~~food)~~
25 **food, as that term is defined in the food code,** that is fully
26 cooked and heated only for hot holding.

27 (m) "Major food allergen" means any of the following:

28 (i) Milk.

29 (ii) Eggs.

(iii) Fish, including bass, flounder, or cod.

(iv) Crustacean shellfish, including crab, lobster, or shrimp.

(v) Tree nuts, including almonds, pecans, or walnuts.

(vi) Wheat.

(vii) Peanuts.

(viii) Soybeans.

(ix) Sesame.

(x) A food ingredient that contains a protein derived from a food specified in subparagraphs (i) to (ix), unless either of the following applies:

(A) The food ingredient is a highly refined oil derived from a food specified in subparagraphs (i) to (ix) or an ingredient that is derived from the highly refined oil.

(B) The food ingredient is exempt under 21 USC 343(w) (6) or (7) as determined by the secretary of the United States Department of Health and Human Services.

(n) ~~-(m)-"Michigan bridge card"~~ **"Michigan Bridge Card"** means the card used for the electronic benefit transfer system for food stamp distribution required under section 14h of the social welfare act, 1939 PA 280, MCL 400.14h.

(o) ~~-(n)-~~ "Micro market" means an operation that does all of the following:

(i) Offers for sale commercially prepackaged foods properly labeled for individual sale as required under section 3-201.11(C) of the food code, except as provided under section 3-302.11(B) (1) **of the food code**, and does not offer bulk food for sale.

(ii) Uses an automated payment system.

(iii) Controls the entry to the operation so that the operation

1 is accessible only by a defined population and is not accessible by
2 the general public.

3 (iv) Limits consumer food preparation to heating or reheating
4 food in a microwave oven.

5 (v) Utilizes continuous video surveillance of areas where
6 consumers view, select, handle, and purchase food. An operation
7 does not satisfy this subparagraph if the video surveillance is not
8 of sufficient resolution to allow for the identification of
9 situations that may compromise food safety or food defense.

10 (vi) If the operation uses a refrigerator unit or freezer unit,
11 the operation only uses a unit that has both of the following
12 features:

13 (A) Self-closing doors that allow food to be viewed without
14 opening the door.

15 (B) An automatic self-locking mechanism that prevents the
16 consumer from accessing the food if the refrigeration unit fails to
17 maintain the internal product temperature specified under section
18 3-501.16(A) (2) of the food code or the freezer unit fails to
19 maintain the food frozen.

20 (p) ~~(e)~~—"Milk product" means cream, light cream, light
21 whipping cream, heavy cream, heavy whipping cream, whipped cream,
22 whipped light cream, sour cream, acidified sour cream, cultured
23 sour cream, half-and-half, sour half-and-half, acidified sour half-
24 and-half, cultured sour half-and-half, reconstituted or recombined
25 milk and milk products, concentrated milk, concentrated milk
26 products, skim milk, lowfat milk, frozen milk concentrate, eggnog,
27 buttermilk, cultured milk, cultured lowfat milk, cultured skim
28 milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk,
29 acidified lowfat milk, acidified skim milk, low-sodium milk, low-

sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk, milk products with added safe and suitable microbial organisms, and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. Milk product includes dietary dairy products, dairy-based infant formula, ice cream and other frozen desserts, cheese, butter, and any other product derived from milk.

(q) ~~(p)~~ "Misbranded" means ~~food to which~~ any of the following apply: **as applied to food:**

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

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

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

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

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations permitted and exemptions for small packages established by rules.

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

1 (vii) It purports to be or is represented as a food ~~for which a~~
2 ~~definition~~**that is defined** and **has a** standard of identity ~~have been~~
3 prescribed by regulations promulgated under the federal act or by
4 rules, unless it conforms to the definition and standard and its
5 label bears the name of the food specified in the definition and
6 standard, and, insofar as may be required by the regulations or
7 rules, the common names of optional ingredients, other than spices,
8 flavoring, and coloring, present in the food.

9 (viii) It purports to be or is represented to be either of the
10 following:

11 (A) A food for which a standard of quality ~~has been~~**is**
12 prescribed by this act or rules if its quality falls below the
13 standard unless its label bears, in the manner and form that the
14 rules specify, a statement that it falls below the standard.

15 (B) A food for which a standard or standards of fill of
16 container ~~have been~~**are** prescribed by this act or rules and that
17 falls below the standard of fill of container applicable, unless
18 its label bears, in the manner and form that the rules specify, a
19 statement that it falls below the standard.

