

FOOD LAW (EXCERPT)

Act 92 of 2000

CHAPTER I

SHORT TITLE, SCOPE, DEFINITIONS

289.1101 Short title.

Sec. 1101. This act shall be known and may be cited as the "food law".

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2012, Act 178, Eff. Oct. 1, 2012.

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."

289.1103 Scope.

Sec. 1103. The provisions of this act regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any food for sale; and the sale, dispensing and giving of food, serving, and the supplying of food in the conduct of any food establishment.

History: 2000, Act 92, Eff. Nov. 8, 2000.

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."

289.1105 Definitions; A to C; unsafe substances, additives, or chemicals.

Sec. 1105. (1) As used in this act:

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

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health unless the substance is not an added substance and the quantity of that substance in the food does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subsection (2).

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

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

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

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

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

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

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

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

(xi) It is confectionery and has partially or completely imbedded in it any nonnutritive object except if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it is confectionery and bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it is confectionery and bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on the confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

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

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

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

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

(c) "Agricultural use operation" means a maple syrup production facility or similar food establishment that finishes a raw commodity and is integral to the agricultural production of, and is located at, a farm. An agricultural use operation is not considered a food processor or retail processing operation for purposes of personal or real property but must meet those same standards and licensing requirements as prescribed in 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 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 material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply to any 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, takes possession of food, is not functioning 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.

(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:

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

(B) The requirements of section 2129(2) and 6152(1).

(j) "Cottage food operation" means a person who produces or packages cottage food products only in a

kitchen of that person's primary domestic residence within this state.

(k) "Cottage food product" means a food that is not potentially hazardous food as that term is defined in the food code. Examples of cottage food product include, but are 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 food regulated under 21 CFR parts 113 and 114, examples of which include, but are not limited to, meat and poultry products; salsa; milk products; bottled water and other beverages; and home-produced ice products. Cottage food product also does not include canned low-acid fruits or acidified vegetables and other canned foods except for jams, jellies, and preserves as defined in 21 CFR part 150.

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

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. 2010, Act 113, Imd. Eff. July 12, 2010;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2014, Act 516, Imd. Eff. Jan. 14, 2015.

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."

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.

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"(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."

289.1109 Definitions; G to P.

Sec. 1109. As used in this act:

(a) "Guide for the control of molluscan shellfish" means section II, model ordinance, national shellfish sanitation program guide for the control of molluscan shellfish, 2009, recommendations of the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.

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

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

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

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

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

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

(h) "License holder" means the person who is legally responsible for the operation of a food establishment including the owner, the owner's agent, or other person operating under apparent authority of the owner and who possesses a valid license to operate a food establishment.

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

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

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

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

(i) Raw or prepackaged food that is not potentially hazardous food (time/temperature control for safety food).

(ii) Potentially hazardous food (time/temperature control for safety food) that is prepared in a licensed facility and is not prepared on-site.

(iii) Commercially processed potentially hazardous food (time/temperature control for safety food) that is fully cooked and heated only for hot holding.

(m) "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.

(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), 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 is accessible only by a defined population and

is not accessible by the general public.

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

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

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

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

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

(o) "Milk product" means cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured lowfat milk, cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, 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.

(p) "Misbranded" means food to which any of the following apply:

(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.

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

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

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

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

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

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

(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.

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

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

(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 the date of packaging.

(u) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

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

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

(x) "Priority foundation item" means a provision in the food code whose application supports, facilitates, or enables 1 or more priority items. Priority foundation item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure, or necessary equipment, HACCP plans, documentation or record-keeping, and labeling. A priority foundation item is an item that is denoted in the food code with a superscript Pf-^{Pf}.

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

(z) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 113, Eff. Apr. 1, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2015, Act 142, Eff. Jan. 11, 2016;—Am. 2018, Act 92, Imd. Eff. Mar. 26, 2018.

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"(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."

289.1111 Definitions; R to W.

Sec. 1111. As used in this act:

(a) "Raw agricultural commodity" means any food in its raw or natural state including fruits that are washed, colored, or otherwise treated in their unpeeled natural form before marketing.

(b) "Regulatory authority" means the department, the local health department, or the authorized representative having jurisdiction over the food establishment.

(c) "Retail food establishment" means an operation that sells or offers to sell food directly to a consumer. Retail food establishment includes both a retail grocery and a food service establishment, but does not include a food processor.

