

**SUBSTITUTE FOR
HOUSE BILL NO. 5196**

A bill to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the

act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER I SHORT TITLE, SCOPE, DEFINITIONS

2 Sec. 1101. This act shall be known and may be cited as the
3 "food law of 2000".

4 Sec. 1103. The provisions of this act regarding the selling
5 of food shall be considered to include the manufacture, produc-
6 tion, processing, packing, exposure, offer, possession, and hold-
7 ing of any food for sale; and the sale, dispensing and giving of
8 food, serving, and the supplying of food in the conduct of any
9 food establishment.

10 Sec. 1105. As used in this act:

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

13 (i) It bears or contains any poisonous or deleterious sub-
14 stance that may render it injurious to health except that, if the
15 substance is not an added substance, the food is not considered
16 adulterated if the quantity of that substance in the food does
17 not ordinarily render it injurious to health.

18 (ii) It bears or contains any added poisonous or added dele-
19 terious substance, other than a substance that is a pesticide
20 chemical in or on a raw agricultural commodity; a food additive;
21 or a color additive considered unsafe within the meaning of sub-
22 paragraph (v).

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

4 (iv) It bears or contains any food additive considered
5 unsafe within the meaning of subparagraph (v) provided that where
6 a pesticide chemical has been used in or on a raw agricultural
7 commodity in conformity with an exemption granted or tolerance
8 prescribed under subparagraph (v) and the raw agricultural com-
9 modity has been subjected to processing the residue of that pes-
10 ticide chemical remaining in or on that processed food is, not-
11 withstanding the provisions of subparagraph (v) and this subdivi-
12 sion, not be considered unsafe if that residue in or on the raw
13 agricultural commodity has been removed to the extent possible in
14 good manufacturing practice and if the concentration of that res-
15 idue in the processed food when ready to eat is not greater than
16 the tolerance prescribed for the raw agricultural commodity.

17 (v) Any added poisonous or deleterious substance, any food
18 additive, and pesticide chemical in or on a raw agricultural com-
19 modity, or any color additive is considered unsafe for the pur-
20 pose of application of this definition, unless there is in effect
21 a federal regulation or exemption from regulation under the fed-
22 eral act, meat inspection act, poultry product inspection act, or
23 other federal acts, or a rule adopted under this act limiting the
24 quantity of the substance, and the use or intended use of the
25 substance, and the use or intended use of the substance conforms
26 to the terms prescribed by the rule.

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1 (vi) It is or contains a new animal drug or conversion
2 product of a new animal drug that is unsafe within the meaning of
3 section 512 of the federal act, 21 U.S.C. 512.

4 (vii) It consists in whole or in part of a diseased, contam-
5 inated, filthy, putrid, or decomposed substance or it is other-
6 wise unfit for food.

7 (viii) It has been produced, prepared, packed, or held under
8 insanitary conditions in which it may have become contaminated
9 with filth or in which it may have been rendered diseased,
10 unwholesome, or injurious to health.

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

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

17 (xi) A valuable constituent has been in whole or in part
18 omitted or abstracted from the food; a substance has been substi-
19 tuted wholly or in part for the food; damage or inferiority has
20 been concealed in any manner; or a substance has been added to
21 the food or mixed or packed with the food so as to increase its
22 bulk or weight, reduce its quality or strength, or make it appear
23 better or of greater value than it is.

24 (xii) It is confectionery and has partially or completely
25 imbedded in it any nonnutritive object except in the case of any
26 nonnutritive object if, as provided by rules, the object is of
27 practical functional value to the confectionery product and would

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1 not render the product injurious or hazardous to health; it bears
2 or contains any alcohol other than alcohol not in excess of 1/2
3 of 1% by volume derived solely from the use of flavoring
4 extracts; or it bears or contains any nonnutritive substance
5 except a nonnutritive substance such as harmless coloring, harm-
6 less flavoring, harmless resinous glaze not in excess of 4/10 of
7 1%, harmless natural wax not in excess of 4/10 of 1%, harmless
8 natural gum and pectin or to any chewing gum by reason of its
9 containing harmless nonnutritive masticatory substances which is
10 in or on confectionery by reason of its use for some practical
11 functional purpose in the manufacture, packaging, or storage of
12 such confectionery if the use of the substance does not promote
13 deception of the consumer or otherwise result in adulteration or
14 misbranding in violation of the provisions of this act. For the
15 purpose of avoiding or resolving uncertainty as to the applica-
16 tion of this subdivision, the director may issue rules allowing
17 or prohibiting the use of particular nonnutritive substances.

18 (xiii) It is or bears or contains any color additive that is
19 unsafe within the meaning of subparagraph (v).

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

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

26 (b) "Advertisement" means a representation disseminated in
27 any manner or by any means, other than by labeling, for the

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1 purpose of inducing, or which is likely to induce, directly or
2 indirectly, the purchase of food.

3 (c) "Bed and breakfast" means a private residence that
4 offers sleeping accommodations to transient tenants in 14 or
5 fewer rooms for rent, is the innkeeper's residence in which the
6 innkeeper resides while renting the rooms to transient tenants,
7 and serves breakfasts at no extra cost to its transient tenants.
8 A bed and breakfast is not considered a food service establish-
9 ment if exempt under section 1107 (l)(iii) or (iv).

10 (d) "Color additive" means a dye, pigment, or other sub-
11 stance made by process of synthesis or similar artifice or
12 extracted, isolated, or otherwise derived, with or without inter-
13 mediate or final change of identity from a vegetable, animal,
14 mineral, or other source, or when added or applied to a food or
15 any part of a food is capable alone or through reaction with
16 other substance of imparting color to the food. Color additive
17 does not include any material that is exempt or hereafter is
18 exempted under the federal act. This subdivision does not apply
19 to any pesticide chemical, soil or plant nutrient, or other agri-
20 cultural chemical solely because of its effect in aiding, retard-
21 ing, or otherwise affecting, directly or indirectly, the growth
22 of other natural physiological process of produce of the soil and
23 thereby affecting its color, whether before or after harvest.
24 Color includes black, white, and intermediate grays.

25 (e) "Contaminated with filth" means contamination applicable
26 to any food not securely protected from dust, dirt, and, as far

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1 as may be necessary by all reasonable means, from all foreign or
2 injurious contaminations.

3 (f) "Continental breakfast" means the serving of only
4 non-potentially-hazardous food such as a roll, pastry or dough-
5 nut, fruit juice, or hot beverage, but may also include individ-
6 ual portions of milk and other items incidental to those foods.

7 (g) "Critical violation" or "critical item" means a viola-
8 tion of the food code that the director determines is more likely
9 than other violations to contribute to food contamination, ill-
10 ness to humans, or environmental health hazard.

11 Sec. 1107. As used in this act:

12 (a) "Department" means the Michigan department of
13 agriculture.

14 (b) "Director" means the director of the Michigan department
15 of agriculture or his or her designee.

16 (c) "Extended retail food establishment" means a retail gro-
17 cery that does both of the following:

18 (i) Serves or provides an unpackaged food for immediate
19 consumption.

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

21 (d) "Federal act" means the federal food, drug, and cosmetic
22 act, chapter 675, 52 Stat. 1040, 21 U.S.C. 301 to 321, 331 to
23 333, 334 to 343-3, 344 to 346a, 347, 348 to 356c, 358 to 360,
24 360b to 360dd, 360hh to 363, 371 to 376, and 378 to 397.

25 (e) "Food" means articles used for food or drink for humans
26 or other animals, chewing gum, and articles used for components
27 of any such article.

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1 (f) "Food additive" means any substance, the intended use of
2 which, directly or indirectly, results in or may be reasonably
3 expected to result in its becoming a component or otherwise
4 affecting the characteristics of any food if that substance is
5 not generally recognized among experts as having been adequately
6 shown through scientific procedures to be safe under the condi-
7 tions of its intended use. Food additive includes any substance
8 intended for use in producing, manufacturing, packing, process-
9 ing, preparing, treating, packaging, transporting, or holding
10 food and includes any source of radiation intended for any use.
11 Food additive does not include any of the following:

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

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

17 (iii) A color additive.

18 (iv) Any substance used in accordance with a sanction or
19 approval granted before the enactment of the food additives
20 amendment of 1958, Public Law 85-929, 72 Stat. 1784, pursuant to
21 the federal act, the poultry products inspection act, Public Law
22 85-172, 71 Stat. 441, 21 U.S.C. 451 to 471, or the meat inspec-
23 tion act of March 4, 1907, Chapter 2907, 34 Stat. 1258.

24 (g) "Food code" means food code, 1999 recommendations of the
25 food and drug administration of the United States public health
26 service that regulates the design, construction, management, and
27 operation of certain food establishments.

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1 (h) "Food concession" means a food storage, preparation, or
2 dispensing operation at a state or county fair.

3 (i) "Food establishment" means an operation where food is
4 processed, packed, canned, preserved, frozen, fabricated, stored,
5 prepared, served, sold, or offered for sale. Food establishment
6 includes a food processing plant, a food service establishment,
7 and a retail grocery. Food establishment does not include any of
8 the following:

9 (i) A charitable, religious, fraternal, or other nonprofit
10 organization operating a home-prepared baked goods sale or serv-
11 ing only home-prepared food in connection with its meetings or as
12 part of a fund-raising event.

