

HOUSE BILL NO. 6131

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

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 1105 and 4102 (MCL 289.1105 and 289.4102),
section 1105 as amended by 2014 PA 516 and section 4102 as amended
by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1105. (1) As used in this act:
- 2 (a) "Adulterated" means food to which any of the following
- 3 apply:
- 4 (i) It bears or contains ~~any~~ a poisonous or deleterious

1 substance that may render ~~it~~**the food** injurious to health unless
2 the substance is not an added substance and the quantity of that
3 substance in the food does not ordinarily render it injurious to
4 health.

5 (ii) It bears or contains ~~any~~**an** added poisonous or added
6 deleterious substance, other than a substance that is a pesticide
7 chemical in or on a raw agricultural commodity, ~~+~~**a** food additive,
8 ~~+~~**or** a color additive considered unsafe within the meaning of
9 subsection (2).

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

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

26 (v) It is or contains a new animal drug or conversion product
27 of a new animal drug that is unsafe within the meaning of ~~section~~
28 ~~360b of the federal act,~~ 21 USC 360b.

29 (vi) It consists in whole or in part of a diseased,

1 contaminated, filthy, putrid, or decomposed substance or it is
2 otherwise unfit for food.

3 (vii) It has been produced, prepared, packed, or held under
4 unsanitary conditions in which it may have become contaminated with
5 filth or in which it may have been rendered diseased, unwholesome,
6 or injurious to health.

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

10 (ix) Its container is composed, in whole or in part, of ~~any a~~
11 poisonous or deleterious substance that may render the contents
12 injurious to health.

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

20 (xi) It is confectionery and has partially or completely
21 imbedded in it ~~any a~~ nonnutritive object except if, as provided by
22 rules, the object is of practical functional value to the
23 confectionery product and would not render the product injurious or
24 hazardous to health; it is confectionery and bears or contains any
25 alcohol other than alcohol not in excess of ~~1/2 of 1%~~ **0.5%** by
26 volume derived solely from the use of flavoring extracts; or it is
27 confectionery and bears or contains ~~any a~~ nonnutritive substance
28 except a nonnutritive substance such as harmless coloring, harmless
29 flavoring, harmless resinous glaze not in excess of ~~4/10 of 1%~~,

1 **0.40%** harmless natural wax not in excess of ~~4/10 of 1%, 0.40%~~
2 harmless natural gum and pectin or any chewing gum by reason of its
3 containing harmless nonnutritive masticatory substances which is in
4 or on the confectionery by reason of its use for some practical
5 functional purpose in the manufacture, packaging, or storage of
6 ~~such the~~ confectionery if the use of the substance does not promote
7 deception of the consumer or otherwise result in adulteration or
8 misbranding in violation of this act. For the purpose of avoiding
9 or resolving uncertainty as to the application of this subdivision,
10 the director may issue rules allowing or prohibiting the use of
11 particular nonnutritive substances.

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

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

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

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

24 (c) "Agricultural use operation" means a maple syrup
25 production facility or similar food establishment that finishes a
26 raw commodity and is integral to the agricultural production of,
27 and is located at, a farm. An agricultural use operation is not
28 considered a food processor or retail processing operation for
29 purposes of personal or real property but must meet those same

standards and licensing requirements ~~as prescribed in~~ **under** this act.

(d) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence ~~in which~~ **where** the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts, or other meals in the case of a bed and breakfast described in section 1107(t) (ii), at no extra cost to its transient tenants. A bed and breakfast is not a food service establishment if exempt under section 1107(t) (ii) or (iii).

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

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

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

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

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

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

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

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

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

1 (i) **Any** food regulated under 21 CFR ~~parts~~ **part 108**, 113, ~~and or~~
 2 114, ~~examples of which include, including but are not limited to,~~
 3 ~~meat and poultry products; salsa.; milk products; bottled water and~~
 4 ~~other beverages; and home-produced ice products. Cottage food~~
 5 ~~product also does not include canned~~

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

7 (iii) **Other** canned foods except for **standardized** jams, jellies,
 8 and preserves, as ~~defined~~ **described** in 21 CFR part 150.

9 (iv) **Meat and poultry products.**

10 (v) **Milk products.**

11 (vi) **Bottled water and other beverages.**

12 (vii) **Home-produced ice products.**

13 (2) ~~Any~~ **An** added poisonous or deleterious substance, food
 14 additive, pesticide chemical in or on a raw agricultural commodity,
 15 or color additive is considered unsafe for the purpose of
 16 subsection (1)(a), unless there is in effect a federal regulation
 17 or exemption from regulation under the federal act, the federal
 18 meat inspection act, 21 USC 601 to 683, the poultry products
 19 inspection act, 21 USC 451 to 472, or another federal statute, or a
 20 rule limiting the quantity of the substance, and the use or
 21 intended use of the substance, and the use or intended use of the
 22 substance conforms to the terms prescribed by the federal
 23 regulation or exemption or ~~the~~ rule.

