

**FOOD LAW (EXCERPT)**  
**Act 92 of 2000**

**289.1107 Definitions; D to F.**

Sec. 1107. As used in this act:

- (a) "Department" means the department of agriculture and rural development.
- (b) "Director" means the director of the department or his or her designee.
- (c) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include either of the following:
  - (i) A group or communal residential setting within any type of structure.
  - (ii) An outbuilding, shed, barn, or other similar structure.
- (d) "Egg" does not include a balut, which is an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.
- (e) "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.
- (f) "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.
- (g) "Fair" means a fair or exhibition operated and managed under 1929 PA 11, MCL 46.151 to 46.153, or held by an agricultural or horticultural society under 1855 PA 80, MCL 453.231 to 453.240.
- (h) "Fair concession" means a food concession, storage, preparation, or dispensing operation at a state or county fair.
- (i) "Farmers' market" means a public and recurring assembly of farmers or their representatives selling directly to consumers food and products that the farmers have produced themselves. In addition, the market may include a variety of other vendors as determined by market management.
- (j) "Federal act" means the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 USC 301 to 399d, as in effect on October 1, 2012.
- (k) "Festival" means an event, staged by a local community or local organization, that centers on and celebrates a certain aspect of that community or organization. Festival includes, but is not limited to, a fair, art show, chili cook-off, car show, hot air balloon festival, religious festival, drama festival, or cultural festival.
- (l) "First receiver" means a person who receives eggs from a producer at any place of business and candles, grades, sorts, packs, or packages the eggs.
- (m) "Food" means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.
- (n) "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, pursuant to the federal act, the poultry products inspection act, 21 USC 451 to 472, or the federal meat inspection act, 21 USC 601 to 683.
- (o) "Food code" means "Food Code, 2009 Recommendations of the United States Public Health Service Food and Drug Administration", which regulates the design, construction, management, and operation of certain food establishments.
- (p) "Food establishment" means an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, vended, sold, or offered for sale. Food establishment includes, but is not limited to, a food processor, a food warehouse, a food service establishment, a vending machine location, and a retail grocery. Food establishment does not include any of the following:
  - (i) A charitable, religious, fraternal, or other nonprofit organization operating a home-prepared baked

goods sale or serving only home-prepared food in connection with its meetings or as part of a fund-raising event.

(ii) An inpatient food operation located in a health facility or agency subject to licensure under article 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 as part of their living 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, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

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

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

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

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

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

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008;—Am. 2008, Act 338, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2016, Act 188, Eff. Sept. 19, 2016.

**Compiler's note:** Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."