13 (ii) An inpatient food operation located in a health facil-
14 ity or agency subject to licensure under article 17 of the public
15 health code, MCL 333.20101 to 333.22260.

16 (iii) A food operation located in a prison, jail, state
17 mental health institute, boarding house, fraternity or sorority
18 house, convent, or other facility where the facility is the pri-
19 mary residence for the occupants and the food operation is
20 limited to serving meals to the occupants as part of their living
21 arrangement.

22 (j) "Food processing plant" means a food establishment that
23 processes, manufactures, packages, labels, or stores food and
24 does not provide food directly to a consumer.

25 (k) "Food processor" means an operation that processes, man-
26 ufactures, packages, or labels food and provides the food other
27 than directly to consumers.

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1 (l) "Food service establishment" means a fixed or mobile
2 restaurant, coffee shop, cafeteria, short order cafe, luncheon-
3 ette, grill, tearoom, sandwich shop, soda fountain, tavern, bar,
4 cocktail lounge, nightclub, drive-in, industrial feeding estab-
5 lishment, private organization serving the public, rental hall,
6 catering kitchen, delicatessen, theater, commissary, or similar
7 place in which food or drink is prepared for direct consumption
8 through service on the premises or elsewhere, and any other
9 eating or drinking establishment or operation where food is
10 served or provided for the public. Food service establishment
11 does not include any of the following:

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

13 (ii) A food concession.

14 (iii) A bed and breakfast that has 10 or fewer sleeping
15 rooms, including sleeping rooms occupied by the innkeeper, 1 or
16 more of which are available for rent to transient tenants.

17 (iv) A bed and breakfast that has at least 11 but fewer than
18 15 rooms for rent, if the bed and breakfast serves continental
19 breakfasts only.

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

24 (m) "Food warehouse" means a food establishment that stores
25 or distributes prepackaged food other than directly to
26 consumers.

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1 Sec. 1109. As used in this act:

2 (a) "Imminent or substantial hazard" means a condition at a
3 food establishment that the director determines requires immedi-
4 ate action to prevent endangering the health of people.

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

11 (c) "Labeling" means all labels and other written, printed,
12 or graphic matter upon an article, any of its containers or wrap-
13 pers, or accompanying the article.

14 (d) "License limitation" means an action by which the direc-
15 tor imposes restrictions or conditions, or both, on a license of
16 a food establishment.

17 (e) "License holder" means the entity that is legally
18 responsible for the operation of the food establishment including
19 the owner, the owner's agent, or other person operating under
20 apparent authority of the owner possessing a valid license to
21 operate a food establishment.

22 (f) "Misbranded" means food to which any of the following
23 apply:

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

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

26 (iii) It is an imitation of another food unless its label
27 bears, in type of uniform size and prominence, the word

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1 "imitation" and immediately thereafter the name of the food
2 imitated.

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

5 (v) It is in package form, unless it bears a label contain-
6 ing both the name and place of business of the manufacturer,
7 packer, or distributor and an accurate statement of the quantity
8 of the contents in terms of weight, measure, or numerical count
9 subject to reasonable variations as are permitted and exemptions
10 as to small packages as are established by rules prescribed by
11 the department.

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

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

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

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

5 (B) A food for which a standard or standards of fill of con-
6 tainer have been prescribed by this act or rules and it falls
7 below the standard of fill of container applicable, unless its
8 label bears, in such manner and form as the rules specify, a
9 statement that it falls below the standard.

10 (ix) It does not bear labelling clearly giving the common or
11 usual name of the food, if one exists, and if fabricated from 2
12 or more ingredients, the common or usual name of each ingredient
13 except that spices, flavorings, and colorings, other than those
14 sold as such, may be designated as spices, flavorings, and color-
15 ings, without naming each and under other circumstances as estab-
16 lished by rules regarding exemptions based upon practicality,
17 potential deception, or unfair competition.

18 (x) It bears or contains any artificial flavoring, artifi-
19 cial coloring, or chemical preservative unless the labeling
20 states that fact and under other circumstances as established by
21 rules regarding exemptions based upon practicality.

22 (xi) If a food intended for human consumption and offered
23 for sale, its label and labeling do not bear the nutrition infor-
24 mation required under section 403(q) of the federal act, 21
25 U.S.C. 343.

26 (xii) It is a product intended as an ingredient of another
27 food and, when used according to the directions of the purveyor,

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1 will result in the final food product being adulterated or
2 misbranded.

3 (xiii) It is a color additive whose packaging and labeling
4 are not in conformity with packaging and labeling requirements
5 applicable to such color additive prescribed under the provisions
6 of the federal act.

7 (g) "Mobile food establishment" means a food establishment
8 operating from a vehicle or watercraft that returns to a licensed
9 commissary for servicing and maintenance at least once every 24
10 hours.

11 (h) "Mobile food establishment commissary" means an opera-
12 tion that is capable of servicing a mobile catering food
13 establishment.

14 (i) "Person" means an individual, sole proprietorship, part-
15 nership, corporation, association, or other legal entity.

16 (j) "Pesticide chemical" means any substance that, alone, in
17 chemical combination, or in formulation with 1 or more other sub-
18 stances, is a pesticide within the meaning of the federal insec-
19 ticide, fungicide, and rodenticide act, chapter 125, 86
20 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y,
21 and is used in the production, storage, or transportation of raw
22 agricultural commodities.

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

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1 (l) "Public health code" means 1978 PA 368, MCL 333.1101 to
2 333.25211.

3 Sec. 1111. As used in this act:

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

8 (b) "Regulatory authority" means the department, the local
9 health department, or the authorized representative having juris-
10 diction over the establishment.

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

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

19 (e) "Rules" means administrative rules promulgated under
20 this act pursuant to the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328.

22 (f) "Smoked fish rules" means regulation no. 285.569 of the
23 Michigan administrative code, promulgated under former 1968 PA
24 39.

25 (g) "Special transitory food unit" means a temporary food
26 establishment that is licensed to operate throughout the state

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1 without the 14-day limits or a mobile food establishment that is
2 not required to return to a commissary.

3 (h) "Sulfiting agents" means any of the following:

4 (i) Sulfur dioxide.

5 (ii) Sodium sulfite.

6 (iii) Sodium bisulfite.

7 (iv) Potassium bisulfite.

8 (v) Sodium metabisulfite.

9 (vi) Potassium metabisulfite.

10 (i) "Temporary food establishment" means a food establish-
11 ment which operates at a fixed location for a temporary period
12 not to exceed 14 consecutive days.

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

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

17 (l) "Vending machine" means a self-service device offered
18 for public use that, upon activation by a coin, token, card, key,
19 or paper currency, dispenses unit servings of food or beverages
20 without the necessity of replenishing the device between each
21 vending operation. Vending machine does not include any of the
22 following:

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

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

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1 (m) "Vending machine location" means the room, enclosure,
2 space, or area in which 1 or more vending machines are installed
3 and operated.

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

6 Sec. 1113. A term defined in the food code has the same
7 meaning when used in this act, except as specifically defined in
8 this act.

9 Sec. 1115. (1) The following acts and parts of acts are
10 repealed 6 months after the date of enactment of this act:

11	<u>Year</u>	<u>Public Act No.</u>	<u>Compiled Law Sections</u>
12	1913	384	289.551 to 289.559
13	1952	228	289.581 to 289.592
14	1957	166	289.261 to 289.268
15	1968	39	289.701 to 289.727
16	1978	328	289.801 to 289.810

17 (2) Sections 12901, 12902, 12903, 12904, 12905a, 12906,
18 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the
19 public health code, 1978 PA 368, MCL 333.12901, 333.12902,
20 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907,
21 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916,
22 and 333.12921, are repealed 6 months after the date of enactment
23 of this act.

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

26 (2) Until 6 months after the effective date of this act,
27 compliance with the standards of the design, construction, and

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1 equipment of a food service establishment approved under former
2 sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908,
3 12910, 12911, 12912, 12913, 12916, and 12921 of the public health
4 code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a,
5 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912,
6 333.12913, 333.12916, and 333.12921, is considered compliance
7 with this act.

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

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

14 (2) The following rules are rescinded 6 months after the
15 date of enactment of this act:

16 (a) R 285.538 of the Michigan administrative code.

17 (b) R 285.549 of the Michigan administrative code.

18 (c) R 285.554 of the Michigan administrative code.

19 (d) R 285.556 of the Michigan administrative code.

20 (e) R 285.557 of the Michigan administrative code.

21 (f) R 285.558 of the Michigan administrative code.

22 (g) R 325.25101 through 325.26008 of the Michigan adminis-
23 trative code.

24 (3) Beginning 6 months after the date of enactment of this
25 act, R 285.553 of the Michigan administrative code does not apply
26 to any food establishments under this act except for any farm

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1 crop storages exempt from the requirements imposed under section
2 7101.