20 (ix) It does not bear labeling clearly giving the common or
21 usual name of the food, if one exists, and if fabricated from 2 or
22 more ingredients, the common or usual name of each ingredient
23 except that spices, flavorings, and colorings, other than those
24 sold as such, may be designated as spices, flavorings, and
25 colorings, without naming each and except under other circumstances
26 as established by rules regarding exemptions based ~~upon~~**on**
27 practicality, potential deception, or unfair competition.

28 (x) It bears or contains any artificial flavoring, artificial
29 coloring, or chemical preservative unless the labeling states that

fact or under other circumstances as established by rules regarding exemptions based ~~upon~~**on** practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under ~~section 343(q) of the federal act,~~ 21 USC 343.

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

(xiii) It is a color additive whose packaging and labeling are not in conformity with applicable packaging and labeling requirements under the federal act.

(xiv) Its labeling fails to declare a major food allergen within the meaning of 21 USC 343(w) .

(xv) If a product is shell eggs, it is not labeled in compliance with the requirements under section 7114.

(r) ~~(q)~~—"Mobile food establishment" means a food establishment operating from a vehicle, including a watercraft, that returns to a mobile food establishment commissary for servicing and maintenance at least once every 24 hours.

(s) ~~(r)~~—"Mobile food establishment commissary" means ~~an operation~~**a food establishment** that is capable of servicing a mobile food establishment.

(t) ~~(s)~~—"Nonperishable food" means food that is not perishable food.

(u) ~~(t)~~—"Perishable food" means any food that the manufacturer, packer, or retailer, in conjunction with the department, determines to have a significant risk of spoilage, loss of value, or loss of palatability within 90 days ~~of~~**after** the date of packaging.

1 **(v)** ~~(u)~~—"Person" means an individual, sole proprietorship,
2 partnership, corporation, association, or other legal entity.

3 **(w)** ~~(v)~~—"Pesticide chemical" means any substance that, alone,
4 in chemical combination, or in formulation with 1 or more other
5 substances, is a pesticide within the meaning of the federal
6 insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y, and
7 is used in the production, storage, or transportation of raw
8 agricultural commodities.

9 **(x)** "Premises" means 1 of the following:

10 **(i)** The physical facility, its contents, and the contiguous
11 land or property under the control of an operator.

12 **(ii)** The physical facility, its contents, and the land or
13 property, if its facilities and contents are under the control of
14 an operator and may impact the operator's employees, facilities, or
15 operations, and the food establishment is only 1 component of a
16 larger operation, such as a health care facility, hotel, motel,
17 school, recreational camp, or prison.

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

21 **(z)** ~~(x)~~—"Priority foundation item" means a provision in the
22 food code whose application supports, facilitates, or enables 1 or
23 more priority items. Priority foundation item includes an item that
24 requires the purposeful incorporation of specific actions,
25 equipment, or procedures by industry management to attain control
26 of risk factors that contribute to foodborne illness or injury such
27 as personnel training, infrastructure, or necessary equipment,
28 HACCP plans, documentation or record-keeping, and labeling. A
29 priority foundation item is an item that is denoted in the food

1 code with a superscript Pf-^{Pf}.

2 (aa) ~~(y)~~ "Priority item" means a provision in the food code
 3 whose application contributes directly to the elimination,
 4 prevention, or reduction to an acceptable level of hazards
 5 associated with foodborne illness or injury if there is no other
 6 provision that more directly controls the hazard. Priority item
 7 includes an item with a quantifiable measure to show control of
 8 hazards such as cooking, reheating, cooling, or hand washing. A
 9 priority item is an item that is denoted in the food code with a
 10 superscript P-^P.

11 (bb) ~~(z)~~ "Public health code" means **the public health code,**
 12 1978 PA 368, MCL 333.1101 to 333.25211.

13 Sec. 2129. (1) ~~Subject to subsection (2), all~~ **All** of the
 14 following food establishments shall employ a ~~minimum of 1~~
 15 ~~managerial employee as a~~ **certified** food ~~safety~~ **protection** manager ~~,~~
 16 ~~who must be an individual~~ who is currently certified under a
 17 personnel certification program accredited by the American National
 18 Standards Institute, utilizing the Conference for Food Protection
 19 standards:

20 (a) A food service establishment unless it is a ~~licensed~~
 21 temporary food service establishment.

22 (b) ~~An extended~~ **A** retail food establishment **that is rated a**
 23 **medium or high risk in accordance with departmental policy.**

24 (c) A food service establishment operated within a retail
 25 grocery.

