

FOOD LAW (EXCERPT)
Act 92 of 2000

***** 289.4105.amended THIS AMENDED SECTION IS EFFECTIVE SEPTEMBER 19, 2016 *****

289.4105.amended Person, establishment, or organization exempt from licensure.

Sec. 4105. (1) A person, establishment, or organization that is 1 or more of the following is exempt from the licensure requirements under this act:

(a) Subject to subsection (2), an establishment licensed under 1 of the following acts while conducting activities within the scope of that act:

(i) Grain dealers act, 1939 PA 141, MCL 285.61 to 285.89.

(ii) 1959 PA 228, MCL 286.371 to 286.379.

(iii) 1964 PA 158, MCL 290.451 to 290.466.

(iv) Grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(v) Manufacturing milk law of 2001, 2001 PA 267, MCL 288.561 to 288.740.

(b) A person that is offering only whole uncut fresh fruits and vegetables directly to consumers.

(c) Consumers or nonprofit cooperatives of consumers in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, providing products from regulated sources only for their own use.

(d) Nonprofit cooperatives in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that are growers selling unprocessed products of their own production or are producers selling unprocessed products of their own production from regulated sources.

(e) Retail outlets for the sale of prepackaged honey or maple syrup produced in this state if the outlet is operated by the producer and the processing facility is licensed under this act. Both retail outlets and processing facilities are exempt from licensure under this act for producers with gross sales of \$15,001.00 or less of honey or maple syrup. In such case, the honey and maple syrup shall have labeling substantially similar to that for cottage food products as described in section 4102(3).

(f) A temporary food establishment with no food preparation using only single-service articles and serving only non-potentially-hazardous food or beverage.

(g) A retail food establishment that does both of the following:

(i) Only sells prepackaged, non-potentially-hazardous foods.

(ii) Offers only an incidental amount of food, such as the sale of single-service packages.

(h) A mobile food establishment, such as an ice cream truck, that offers only prepackaged, single-serving frozen desserts.

(i) An event not open to the general public held by a nonprofit trade association representing food establishments, suppliers, or manufacturers where limited food preparation takes place for the purpose of advertising, displaying, promoting, and sampling prepared food.

(j) A commercial fishing guide service that serves lunch to a party of not more than 12 clients on or adjacent to a body of water, river, or stream while pursuing, catching, killing, taking, or attempting to take fish. As used in this subparagraph, "commercial fishing guide service" means a service provided for a fee or other valuable consideration, regardless of whether the fee or other valuable consideration is paid directly or indirectly, to assist another person in pursuing, catching, killing, taking, or attempting to take fish.

(k) A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

(l) Feeding operations set up in response to an emergency or disaster.

(m) A person operating as a food warehouse or food processor, if the food warehouse or food processor contains or handles only uncut fruits or vegetables, or both, and meets all of the following criteria:

(i) The establishment is owned and operated by the person producing the fruits or vegetables, or both.

(ii) Activities at the establishment are limited to storing, grading, sorting, packing, washing, trimming, and refrigerating.

(iii) The fruits or vegetables, or both, are primarily from the person's own production, and the balance are products of the same genus or genera from other agricultural producers.

(iv) The food is not "potentially hazardous food (time/temperature control for safety food)" as defined in the food code.

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no

food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

(4) If prepackaged food is transported from a food establishment licensed under this chapter to a sales location at a farmers' market, fair, or festival, the sales location is not required to be separately licensed and is considered an extension of the food establishment if the food is transported and sold by employees of the food establishment.

(5) If prepackaged food is transported from a food establishment licensed under this chapter to 1 or more vending machine locations by employees of the food establishment and the vending machine or machines are maintained by employees of the food establishment, the vending machine locations are not required to be separately licensed and are considered to be an extension of the food establishment, which shall be separately licensed. However, if the food establishment from which the prepackaged food is transported is located in another state, both of the following apply:

(a) One of the vending machine locations in this state shall be separately licensed as a food establishment.

(b) The remaining vending machine locations in this state are not required to be separately licensed and are considered to be an extension of the food establishment under subdivision (a).

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008;—Am. 2010, Act 145, Imd. Eff. Aug. 4, 2010;—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."