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

6 CHAPTER II

7 POWERS AND DUTIES OF THE DEPARTMENT

8 Sec. 2101. (1) The director shall provide for the adminis-
9 tration and enforcement of this act. The director may delegate
10 enforcement and administration of this act to certain local
11 health departments in the manner provided for in chapter III.

12 (2) The director shall investigate complaints and initiate
13 and conduct other investigations as he or she considers advisable
14 to determine violations of this act.

15 (3) The director may promulgate rules for the enforcement
16 and implementation of this act.

17 Sec. 2103. (1) A retail food advisory board is created
18 within the department to advise the director on the implementa-
19 tion of this act and on the promulgation of rules under this
20 act.

21 (2) The board shall contain at least 9 members appointed by
22 the director and serving 2-year terms with at least 4 members
23 representing the retail food industry, 2 members representing
24 local health departments, 2 members representing the general
25 public, and other members representing interests as considered
26 appropriate by the director.

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1 Sec. 2105. (1) When necessary for the enforcement of this
2 act, the director may seize without formal warrant any food found
3 to be sold, held for sale, or exposed for sale in violation of
4 this act or rules promulgated under this act.

5 (2) If the director finds or has probable cause to believe
6 that any food is adulterated or so misbranded as to be dangerous
7 to public health or fraudulent, within the meaning of this act,
8 he or she shall affix to the food a tag or other appropriate
9 marking giving notice that the food is, or is suspected of being,
10 adulterated or misbranded and has been seized or embargoed. A
11 person shall not remove or dispose of the food tagged or marked
12 as embargoed or seized, by sale or otherwise, until permission
13 for removal or disposal is given by the director or a court of
14 competent jurisdiction.

15 (3) If food seized or embargoed under subsection (1) or (2)
16 is determined by the director to be adulterated or misbranded, he
17 or she shall cause a petition to be filed in circuit court in
18 whose jurisdiction the food is seized or embargoed for a com-
19 plaint for condemnation of the food. Seized or embargoed food
20 shall be destroyed at the expense of the claimant of the food,
21 under the supervision of the director, and the court may order
22 the payment of the costs and fees and storage and other proper
23 expenses by the claimant of the food or his or her agents.
24 However, if the court finds that adulteration or misbranding can
25 be corrected by proper labeling or processing of the food, after
26 entry of the order; payment of the costs, fees, and expenses; and
27 execution of a good and sufficient bond conditioned that the food

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1 shall be so labeled or processed, the court may direct the food
2 to be delivered to the claimant for labeling or processing under
3 the supervision of the director. The claimant shall pay the
4 expense of the supervision. The food shall be returned to the
5 claimant of the food on the representation to the court by the
6 director that the food is no longer in violation of this act and
7 that the expenses of supervision have been paid. If the director
8 determines that the food so seized or embargoed is not adulter-
9 ated or misbranded, he or she shall remove the tag or other
10 marking.

11 Sec. 2107. (1) If the director finds any adulterated food
12 that the director declares to be a nuisance, the director shall
13 immediately condemn, destroy, or in any other manner render the
14 food unsaleable as human food.

15 (2) If adulterated or misbranded food is a nuisance, is dan-
16 gerous to the public health, or is fraudulent and requires the
17 director's supervision, or if the food establishment requests the
18 supervision of the director for sorting, destruction, recondi-
19 tioning, or other disposition, the food establishment that is in
20 possession of the food at the time of the seizure or embargo is
21 liable for the costs of such supervision.

22 Sec. 2109. If storage of seized food is not possible with-
23 out risk to the public health, the director shall order immediate
24 destruction of the food to be accomplished without delay by the
25 owner, operator, or person in charge of the food establishment.
26 The food shall be destroyed as specified in the order for
27 destruction.

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1 Sec. 2111. (1) The director shall have free access at all
2 reasonable hours to any food establishment, including a vehicle
3 used to transport or hold food, for the purpose of inspecting
4 that food establishment or vehicle to determine if any of the
5 provisions of this act are being violated. The director may
6 secure samples or specimens of any food after paying or offering
7 to pay for such samples in order to determine whether any provi-
8 sion of this act is being violated.

9 (2) The director may examine the records of the food estab-
10 lishment to obtain pertinent information about food, supplies,
11 and equipment purchased, received, or used by, or pertaining to,
12 persons employed by the food establishment or location.

13 Sec. 2113. (1) The director may order immediate cessation
14 of operation of a food establishment upon a determination that
15 continued operation would create an imminent or substantial
16 hazard to the public health.

17 (2) A food establishment ordered to cease food operations
18 under subsection (1) shall not resume operations until the direc-
19 tor determines, upon reinspection, that the conditions responsi-
20 ble for the order to cease operations no longer exist. The
21 director shall offer an opportunity for reinspection upon request
22 of the license holder of the establishment.

23 (3) If the director orders an immediate cessation of opera-
24 tion of a food establishment under subsection (1), the license
25 holder may request an administrative hearing.

26 Sec. 2115. If the director has reasonable cause to suspect
27 disease transmission by an employee of a food establishment, he

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1 or she may secure a morbidity history of the suspected employee
2 and make other investigations as he or she considers necessary.

3 Sec. 2117. The department shall submit to the governor and
4 the legislature an annual report summarizing all judgments,
5 decrees, and court orders, which have been rendered by the
6 department under this act, including the nature of the charge and
7 the disposition thereof. The department may disseminate informa-
8 tion regarding food as it considers necessary to protect the
9 health of the consumer and the protection of the consumer against
10 fraud. This section does not prohibit the department from col-
11 lecting, reporting, and illustrating the results of the investi-
12 gations of the department.

13 Sec. 2119. (1) Notwithstanding section 12909(1) of the
14 public health code, MCL 333.12909, the department may promulgate
15 rules to prescribe criteria for food service sanitation programs
16 by local health departments. The department in promulgating
17 these rules shall seek the advice and counsel of local health
18 departments and the food service industry.

19 (2) The department shall periodically conduct comprehensive
20 evaluations of each local health department's food service sani-
21 tation program. The evaluations shall be based on criteria
22 developed by the department with input from local health depart-
23 ments and shall include a review of both of the following:

24 (a) The adequacy of sanitary conditions in the food service
25 establishments within the local health department jurisdiction.

26 (b) The competency and training of the food service
27 inspection personnel.

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1 Sec. 2121. (1) The director may issue a food establishment
2 license with limitations. License limitations may be imposed
3 based upon either of the following determinations:

4 (a) The site, facility, sewage disposal system, equipment,
5 water supply, or the food supplies, protection, storage, prepara-
6 tion, display, service, or transportation facilities are not ade-
7 quate to accommodate the proposed or existing menu or otherwise
8 adequate to protect the public health.

9 (b) Food establishment personnel are not practicing proper
10 food storage, preparation, handling, display, service, or trans-
11 portation techniques.

12 (2) The director shall promptly notify a license holder of
13 the imposition of a license limitation. The license holder shall
14 be provided an opportunity for an administrative hearing on the
15 issue of the imposition of the limitation.

16 Sec. 2123. (1) A person whose license has been limited by
17 the director may, at any time, request a reinspection of the food
18 establishment for the purpose of removing the limitation and
19 reinstating the full license.

20 (2) Based upon its reinspection, if the director determines
21 that the conditions for removal of the license limitation have
22 been met, he or she shall remove the limitation and reinstate the
23 full license.

24 Sec. 2125. (1) The department shall charge the following
25 fees for the following services:

26 (a) A reissuance of a duplicate license, \$15.00.

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1 (b) A free-sale letter, \$25.00 per letter in an order and
2 \$5.00 per duplicate letter in the same order.

3 (c) An inspection of a food establishment when the inspec-
4 tion is a second reinspection of a food establishment that has
5 already been inspected and found to contain a critical violation
6 or the inspection is performed at the request of the operator,
7 \$60.00.

8 (d) A review and approval of training materials, \$60.00 per
9 hour.

10 (e) A special transitory food unit plan review, \$177.00.

11 (2) Fees collected under this section shall be deposited in
12 the general fund and credited to the department for enforcement
13 of this act.

14 (3) The services referred to in subsection (1)(d) and (e)
15 involve the formal review and approval procedure. The department
16 may provide informal review or answer questions without charging
17 a fee.

18 Sec. 2127. After a conference with the owner of a retail
19 food establishment for a repeated failure to correct a critical
20 violation, the director may require certain individuals to com-
21 plete manager food safety training for that food establishment.

22 Sec. 2129. (1) Upon request, the department may review and
23 issue approval of food safety training materials and food safety
24 training programs including, but not limited to, home-study pro-
25 grams and computer-assisted training. Approval of food safety
26 training materials and food safety training programs expires 3
27 years from the date of original issuance.

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1 (2) To receive department approval, a food safety training
2 material shall be reviewed for and contain the following:

3 (a) Accuracy and consistency with this act and the food
4 code.

5 (b) Manager knowledge training that includes the knowledge
6 requirements of section 2-102.11 of the food code.