26 ~~(2) Beginning January 14, 2017 and every 5 years thereafter, a~~
 27 ~~certified food safety manager who supervises the operations of a~~
 28 ~~food service establishment shall have completed a food safety~~
 29 ~~training program containing an allergen awareness component that~~

~~has been approved by the department. The allergen awareness component may be an online program or a video. However, a certified food safety manager at a food service establishment with more than 20 locations within this state may satisfy this requirement by completing any nationally recognized food safety training program containing an allergen awareness component. A food service establishment shall retain records on the site of the food service establishment documenting compliance of its certified food safety managers with this subsection. The department shall enforce this subsection in the same manner that it enforces other provisions related to certified food safety managers. This subsection applies until December 31, 2020.~~

(2) ~~(3)~~—An individual certified as provided in subsection (1) shall be recognized with full faith and credit by this state and all local units of government throughout this state.

(3) ~~(4)~~—The department may promulgate rules to do all of the following:

(a) Develop requirements for retail food establishments to follow when employing certified food ~~safety~~ **protection** managers or personnel.

(b) Set a reasonable date for compliance with the requirements under subdivision (a) taking into consideration existing local personnel certification requirements.

(c) Establish certification fees necessary to implement, maintain, and track certified individuals directly or by contract. The department may annually adjust the schedule of fees to provide that the fee charged is sufficient to cover the cost of the certification tracking program.

(d) Implement and enforce the requirements developed under

1 subdivision (a).

2 **(4) ~~(5)~~** The certification program developed by the American
3 National Standards Institute, as it exists on ~~April 1, 2008,~~ **the**
4 **effective date of the amendatory act that amended this subsection,**
5 is incorporated by reference. The department may adopt updates to
6 the certification program accreditation standards in subsection (1)
7 by rule.

8 **(5)** A food establishment that was not required to have a
9 certified food protection manager before section 2-102.12 of the
10 food code was incorporated by reference and modified as provided
11 under section 6101(1) (b) has 1 year after the effective date of the
12 amendatory act that added this subsection to have at least 1
13 certified food protection manager on staff. All food establishments
14 required to have a certified food protection manager must implement
15 section 2-102.12 of the food code as provided under section
16 6101(1) (b) within 2 years after the effective date of the
17 amendatory act that added this subsection.

18 (6) This section does not prohibit a local legislative body
19 from implementing a food handler program, an employee health
20 certification program, or a manager certification program, if it is
21 not in conflict with this section.

22 **(7)** The department may grant a statewide variance to a group
23 of food establishments or a variance to an individual food
24 establishment by modifying or waiving the requirements of this
25 section.

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

29 (a) Where provisions of this act and rules specify different

1 requirements.

2 ~~(b) Section 3-401.14 is modified to read as follows:~~

3 ~~"3-401.14 Non-Continuous Cooking of Raw Animal Foods.~~

4 ~~Raw animal foods that are cooked using a non-continuous~~
5 ~~cooking process shall be:~~

6 ~~(A) Subject to an initial heating process that is no longer~~
7 ~~than 60 minutes in duration;^P~~

8 ~~(B) Immediately after initial heating, cooled according to the~~
9 ~~time and temperature parameters specified for cooked potentially~~
10 ~~hazardous food (time/temperature control for safety food) under~~
11 ~~paragraph 3-501.14(A);^P~~

12 ~~(C) After cooling, held frozen or cold, as specified for~~
13 ~~potentially hazardous food (time/temperature control for safety~~
14 ~~food) under paragraph 3-501.16(A) (2);^P~~

15 ~~(D) Prior to sale or service, cooked using a process that~~
16 ~~heats all parts of the food to a time/temperature specified in~~
17 ~~paragraph 3-401.11(A);^P~~

18 ~~(E) Cooled according to the time and temperature parameters~~
19 ~~specified for cooked potentially hazardous food (time/temperature~~
20 ~~control for safety food) under paragraph 3-501.14(A) if not either~~
21 ~~hot held as specified under paragraph 3-501.16(A), served~~
22 ~~immediately, or held using time as a public health control as~~
23 ~~specified under section 3-501.19 after complete cooking;^P and~~

24 ~~(F) Stored as follows:~~

25 ~~(1) After initial heating but prior to cooking as specified~~
26 ~~under paragraph (D) of this section, separate from ready-to-eat~~
27 ~~foods as specified under paragraph 3-302.11;^{Pf} and~~

28 ~~(2) After initial heating, but prior to complete cooking,~~
29 ~~marked or otherwise identified as foods that must be cooked as~~

~~specified under paragraph (D) of this section prior to being offered for sale or service.^{PF} The food may be identified in any effective manner provided that the marking system is disclosed to the regulatory authority upon request."~~

~~(c) Section 2-103.11(L) is modified to read as follows:~~

~~"Employees are properly trained in food safety as it relates to their assigned duties;^{PF} and"~~

(b) Subject to section 2129(5), section 2-102.12 is modified to read as follows:

"2-102.12 Certified Food Protection Manager

(A) Except as otherwise provided by law, the person in charge shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(B) Except as otherwise provided by law, this section does not apply to certain types of food establishments determined by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation."