24 Sec. 4102. (1) A cottage food operation is exempt from the
 25 licensing and evaluation provisions of this act. This exemption
 26 does not include an exemption from the adulteration and other
 27 standards imposed in this section or under this act, or both, and
 28 does not limit the ability of the department to take appropriate
 29 enforcement action for applicable violations as described in

section 5101. This subsection does not require a cottage food operation to meet the standards contained in 21 CFR part ~~110~~**117** or the food code.

(2) Cottage food products ~~shall~~**must** be prepackaged and properly labeled ~~prior to~~**before** sale.

(3) ~~At a minimum, a~~**A** cottage food operation shall place on the label of any ~~food it produces or packages of its cottage food products~~ the following information:

(a) ~~The~~**One of the following, as applicable:**

(i) **If the cottage food operation does not register with the MSU Product Center under subsection (8), the** name and address of the business of the cottage food operation.

(ii) **If the cottage food operation registers with the MSU Product Center under subsection (8), name, telephone number, and registration number issued under subsection (8) of the business of the cottage food operation.**

(b) The name of the cottage food product.

(c) The ingredients of the cottage food product, in descending order of predominance by weight.

(d) The net weight or net volume of the cottage food product.

(e) Allergen labeling as specified by federal labeling requirements.

(f) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements.

(g) The following statement printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been inspected by the Michigan department of agriculture and rural development.".

(4) ~~Cottage~~**Except as otherwise provided in this subsection,**

cottage food products ~~may~~**must** be sold directly from the cottage food operation to the consumer. ~~only, and not by internet or mail order.~~ Sales by consignment or at wholesale are prohibited. **A cottage food product may be sold by internet or mail order if the cottage food operation directly interacts with the customer during the first sales transaction, and the cottage food operation provides a customer with the opportunity to directly interact with the cottage food operation during a second or subsequent sales transaction. As used in this subsection:**

(a) "Directly interact with" includes either a face-to-face or virtual meeting.

(b) "Virtual meeting" includes, but is not limited to, a meeting in which communication occurs electronically in a manner that permits 2-way communication so that participants can see or be seen and hear or be heard by all parties to the communication.

(5) ~~The gross sales of cottage food products by a cottage food operation shall not exceed \$20,000.00 annually until December 31, 2017. After December 31, 2017, the~~ **Except as otherwise provided in this subsection, the** gross sales of cottage food products by a cottage food operation ~~shall~~**must** not exceed ~~\$25,000.00~~**\$45,000.00** annually. **If the cottage food operation sells cottage food products at a price of \$250.00 or more per unit, the gross sale of the cottage food products by the cottage food operation must not exceed \$75,000.00 annually.** For the purposes of this subsection, gross sales ~~shall~~**must** be computed on the basis of the amount of gross sales within or at a particular domestic residence and ~~shall~~**must** not be computed on a per-person basis within or at that domestic residence. The department may request in writing documentation to verify the annual gross sales figure. **Beginning October 1, 2025,**

1 and by October 1 each year thereafter, the department may adjust
2 the gross sales amounts set under this subsection by the amount
3 calculated by multiplying the sales limit in effect during the
4 immediately preceding fiscal year by the inflation adjustment
5 factor and rounding to the nearest whole dollar. The inflation
6 adjustment factor used under this subsection is equal to the 3-year
7 average July-June Consumer Price Index for the current fiscal year
8 divided by the 3-year average July-June Consumer Price Index for
9 the immediately preceding fiscal year, as determined by the
10 department of treasury using the Detroit Consumer Price Index. An
11 inflation adjustment factor used under this section must not be
12 less than \$1.00. As used in this subsection, "Detroit Consumer
13 Price Index" means the most comprehensive index of consumer prices
14 available for the Detroit area from the United States Department of
15 Labor, Bureau of Labor Statistics.

16 (6) Cottage food products ~~shall~~**must** be stored only in the
17 primary domestic residence.

18 (7) An exemption under this section does not affect the
19 application of any other state or federal laws or any applicable
20 ordinances enacted by any local unit of government.

21 (8) If the MSU Product Center administers a registration
22 program for cottage food operations, the records of which must be
23 available to the department on request, a cottage food operation
24 may register with the MSU Product Center. The MSU Product Center
25 may do both of the following:

26 (a) Issue a document that evidences the granting of
27 registration and contains an identifying number unique to a cottage
28 food operation.

29 (b) Collect a 1-time registration fee of not more than \$50.00

1 to administer the registration program.

2 (9) Information obtained under subsection (8) is exempt from
3 disclosure under the freedom of information act, 1976 PA 442, MCL
4 15.231 to 15.246.