7 (3) The issuance date for each original certificate issued
8 under an approved food safety training program is the date the
9 individual successfully completes the examination. A certificate
10 expires 5 years from the date of original issuance. Any replace-
11 ment or duplicate certificate shall have as its expiration date
12 the same expiration date that was on the original certificate.
13 Certified individuals may be recertified by passing a food safety
14 certification examination or through an approved recertification
15 training program.

16 (4) An individual certified under a training program
17 approved under this section shall be recognized with full faith
18 and credit by a local unit of government throughout the state.

19 (5) This section does not prohibit any local legislative
20 body from implementing a food handler program, an employee health
21 certification program, or a manager certification program, pro-
22 vided it is not in conflict with this section.

23 Sec. 2131. (1) When the department determines such action
24 will promote honesty and fair dealing in the interest of consum-
25 ers, the department shall promulgate rules fixing and establish-
26 ing for any food or class of food a reasonable definition,

1 standard of identity, and reasonable standard of quality and fill
2 of container.

3 (2) In prescribing a definition and standard of identity for
4 any food or class of food in which optional ingredients are per-
5 mitted, the department shall designate the optional ingredients
6 that are required to be named on the label.

7 CHAPTER III DELEGATION

8 Sec. 3103. As used in this chapter:

9 (a) "Certified health department" means a county, district,
10 or city health department that meets the criteria for certifica-
11 tion of health departments established by this act and that is
12 authorized by the director to enforce this act for retail gro-
13 ceries, food processing plants, or food concessions.

14 (b) "Foodborne illness outbreak" means an incident where any
15 of the following occur:

16 (i) Two or more persons, not of the same household, have
17 ingested a common food and have a similar disease, similar symp-
18 toms, or excrete the same pathogens and there is a time, place,
19 or person association between these persons.

20 (ii) There is a single case of suspected botulism, mushroom
21 poisoning, paralytic shellfish poisoning, or other rare disease.

22 (iii) There is a case of a disease or poisoning that can be
23 definitely related to ingestion of a food.

24 (c) "Food service sanitation program" means the systematic
25 activity of the department and a local health department for
26 effective administration and enforcement of the food code and
27 this act, including all of the following:

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1 (i) Periodic inspections of food service establishments,
2 temporary food service establishments, vending machines, and
3 vending machine locations for compliance with law.

4 (ii) Support of recommendations for licensure with appropri-
5 ate records.

6 (iii) Review of plans and specifications for new and exten-
7 sively remodeled establishments.

8 (iv) Educational activities.

9 (v) Investigation of reports of foodborne illnesses.

10 (vi) Other activities which may be necessary to assure
11 proper implementation of this act.

12 Sec. 3105. (1) The department shall delegate the authority
13 and responsibility for the enforcement of the requirements per-
14 taining to food service establishments contained in this act and
15 the rules promulgated under this act to local health departments
16 meeting the program criteria provided for in this act and rules
17 promulgated under this act. The local health departments shall
18 enforce this act and the rules promulgated under this act and may
19 delegate enforcement authority under an organization approved
20 pursuant to section 2431 of the public health code, MCL
21 333.2431. If a food service sanitation program is discontinued
22 or is revoked for failure to meet the program criteria, redelega-
23 tion to a local health department by the director of the program
24 under this section is not required. Local health departments
25 delegated authority under this chapter shall enforce this act and
26 rules promulgated under this act in the manner provided for in
27 part 24 of the public health code, MCL 333.2401 to 333.2498,

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1 except that late fees under section 4113, administrative fines
2 under section 5105, and felony penalties under section 5107 are
3 specifically not delegated to the local health departments.

4 (2) When a food service establishment is a part of a retail
5 grocery or food processing plant and the retail grocery and food
6 processing plant are the predominant part of the food business as
7 determined by the department, authority and responsibility per-
8 taining to that establishment are not delegated under this
9 section.

10 (3) When a retail grocery or food processing plant is a part
11 of a food service establishment but the food service establish-
12 ment is the predominant part of the food business as determined
13 by the department, the authority and responsibility for the
14 entire establishment are delegated under subsection (1).

15 (4) Mobile and temporary food establishments that are pre-
16 dominantly food service establishments as determined by the
17 department are delegated to the local health departments under
18 this section. Mobile and temporary food establishments that are
19 predominantly retail groceries are not delegated under subsection
20 (1).

21 Sec. 3107. The director may delegate the authority and
22 responsibility for the enforcement of the requirements pertaining
23 to food processing plants, retail grocers, and food concessions
24 contained in this act and any rules adopted under this act to any
25 certified health department. The certified health departments
26 shall enforce this act and any rules promulgated under this act.

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1 Sec. 3109. Local health departments that are delegated
2 authority by the director pursuant to this chapter are authorized
3 agents of the director for the purpose of implementing and admin-
4 istering this act and rules promulgated under this act.

5 Sec. 3111. The power and authority granted under part 24 of
6 the public health code, MCL 333.2401 to 333.2498, shall be
7 retained by local health departments delegated authority under
8 this act.

9 Sec. 3113. A county, city, village, or township shall not
10 regulate those aspects of food service establishments or vending
11 machines which are subject to regulation under this act except to
12 the extent necessary to carry out the responsibility of a local
13 health department to implement licensing provisions of chapter
14 IV. This chapter does not relieve the applicant for a license or
15 a licensee from responsibility for securing a local permit or
16 complying with applicable local codes, regulations, or ordinances
17 not in conflict with this act.

18 Sec. 3115. (1) A local health department shall promptly
19 review a license application for a food service establishment or
20 vending machine location to determine if the application is com-
21 plete and accurate. A local health department may return an
22 incomplete or inaccurate application to a license applicant and
23 request any additional information it considers necessary to
24 assure completeness or accuracy of the application.

25 (2) After a local health department determines that an
26 application is proper, complete, and accurate, it shall inspect
27 the proposed or existing food service establishment or vending

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1 machine location to determine compliance with this act. The
2 inspection shall be conducted by the local health department
3 before it makes a recommendation to the department on the issu-
4 ance of a license.

5 (3) A local health department shall forward its recommenda-
6 tion for approval of the license or approval with limitation of
7 the license to the department.

8 Sec. 3117. A local health department may apply procedures
9 for enforcement of this act that provide notice and opportunity
10 for a hearing equivalent in effectiveness to and which protect
11 the rights of the applicant or licensee comparable to the provi-
12 sions of chapters 4 and 5 of the administrative procedures act of
13 1969, 1969 PA 306, MCL 24.271 to 24.292. A local health depart-
14 ment shall have a written enforcement procedure and shall make a
15 copy of that procedure available to the public upon request.

16 Sec. 3119. (1) Except as otherwise provided for in subsec-
17 tion (2), upon submission of an application, an applicant for a
18 food service establishment license shall pay to the local health
19 department having jurisdiction the required sanitation service
20 fees authorized by section 2444 of the public health code, MCL
21 333.2444, and an additional state license fee as follows:

- 22 (a) Vending machine location fee..... \$ 2.50.
- 23 (b) Temporary food service establishment.. \$ 2.50.
- 24 (c) Food service establishment..... \$19.00.
- 25 (d) Mobile food service establishment..... \$ 2.50.
- 26 (e) Mobile food establishment commissary.. \$19.00.

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1 (f) Special transitory food unit..... \$30.00.

2 (2) When licensing a special transitory food unit, a local
3 health department shall impose a fee of \$117.00.

4 (3) The state license fee required under subsection (1)
5 shall be collected by the local health department at the time the
6 license application is submitted. The state license fee is due
7 and payable by the local health department to the state within 60
8 days after the fee is collected.

9 (4) A school or other educational institution is exempt from
10 paying the fees in section 2444 of the public health code, MCL
11 333.2444, and this section but is not exempt from the other pro-
12 visions of this chapter. A charitable, religious, fraternal,
13 service, civic, or other nonprofit organization that has
14 tax-exempt status under section 501(c)(3) of the internal revenue
15 code of 1986 is exempt from paying fees under under this section
16 except for the vending machine location license fee. An organi-
17 zation seeking an exemption under this subsection shall furnish
18 to the department or a local health department evidence of its
19 tax-exempt status.

20 (5) The department shall adjust on an annual basis the fees
21 prescribed by subsection (1) by an amount determined by the state
22 treasurer to reflect the cumulative annual percentage change in
23 the Detroit consumer price index but not to exceed 5%. As used
24 in this subsection, "Detroit consumer price index" means the most
25 comprehensive index of consumer prices available for the Detroit
26 area from the bureau of labor statistics of the United States
27 department of labor or its successor. The adjustment shall be

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1 rounded to the nearest dollar to set each year's fee under this
2 subsection, but the absolute value shall be carried over and used
3 to calculate the next annual adjustment.

4 (6) The local health department shall forward the license
5 applications to the department with appropriate recommendations.

6 Sec. 3121. (1) The department or a local health department
7 shall conduct inspections in compliance with this act.

8 (2) Records for all of the following shall be maintained by
9 a local health department:

10 (a) Applications for licensure.

11 (b) Operation licenses.

12 (c) Inspection reports.

13 (d) Pertinent correspondence.

14 (e) Plans and specifications.