(d) "Retail grocery" means an operation that sells or offers to sell food to consumers for off-premises consumption. Food for off-premises consumption does not include take-out food intended for immediate consumption.

(e) "Rules" means administrative rules promulgated under this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(f) "Shellfish dealer" means an interstate wholesaler handling shellfish.

(g) "Shellfish dealer certification" means the issuance of a numbered certificate to a person indicating that the person is in compliance with the requirements of the guide for the control of molluscan shellfish and that the person has permission from the department to conduct 1 or more of the following shellfish activities, as defined in the guide for the control of molluscan shellfish:

(i) Shellstock shipper.

(ii) Shucker packer.

(iii) Repacker or reshipper.

(h) "Smoked fish rules" means R 285.569.1 to R 285.569.19 of the Michigan Administrative Code.

(i) "Special transitory food unit" means a temporary food establishment that is licensed to operate throughout the state without the 14-day limits or a mobile food establishment that is not required to return to a commissary.

(j) "Staple foods" does not include accessory foods such as coffee, tea, cocoa, soda, noncarbonated drinks such as sports drinks, punches, and flavored waters, candy, condiments, spices, hot foods, or foods ready to go or made to take out, such as prepared sandwiches or salads.

(k) "Sulfiting agents" means any of the following:

(i) Sulfur dioxide.

(ii) Sodium sulfite.

(iii) Sodium bisulfite.

(iv) Potassium bisulfite.

(v) Sodium metabisulfite.

(vi) Potassium metabisulfite.

(l) "Temporary food establishment" means a food establishment that operates at a fixed location for a temporary period not to exceed 14 consecutive days.

(m) "Temporary license" means a written authorization issued by the director to operate for a specified limited time period.

(n) "Transient tenant" means a person who rents a room in a bed and breakfast for fewer than 30 consecutive days.

(o) "Trimming" means removing leaves, roots, and other extraneous materials in preparation for grading, sorting, and sale as a whole fruit or vegetable. Trimming does not remove the peel or core and does not further cut the whole fruit or vegetable.

(p) "U.S. standards for shell eggs" means "United States Standards, Grades, and Weight Classes for Shell Eggs", AMS 56 (July 20, 2000), United States Department of Agriculture.

(q) "Vending company base location" means a vending machine location or other food establishment required to be separately licensed under section 4105(5).

(r) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. Vending machine does not include any of the following:

(i) A device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk ball gum, nuts, and panned candies.

(ii) A water-dispensing machine that is registered under chapter IV.

(s) "Vending machine location" means the room, enclosure, space, or area in which 1 or more vending machines are installed and operated, or a micro market.

(t) "Wholesale" means selling other than directly to consumers.

(u) "Wild game" means animals from their natural state and not cultivated, domesticated, or tamed.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2016, Act 188, Eff. Sept. 19, 2016;—Am. 2018, Act 92, Imd. Eff. Mar. 26, 2018.

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."

289.1113 Terms defined in act; meanings; use of terms "critical violation" and "noncritical violation."

Sec. 1113. (1) A term defined in the food code has the same meaning when used in this act, except as

specifically defined in this act.

(2) The terms "critical violation" and "noncritical violation" shall not be used by a regulatory authority to classify violations of the food code.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2012, Act 178, Eff. Oct. 1, 2012.

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."

289.1115 Repealed. 2007, Act 113, Eff. Apr. 1, 2008.

Compiler's note: The repealed section pertained to repeal of acts and parts of acts.

289.1117 Repealed. 2007, Act 113, Eff. Apr. 1, 2008.

Effective date: The repealed section pertained to effective date of act.

289.1119 Rules; "act" and "establishment" defined.

Sec. 1119. (1) Except as rescinded, rules promulgated under public acts repealed by this act retain authorization under this act.

(2) Notwithstanding R 285.553.1 of the Michigan administrative code, the following terms have the following meanings for purposes of those rules:

(a) "Act" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) "Establishment" means any farm crop storage where food is handled, stored, or prepared and that is exempt from the requirements of section 7101.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002.

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."

289.1121 Authority and powers of director.

Sec. 1121. This act does not divest the director of any authority and powers available under part 24 of the public health code, MCL 333.2401 to 333.2498, for the enforcement of this act.

History: 2000, Act 92, Eff. Nov. 8, 2000.

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."