(c) Section 3-201.16 is modified to read as follows:

"3-201.16 Wild Mushrooms

(A) Except as specified in paragraph (B) of this section, mushroom species picked in the wild must be obtained from sources where each mushroom is individually inspected. Each mushroom must be found to be safe by an approved mushroom identification expert.^P

(B) This section does not apply to:

(1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

1 (2) Wild mushroom species, if they are in packaged form and
2 are the product of a food processing plant that is regulated by the
3 food regulatory agency that has jurisdiction over the food
4 processing plant."

5 (d) Section 4-101.17 is modified to read as follows:

6 "(E) Untreated wood planks, such as cedar, may be used as a
7 cooking and food-contact surface."

8 (e) Section 3-203.11 is modified to read as follows:

9 "3-203.11 Molluscan Shellfish, Original Container

10 (A) Except as specified in paragraphs (C) to (E) of this
11 section, molluscan shellfish may not be removed from the container
12 in which they are received other than immediately before sale or
13 preparation of service.

14 (B) Molluscan shellfish from one tagged or labeled container
15 must not be commingled with molluscan shellfish from another
16 container with different certification numbers, different harvest
17 dates, or different growing areas identified on the tag or label
18 before being ordered by the consumer.^{Pf}

19 (C) For display purposes, shellstock or in-shell product may
20 be removed from the container in which they are received, displayed
21 on drained ice, or held in a display container, and a quantity
22 specified by the consumer may be removed from the display or
23 display container and provided to the consumer if:

24 (1) The source of the shellstock or in-shell product on
25 display is identified as specified under section 3-202.18 and
26 recorded as specified under section 3-203.12; and

27 (2) The shellstock or in-shell product are protected from
28 contamination.

29 (D) Shucked shellfish may be removed from the container in

1 which they were received and held in a display container from which
2 individual servings are dispensed upon a consumer's request if:

3 (1) The labeling information for the shellfish on display as
4 specified under section 3-202.18 is retained and correlated to the
5 date when, or dates during which, the shellfish are sold or served;
6 and

7 (2) The shellfish are protected from contamination.

8 (E) Shucked shellfish may be removed from the container in
9 which they were received and repacked in a consumer self-service
10 container, where allowed by law, if:

11 (1) The labeling information for the shellfish is on each
12 consumer self-service container as specified under section 3-202.18
13 and subparagraph 3-602.11(A) and (B) (1) to (5); and

14 (2) The labeling information as specified under section 3-
15 202.18 is retained and correlated with the date when, or dates
16 during which, the shellfish are sold or served; and

17 (3) The labeling information and dates specified under
18 subparagraph (E) (2) of this section are maintained for 90 days; and

19 (4) The shellfish are protected from contamination.".

20 (f) Section 3-203.13 is modified to read as follows:

21 "Section 3.203.12 Molluscan Shellfish, Maintaining
22 Identification

23 (A) Except as specified under subparagraph (C) (2) of this
24 section, molluscan shellfish tags or labels must remain attached to
25 the container in which the shellstock are received until the
26 container is empty;^{Pf} and

27 (B) The date when the last molluscan shellfish from the
28 container is sold or served must be recorded on the tag, label, or
29 invoice;^{Pf} and

1 (C) The identity of the source of the molluscan shellfish that
2 are sold or served must be maintained by retaining product tags,
3 labels, or invoices for 90 calendar days from the date that is
4 recorded on the tag, label, or invoice as specified under paragraph
5 (B) of this section, by:^{Pf}

6 (1) Using an approved record-keeping system that keeps the
7 tags, labels, or invoice in chronological order correlated to the
8 date that is recorded on the tags, labels, or invoices as specified
9 under paragraph (B) of this section;^{Pf} and

10 (2) If shellstock, shucked shellfish, or in-shell product is
11 removed from its tagged or labeled container, the source
12 identification will be preserved by using a record-keeping system
13 as specified under subparagraph (C) (1) of this section.^{Pf}".

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

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