15 (f) Administrative actions.

16 (g) Other applicable information relating to the operation
17 of each food service establishment.

18 (3) A local health department shall maintain a record of all
19 consumer complaints, the ensuing investigation, and the result of
20 the complaint.

21 (4) All department and local health department records shall
22 be retained in accordance with the records retention schedule of
23 the department.

24 Sec. 3123. (1) An unannounced compliance inspection of each
25 food service establishment shall be performed at least once every
26 6 months by a regulatory authority.

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1 (2) A food service establishment which operates for 9 or
2 fewer months each year shall be inspected at least once during
3 the period of operation by a regulatory authority.

4 Sec. 3125. (1) Subject to subsection (3), a local health
5 department, with the approval of the director and based on cri-
6 teria developed by the department in consultation with local
7 health departments, may reduce the frequency of inspections of
8 individual food service establishments if the local health
9 department determines that a reduced inspection frequency will
10 not adversely affect food service sanitation practices within the
11 food service establishment.

12 (2) A food service establishment which, upon investigation,
13 is implicated in a foodborne illness outbreak or chemical intoxi-
14 cation shall be inspected by a regulatory authority in compliance
15 with section 3123 for not less than the next 12 months.

16 (3) A local health department shall not reduce the minimum
17 frequency of inspections of any food service establishment to
18 less than once each 12 months.

19 Sec. 3127. (1) The findings of an inspection of a food
20 service establishment shall be recorded on an inspection report
21 form approved by the department. The form shall identify those
22 items considered to be critical from a public health standpoint.

23 (2) The inspection report shall summarize findings relative
24 to compliance with the requirements of this act. The report form
25 shall be signed and dated by the local health department
26 representative.

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1 (3) Upon completion of the inspection, a copy of the
2 completed inspection report form shall be furnished to the person
3 in charge of the food service establishment. The person in
4 charge shall sign the report form acknowledging receipt.

5 Sec. 3129. (1) A local health department shall investigate
6 an allegation of foodborne diseases and poisonings or suspected
7 foodborne diseases and poisonings connected with food service
8 establishments within its jurisdiction and delegated authority
9 and shall promptly make a report of its findings to the
10 department.

11 (2) If an investigation indicates that a source of a food-
12 borne disease or poisoning was from a food processing, food stor-
13 age, or similar type of food establishment over which the depart-
14 ment has legal jurisdiction or responsibility, the local health
15 department shall immediately notify the director while the local
16 health department is completing the investigation.

17 Sec. 3131. (1) A local health department shall develop and
18 implement a communications system with other applicable govern-
19 mental agencies, individuals, and organizations including, but
20 not limited to, hospital emergency rooms and state and local
21 police. The communications system shall provide the means to
22 contact specific local health department employees and basic
23 information necessary to initiate a foodborne illness outbreak
24 investigation. The information provided in the communications
25 system shall be updated annually.

26 (2) Procedures for investigating suspected foodborne illness
27 outbreaks shall be implemented consistent with procedures

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1 contained in the publication entitled "Procedures to Investigate
2 Foodborne Illness, 5th Ed.," prepared and published by the inter-
3 national association of food protection and incorporated by ref-
4 erence or an equivalent plan submitted to and approved by the
5 department.

6 (3) All information gathered during the investigation which
7 is not exempted from disclosure under section 13 of the freedom
8 of information act, 1976 PA 442, MCL 15.243, and shall be made
9 available to the owner, operator, or his or her employees to min-
10 imize the possibility of reoccurrence of the foodborne illness
11 and to assure compliance with the code and this act.

12 Sec. 3133. Laboratories capable of providing the necessary
13 analyses of food samples shall be utilized by a local health
14 department to assist in the conduct of a food service sanitation
15 program.

16 Sec. 3135. (1) The department shall make available to any
17 local health department an application form to be completed as a
18 request for certification. The application shall provide infor-
19 mation needed to substantiate the request to become a certified
20 health department.

21 (2) A local health department seeking certification shall
22 have sufficient trained administrative, inspection, and support
23 personnel and sufficient equipment to enforce applicable laws and
24 rules consistent with current state standards in all licensed
25 establishments within its jurisdictional boundaries.

26 (3) A certified health department shall demonstrate to the
27 department the ability to conduct inspections and related

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1 activities in accordance with the department's food inspection
2 information management system within prescribed time limitations
3 utilized by the department. Inspection, investigation, and legal
4 actions and related activities shall be reported to the depart-
5 ment on forms furnished by the department.

6 (4) A certified health department must be capable of con-
7 ducting necessary sampling and produce surveillance equal to
8 state standards.

9 Sec. 3137. (1) The department shall conduct a general
10 review and evaluation of reports and related data made by certi-
11 fied health departments under this act as often as considered
12 necessary by the department.

13 (2) An inspection quality assurance program consisting of
14 field evaluation of performed inspections conducted by the certi-
15 fied health department shall be routinely conducted by the
16 department at a ratio of approximately 1 per 100 inspections
17 made.

18 (3) A certified health department shall report annually to
19 the department a summary of all inspections, investigations, sam-
20 plings, legal actions, and any other actions of a significant
21 nature on a form furnished by the department. This report shall
22 be made annually on the basis of the state fiscal year.

23 (4) Review or evaluation disclosing adverse findings shall
24 be reported in writing by the department to the health officer of
25 the certified health department within 30 days after the review
26 or evaluation under subsection (1) is completed.

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1 (2) Separate areas for food service or preparation located
2 in 1 building and operated under 1 management are considered to
3 be 1 food establishment and only 1 license is required.

4 (3) Except as otherwise provided in this act, a city,
5 county, or other local unit of government shall not adopt or
6 enforce licensing ordinances or regulations for persons regulated
7 under this act.

8 Sec. 4103. (1) An applicant shall submit an application for
9 a food establishment license at least 30 calendar days before the
10 date planned for its opening, the change of ownership, or the
11 expiration of the current license.

12 (2) Application for the license under subsection (1) shall
13 be submitted upon the forms furnished by the department and shall
14 contain the reasonable information required by the department to
15 process the application.

16 (3) An application for a mobile food establishment license
17 shall include all of the following information:

18 (a) The location and dates of the operation.

19 (b) The name and address of the commissary that will service
20 the applicant.

21 (4) Within 10 days after a change in the servicing commis-
22 sary, the mobile food establishment licensee shall submit an
23 affidavit containing the name and address of the new commissary
24 servicing the licensee.

25 (5) The director may issue a temporary food establishment
26 license.

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1 Sec. 4105. (1) Except as otherwise provided for in
2 subsection (2), a person, establishment, or organization that is
3 1 or more of the following is exempt from the licensure require-
4 ments under this act:

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

8	<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Laws Sections</u>
9	184	1913	445.331 to 445.341
10	222	1913	288.101 to 288.117
11	141	1939	285.61 to 285.82a
12	228	1959	286.371 to 286.379
13	158	1964	290.451 to 290.466
14	233	1965	288.21 to 288.29a
15	298	1968	288.321 to 288.334

16 (b) A produce stand that offers only whole uncut fresh
17 fruits and vegetables.

18 (c) Consumers or nonprofit cooperatives of consumers provid-
19 ing products only for their own use.

20 (d) Nonprofit cooperatives who are growers or producers
21 selling unprocessed products of their own production.

22 (e) Retail outlets for the sale of prepackaged honey or
23 maple syrup produced in Michigan if the outlet is operated by the
24 producer and the processing facility is licensed under this act.

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

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

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

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

7 (h) A commercial fishing guide service that serves lunch to
8 a party of not more than 12 clients on or adjacent to a body of
9 water, river, or stream while pursuing, capturing, catching, kil-
10 ling, taking, or attempting to take fish. As used in this sub-
11 paragraph, "commercial fishing guide service" means a service
12 provided for a fee or other valuable consideration, regardless of
13 whether the fee or other valuable consideration is paid directly
14 or indirectly, to assist another person in pursuing, capturing,
15 catching, killing, taking, or attempting to take fish.

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

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

23 (3) If food is prepared in a food service establishment
24 licensed under this chapter and the food is transported from the
25 food service establishment to a fixed temporary serving location,
26 the serving location is not required to be separately licensed
27 and is considered an extension of the food service establishment

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1 if no food preparation is conducted at the serving location and
2 the food is transported and served by employees of the food serv-
3 ice establishment.

4 Sec. 4107. To qualify for a food establishment license, an
5 applicant shall do all of the following:

6 (a) Submit an application on a form provided by the
7 department.

8 (b) Be an owner of the food establishment or an officer of
9 the legal entity owning the food establishment.

10 (c) Comply with the requirements of this act and rules
11 promulgated under this act.

12 (d) Allow the director access to the proposed food estab-
13 lishment in order to determine compliance with the applicable
14 requirements of this act and rules.

15 (e) Pay the applicable license fees at the time the applica-
16 tion is submitted.

17 Sec. 4109. A license, other than a license for a temporary
18 food service establishment, expires at midnight on April 30 each
19 year. The department may issue a temporary food license for a
20 period not to exceed 14 days.

21 Sec. 4111. The department shall impose the following
22 license fees for each year or portion of a year:

23 (a) Retail food establishment: \$67.00.

24 (b) Extended retail food establishment: \$172.00.

25 (c) Food processor: \$172.00.

26 (d) Mobile food establishment: \$172.00.

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1 (e) Vending: \$25.00.

2 (f) Temporary food establishment: \$25.00.

3 (g) Special transitory food unit: \$117.00.

4 (h) Mobile food establishment commissary: \$172.00.

5 (i) Food warehouse: \$67.00.

6 Sec. 4113. (1) The department shall impose, for a renewal
7 application postmarked or delivered in person beginning May 1 of
8 each year, a late fee of an additional \$10.00 for each business
9 day the application is late. The late fee for a new application
10 submitted after the establishment has opened for business is an
11 additional \$10.00 for each business day the application is late.
12 The total late fee shall not exceed \$100.00.

13 (2) The department shall not issue or renew a license until
14 the fee and any late fee have been paid. A hearing is not
15 required regarding the department's refusal to issue or renew a
16 license under this section.

17 (3) The department may waive the late fee for producers of
18 maple syrup, honey, and other seasonal agricultural products if
19 the license application is submitted not less than 30 days before
20 the applicant engages in processing, packing, freezing, storing,
21 selling, or offering for sale the food or drink described in this
22 subsection.

23 (4) The late fee shall be retained by any certified health
24 department or, in an area where there is no certified health
25 department, by the department.

26 (5) The department shall use the late fee for the
27 administration and enforcement of this act.

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1 Sec. 4115. (1) A water bottler or water dispensing machine
2 owner shall register with the department each brand of bottled
3 water with a unique declaration of identity before the sale or
4 offering for sale of the water. The application for registration
5 shall be made on a form prescribed by the department and shall
6 include both of the following:

7 (a) The proposed label or placard for the water.

8 (b) For each year or portion of a year, a registration fee
9 of \$25.00 for each brand of water with a unique declaration of
10 identity and \$25.00 for each water dispensing machine.

11 (2) The registration required by subsection (1) expires
12 annually on April 30 and shall be renewed 30 calendar days before
13 expiration of the current registration.

14 (3) The department shall assess a late fee of \$25.00 for
15 bottled water or water from a water dispensing machine that is
16 sold or offered for sale without registration. A registration is
17 not effective until the late fee is paid.

18 Sec. 4117. (1) Except as provided in subsection (2), money
19 collected under this chapter by the department shall be credited
20 to the general fund of the state.

21 (2) A consumer food safety education fund is created as a
22 revolving fund in the department of treasury. The consumer food
23 safety education fund shall be administered by the department and
24 funded by adding \$3.00 to the fee for each food establishment
25 license in all categories except vending machines and in cases of
26 fee-exempt food establishments. The money in the fund shall be
27 used to provide statewide training and education to consumers on

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1 food safety. An advisory committee consisting of at least 9
2 people representing consumers, industry, government, and academia
3 shall advise the department on the use of the funds. Money
4 remaining in the fund at the end of the fiscal year shall be car-
5 ried forward into the next fiscal year.

6 (3) An industry food-safety education fund is created as a
7 revolving fund in the department of treasury. The industry
8 food-safety education fund shall be administered by the depart-
9 ment and funded by adding \$2.00 to the fee for each food service
10 establishment license in all categories except vending machines
11 and in cases of fee-exempt food establishments. The money in the
12 fund shall be used to provide food safety training and education
13 to food service establishment employees and agents of the direc-
14 tor who enforce this act. The advisory committee created in
15 subsection (2) shall advise the department on the use of the
16 funds. Money remaining in the fund at the end of the fiscal year
17 shall be carried forward into the next fiscal year.

18 Sec. 4119. (1) Except as otherwise provided in subsection
19 (2), a person licensed as a food establishment under this chapter
20 shall keep a copy of the current license or temporary license
21 furnished by the department posted and exposed in a conspicuous
22 place for public inspection. A conspicuous place is the princi-
23 pal place where food business is transacted.

24 (2) In the case of vending machines, the name and address
25 and telephone number of the current vending machine location
26 operator shall be conspicuously displayed on each vending
27 machine.

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1 Sec. 4121. Thirty days before a food establishment proposes
2 either of the following changes, a licensee shall notify the
3 regulatory authority having jurisdiction of that proposed
4 change:

5 (a) A change in the type of license even if the change would
6 not result in the change of the regulatory authority having
7 jurisdiction over the activity.

8 (b) A change in the type of license that would result in the
9 change of the regulatory authority having jurisdiction over the
10 activity.

11 Sec. 4123. A food establishment license is not transferable
12 as to the holder or the location.

13 Sec. 4125. (1) Before a food establishment license is
14 issued, the director shall determine if the applicant meets the
15 minimum requirements of this act and rules promulgated under this
16 act.

17 (2) After an opportunity for a hearing pursuant to the
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
19 24.328, the director may revoke or suspend a food establishment
20 license or a registration for bottled water issued under this act
21 for failure to comply with requirements of this act or a rule
22 promulgated under this act. A person whose registration for bot-
23 tled water is revoked or suspended shall discontinue the sale and
24 offering for sale of the bottled water until he or she complies
25 with this act and the director issues a new registration or
26 removes the suspension.

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1 (3) Based upon facts submitted by a person familiar with
2 those facts or upon information and belief alleging that an
3 imminent threat to the public health, safety, or welfare exists,
4 the director may summarily suspend a license or registration
5 issued under this act. A person whose license or registration
6 has been summarily suspended under this section may petition the
7 director to dissolve the order. Upon receipt of such a petition,
8 the director shall immediately schedule a hearing to decide
9 whether to grant or deny the petition to dissolve. The presiding
10 officer shall grant the requested relief dissolving the summary
11 suspension order unless sufficient evidence is presented that an
12 imminent threat to the public health, safety, or welfare exists
13 requiring emergency action and continuation of the director's
14 summary suspension order.

15 Sec. 4127. (1) After the regulatory authority receives a
16 petition for a hearing from a license holder whose license is
17 summarily suspended under section 4125, the proceedings shall be
18 promptly commenced and determined as required by section 92 of
19 the administrative procedures act of 1969, 1969 PA 306, MCL
20 24.292.

21 (2) This section does not prevent the regulatory authority's
22 immediate reinstatement of a license when the regulatory author-
23 ity determines the public health hazard or nuisance no longer
24 exists.

25 Sec. 4129. (1) A license or registration applicant or
26 holder may request a hearing regarding the regulatory authority's
27 denial of a license or registration. A person desiring a hearing

1 in response to a denial of a license or registration shall submit
2 a hearing request to the regulatory authority within 30 calendar
3 days after the date of the denial.

4 (2) The regulatory authority shall afford a hearing within
5 30 days after receiving a written request for a hearing as speci-
6 fied in this section when the request demonstrates that there is
7 a genuine and material issue of fact that justifies that a hear-
8 ing be held.

9 (3) Hearings shall be conducted in an expeditious and impar-
10 tial manner.

11 CHAPTER V PROHIBITED ACTS AND PENALTIES

12 Sec. 5101. (1) A person shall not do or cause to be done
13 any of the following:

14 (a) Manufacture, sell, deliver, hold, or offer for sale
15 adulterated or misbranded food.

16 (b) Adulterate or misbrand food.

17 (c) Receive in commerce food that is adulterated or mis-
18 branded and deliver or proffer the delivery of that food for pay
19 or otherwise.

20 (d) Sell, deliver for sale, hold for sale, or offer for sale
21 food unless that person holds a license issued under chapter IV.

22 (e) Disseminate a false advertisement.

23 (f) Refuse to permit entry or inspection, or to permit the
24 taking of a sample, as authorized by section 2111.

25 (g) Give a false guaranty or undertaking, except by a person
26 who relied on a guaranty or undertaking to the same effect signed

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1 by and containing the name and address of the person from whom he
2 or she received the food in good faith.

3 (h) Remove or dispose of seized or embargoed food in viola-
4 tion of section 2105.

5 (i) Alter, mutilate, destroy, obliterate, or remove all or
6 part of the label or do any other act with respect to a food
7 while the food is held for sale resulting in the food being adul-
8 terated or misbranded.

9 (j) Forge, counterfeit, simulate, or falsely represent, or
10 without proper authority use any mark, stamp, tag, label, or
11 other identification device authorized or required by this act or
12 rules promulgated under this act.

13 (k) Permit filthy or insanitary conditions to exist in a
14 food establishment in which food intended for human consumption
15 is manufactured, received, kept, stored, served, sold, or offered
16 for sale.

17 (l) Falsely identify a country, state, or other place of
18 origin of food on a label, tag, or other document with intent to
19 deceive or defraud.

20 (m) Fail to establish or maintain any record or make any
21 report required under this act or the federal act, or refuse to
22 permit access to or verification or copying of any such required
23 record.

24 (n) Interfere with the director in the conduct of his or her
25 responsibilities under this act.

26 (o) Make a false statement, representation, or certification
27 in any application, report, plan, or other document that is

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1 required to be maintained under this act or rules promulgated
2 under this act.

3 (p) Remove a tag, seal, or mark placed by the director.

4 (q) Operate without a license, registration, permit, or
5 endorsement.

6 (r) Violate a provision of this act or a rule promulgated
7 under this act.

8 (2) Each day a violation of this section occurs is a sepa-
9 rate violation of this section.

10 Sec. 5103. (1) If a food is alleged to be misbranded
11 because the labeling is misleading or if an advertisement is
12 alleged to be false because it is misleading, then the determina-
13 tion of whether the labeling or advertisement is misleading shall
14 take into account, among other things, not only representations
15 made or suggested by statement, word, design, device, sound, or
16 any combination thereof, but also the extent to which the label-
17 ing or advertisement fails to reveal facts material in the light
18 of such representations or fails to reveal facts material con-
19 cerning consequences that may result from the use of that food
20 under the conditions of use prescribed in the labeling or adver-
21 tisement thereof or under such conditions of use as are customary
22 or usual. A label, labeling, or advertising in compliance with
23 the federal act is not considered a violation of this act.

24 (2) A publisher, radio-broadcast licensee, agency, or medium
25 for the dissemination of an advertisement, except the manufactur-
26 er, packer, distributor, or seller of the article to which a
27 false advertisement relates, is not liable under this section for

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1 the dissemination of false advertisement unless he or she has
2 refused to provide, upon request of the director, the name and
3 post office address of the manufacturer, packer, distributor,
4 seller, or advertising agency who caused the dissemination of the
5 advertisement, or unless he or she has refused, upon the request
6 of the director, to cease dissemination of the false
7 advertisement.

8 Sec. 5105. (1) Upon finding that a person violated a provi-
9 sion of this act or rule promulgated under this act, the depart-
10 ment may impose an administrative fine of not more than \$500.00
11 for the first offense and not more than \$1,000.00 for a second or
12 subsequent offense and the actual costs of the investigation of
13 the violation. Each day of any continuing violation is not con-
14 sidered a separate violation of this act or rule promulgated
15 under this act. Under no circumstances shall the department
16 impose upon any licensee or registrant administrative fines in
17 the aggregate amount of more than \$4,000.00 per location for a
18 firm with annual gross receipts of \$500,000.00 or less and
19 \$8,000.00 per location for a firm with annual gross receipts of
20 over \$500,000.00 during any 12-month period.

21 (2) Any administrative fines and costs collected under this
22 section shall be paid to the state treasury and credited to the
23 general fund.

24 (3) This section does not require the department to issue an
25 administrative fine for minor violations of this act whenever the
26 department believes that the public interest will be adequately

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1 served under the circumstances by a suitable written notice or
2 warning.

3 (4) The conditions warranting administrative fines to
4 achieve compliance with the provisions of the food code are
5 limited to critical or repeated violations that remain uncor-
6 rected beyond the time frame for correction approved, directed,
7 or ordered by the director under food code section 8-405.11(A)
8 and (B) and section 8-406.11(A) and (B). The department shall
9 not impose an administrative fine for a noncritical violation of
10 the food code unless at least 30 calendar days have been allowed
11 for correction after the inspection.

12 Sec. 5107. (1) Except as otherwise provided under this act,
13 a person who violates any provision of this act or rules promul-
14 gated under this act is guilty of a misdemeanor and shall be pun-
15 ished by a fine of not less than \$250.00 or more than \$2,500.00
16 or by imprisonment for not more than 90 days, or both.

17 (2) Notwithstanding the other provisions of this act, a
18 person who knowingly violates section 5101(1)(b) or (l) is guilty
19 of a felony punishable by imprisonment for not more than 4 years
20 or by a fine of not more than \$10,000.00 plus twice the amount of
21 any economic benefit associated with the violation, or both.

22 (3) If a violation results in a conviction under this act,
23 the court shall assess against the defendant the costs of the
24 department's investigation. The assessment for costs of investi-
25 gation shall be paid to the state treasury and credited to the
26 department for the enforcement of this act.

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1 Sec. 5109. When a violation of section 5101(1)(k) occurs
2 which is not suspected of threatening the safety of food intended
3 for human consumption, the department shall provide a person
4 owning or operating the food establishment a written report of
5 the violation before subjecting persons to the penalties provided
6 in this act.

7 Sec. 5111. In addition to the remedies provided for in this
8 act, the department may apply to the circuit court for, and the
9 court shall have jurisdiction upon hearing and for cause shown, a
10 temporary or permanent injunction restraining any person from
11 violating any provision of this act or rules promulgated under
12 this act irrespective of whether or not there exists an adequate
13 remedy at law.

14 Sec. 5113. The regulatory authority shall justly apply the
15 remedies according to law and this act consistent with the
16 licensee's right to due process.

17 Sec. 5115. When a license holder or registrant has
18 exhausted all administrative remedies available under this act
19 and is aggrieved by a final decision or order in a contested
20 case, the decision or order is subject to direct review by the
21 courts as provided by law.

22 CHAPTER VI STANDARDS FOR FOOD ESTABLISHMENTS

23 Sec. 6101. (1) Notwithstanding section 12909(3) and (4) of
24 the public health code, MCL 333.12909, chapters 1 to 8 of the
25 food code are incorporated by reference except as amended and
26 modified as follows:

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1 (a) Section 3-401.11(B) is modified so that the oven
2 temperature for high humidity oven temperature reads "66°C
3 (130°F) or higher".

4 (b) Where provisions of this act and rules promulgated under
5 this act specify different requirements.

6 (2) The director, by promulgation of a rule, may adopt any
7 changes or updates to the food code.

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

10 Sec. 6103. (1) The following food establishments are exempt
11 from the requirement for plan review and approval specified in
12 section 8-201.11 of the food code:

13 (a) A temporary food establishment.

14 (b) A retail grocery.

15 (2) The plan review exemption for a retail grocery in sub-
16 section (1) does not apply to the operation of a food service
17 establishment within a retail grocery. For purposes of this sec-
18 tion, a deli within a retail grocery is not considered a food
19 service establishment unless it provides seating for the
20 customers.

21 Sec. 6105. (1) A person seeking approval of plans and spec-
22 ifications for a food establishment shall submit a transmittal
23 letter with the plans and specifications. The letter shall iden-
24 tify and summarize the plans or projects and shall indicate the
25 owner, operator, or designated agent.

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1 (2) An applicant shall submit any required fees, as
2 authorized by section 2444 of the public health code,
3 MCL 333.2444, or this act.

4 (3) The director may reject the plans for a proposed food
5 establishment if any of the information required by the food code
6 is not included, is incomplete, or is inaccurate.

7 Sec. 6107. (1) Upon receipt of plans and specifications,
8 the director shall review the plans and specifications as soon as
9 practicable to determine their completeness and adequacy. If a
10 submission of complete plans and specifications is not reviewed
11 within 30 business days of receipt, the plans and specifications
12 will be considered complete and adequate. Thereafter, construc-
13 tion may proceed without the director's authorization. Approval
14 of the plans and specifications by operation of law does not
15 relieve the license applicant or license holder from compliance
16 with other provisions of this act.

17 (2) If the director determines that plans and specifications
18 are incomplete or inadequate, or both, he or she shall notify the
19 license applicant or license holder in writing and shall request
20 the submission of revised plans and specifications with appropri-
21 ate corrections or additions. The director shall not approve the
22 plans and specifications until he or she determines that the
23 plans and specifications are complete and adequate and that the
24 food establishment is designed in accordance with the food code
25 and this act.

26 (3) Upon a determination by the director that the plans and
27 specifications are complete and adequate, the director shall mark

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1 the plans and specifications showing approval and the date of
2 approval, shall notify the license applicant or license holder in
3 writing of the approval, and shall authorize construction, con-
4 version, alteration, or remodeling of the food establishment.

5 (4) Approval of plans and specifications by the director and
6 authorization for construction pursuant to the food code, this
7 act, and rules promulgated under this act expire if construction,
8 conversion, alteration, or remodeling has not commenced within 1
9 year from the date of approval or has been interrupted for 1 year
10 or more since the date of approval. A license applicant or
11 license holder may apply in writing to the director for an exten-
12 sion of the approval and construction authorization before the
13 approval expires. The request for extension shall identify the
14 project for which the approval and construction authorization
15 were originally granted and the reason for requesting the
16 extension. The director may require modification of the plans
17 and specifications to incorporate updated food sanitation prac-
18 tices or requirements, where applicable, unless the license
19 applicant or license holder has entered into binding agreements
20 or contractual obligations which cannot be canceled or modified
21 without substantial loss to the license applicant or license
22 holder as determined by the director.

23 (5) The approved plans and specifications shall be located
24 on-site during construction and shall be available for inspection
25 by the director.

26 Sec. 6109. The director may attach any condition to an
27 approval of plans and specifications granted under section 6107

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1 that he or she considers necessary to assure proper construction,
2 conversion, alteration, or remodeling of a food establishment or
3 portion of the food establishment.

4 Sec. 6111. (1) A license applicant or license holder shall
5 submit in writing to the director a change in approved plans and
6 specifications. Written approval must be obtained before con-
7 struction under the approved plans and specifications.

8 (2) Upon request of the director, a license applicant or
9 license holder shall submit as-built plans, clearly showing the
10 work as constructed.

11 Sec. 6113. (1) The director may rescind his or her authori-
12 zation for construction, conversion, alteration, or remodeling of
13 a food establishment if he or she determines that the license
14 applicant or license holder is not undertaking construction in
15 accordance with approved plans and specifications. The director
16 shall notify the license applicant or license holder before
17 rescission of construction authorization, advise him or her of
18 required corrective action, and afford him or her the opportunity
19 to take any required corrective action.

20 (2) The director shall order the license applicant or
21 license holder in writing to cease construction, alteration, con-
22 version, or remodeling activities if the applicant or license
23 holder does any of the following:

24 (a) Fails to submit required plans and specifications for
25 the construction, alteration, extensive remodeling, or conversion
26 to use as a food establishment.

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1 (b) Fails to construct, alter, extensively remodel, or
2 convert a food establishment in accordance with plans and
3 specifications approved by the director.

4 (c) Fails to take corrective action as required pursuant to
5 this section.

6 Sec. 6115. (1) After completion of the construction, alter-
7 ation, conversion, or remodeling and before the opening of a food
8 service establishment, the license applicant or license holder
9 shall notify the director of the completion, shall submit an
10 application for a license to operate the food service establish-
11 ment, and shall arrange for a preopening inspection.

12 (2) During the preopening inspection, the director shall
13 determine whether the food establishment was constructed,
14 altered, converted, or remodeled in accordance with the approved
15 plans and specifications.

16 (3) Local health departments may specify when requests for
17 preopening inspections are to be submitted.

18 Sec. 6117. Exhaust ventilation shall be designed, con-
19 structed, and installed in compliance with applicable state law.

20 Sec. 6119. (1) A ventilation balance report shall be pro-
21 vided to the director for all new or remodeled ventilation sys-
22 tems in food service establishments. The ventilation balance
23 report shall agree with the air quantities stipulated on the
24 approved plans and specifications for the installation.

25 (2) The total building exhaust and make-up air, if provided,
26 shall be balanced to within plus or minus 0.02-inch water gauge,
27 according to the approved plans.

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1 Sec. 6121. All cooking equipment and exhaust systems shall
2 be at operating temperature during the ventilation test.

3 Containers of water shall be placed over ignited open flame burn-
4 ers to minimize the jet influence of open burners.

5 Sec. 6123. A smoke test shall be performed to determine
6 reasonable performance of the ventilation system.

7 Sec. 6125. The waste line from ice storage bins and ice
8 machines shall not be directly connected with another waste line
9 and shall be drained through an air gap.

10 Sec. 6127. (1) The owner or operator of a food establish-
11 ment primarily engaged in the retail sale of cold or room temper-
12 ature food for home consumption under this act shall not permit
13 the smoking or burning of tobacco on the premises.

14 (2) A sign indicating that smoking is prohibited in the
15 retail food establishment shall be posted at each public entrance
16 to the facility.

17 (3) An establishment regulated under subsection (1) may have
18 a designated smoking area for employees and the public. A desig-
19 nated employee and public smoking area shall be isolated from the
20 retail food area.

21 (4) An owner or operator who conspicuously posts signs pur-
22 suant to subsection (2) is not liable for a violation of subsec-
23 tion (1).

24 (5) A person, except employees or members of the general
25 public who smoke in a designated smoking area established pursu-
26 ant to subsection (3), shall not smoke or burn tobacco in a
27 retail food establishment regulated under subsection (1). A

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1 person who violates this section is guilty of a misdemeanor
2 punishable by a fine not to exceed \$100.00.

3 Sec. 6129. (1) The completed inspection report shall spec-
4 ify a period of time for correction of noted violations. The
5 license holder shall correct the violations within the time spec-
6 ified in the report.

7 (2) All violations which are marked as critical on the
8 inspection report form shall be corrected immediately unless oth-
9 erwise specified. The director shall conduct a follow-up inspec-
10 tion to confirm corrections.

11 Sec. 6131. (1) Each commissary where mobile units with
12 retention tanks are serviced shall provide for the sanitary dis-
13 posal of liquid waste.

14 (2) The local health department shall approve locations for
15 the sanitary disposal of liquid waste.

16 Sec. 6133. The director may license as a temporary food
17 service establishment a mobile food establishment which does not
18 return to a commissary or service base after 24 hours but contin-
19 ues to operate at a fixed location.

20 Sec. 6135. (1) The name and address of the business operat-
21 ing a mobile food establishment shall be affixed to each side of
22 the exterior of the vehicle in letters not less than 3 inches
23 high and 3/8 of an inch wide and shall be in contrast to the
24 vehicle background color. When more than 1 mobile food service
25 establishment is operated by the same person, the director shall
26 assign a number to each establishment.

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1 (2) A copy of limitations attached to the license of a
2 mobile food service establishment shall be carried on the mobile
3 food service establishment at all times.

4 (3) If a mobile food establishment is operating on a regu-
5 larly scheduled route, the local health department having juris-
6 diction may require the license holder to provide a copy of the
7 route schedule at the time the license is approved and every time
8 the route schedule is changed.

9 (4) A representative of the local health department or the
10 operator in the presence of the representative of the local
11 health department shall affix 2 decals provided by the department
12 on the mobile food establishment at the time the license is
13 issued. The decals shall be conspicuously displayed on each side
14 of the mobile food establishment so as to be visible when in
15 transit and while serving the public.

16 Sec. 6137. (1) To qualify for a special transitory food
17 unit license, an applicant shall allow a review and receive
18 approval of plans and specifications as specified in chapter VI.
19 This review and approval must include the menu and standard oper-
20 ating procedures for the unit.

21 (2) A special transitory food unit license holder shall do
22 all of the following:

23 (a) Keep a copy of the approved standard operating proce-
24 dures in the unit and available for review upon inspection by the
25 director.

26 (b) Operate in compliance with standard operation procedures
27 approved by the director.

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1 (c) Before serving food within the jurisdiction of a local
2 health department, notify the local health department in writing
3 of each location in the jurisdiction at which food will be served
4 and the dates and hours of service. The license holder shall
5 mail the notice by first-class mail or deliver the notice not
6 less than 4 business days before any food is served or prepared
7 for serving within the jurisdiction of the local health
8 department.

9 (d) While in operation, request and receive 2 inspections
10 per licensing year. A local health department and the department
11 shall charge a fee of \$90.00 for such an inspection.

12 (e) Send a copy of all inspections reports to the regulatory
13 authority that approved the license within 30 days after
14 receipt.

15 (2) If a license holder fails to comply with any of the
16 requirements of this section or the food code, the food estab-
17 lishment is ineligible for licensure as a special transitory tem-
18 porary food establishment for the following licensing year and
19 must apply for temporary or other type of food establishment
20 licenses.

21 Sec. 6139. A food service establishment shall not store on
22 the premises or apply to any food prepared in the food service
23 establishment sulfiting agents.

24 Sec. 6141. (1) A food service establishment in which solid
25 foods are sold and consumed on the premises shall prominently
26 display a poster in the kitchen area of the food service
27 establishment diagramming and explaining the antichoking

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1 techniques safe for both adults and children approved by the
2 department for dislodging foreign obstacles caught in the throat
3 of a choking person.

4 (2) This section does not impose a duty upon the owners or
5 employees of a food service establishment to apply antichoking
6 techniques.

7 Sec. 6143. (1) A charitable, religious, fraternal, or other
8 nonprofit organization that prepares or serves wild game in con-
9 nection with its meetings or as part of a fund-raising event or
10 that prepares or serves wild game to indigent persons free of
11 charge is not required to obtain the wild game from a
12 department-approved source.

13 (2) If a charitable, religious, fraternal, or other non-
14 profit organization prepares or serves wild game that is not from
15 a department-approved source in connection with its meetings or a
16 part of a fund-raising event or prepares or serves wild game that
17 is not from a department-approved source to indigent persons free
18 of charge, the organization shall post at the entrance to the
19 dining area a sign bearing the following message: "The wild game
20 served at this facility has not been subject to state or federal
21 inspection." The words of the message shall be written or
22 printed in letters not less than 3/4 of an inch high and 3/4 of
23 an inch wide and readable.

24 Sec. 6145. Notwithstanding section 12909(2) of the public
25 health code, MCL 333.12909, the manufacturing, processing, or
26 freezing of frozen desserts as defined in section 2 of the frozen
27 desserts act of 1968, 1968 PA 298, MCL 288.322, in food service

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1 establishments licensed pursuant to this act, which frozen
2 desserts are intended only for use in the soft form by patrons,
3 guests, patients, or employees, shall comply with the standards
4 of this act and rules promulgated pursuant to this act.

5 Sec. 6147. If a food service establishment is affected by
6 fire, flooding, accidents, explosions, or other disaster that may
7 create an imminent or substantial hazard, all food service opera-
8 tions shall cease. The licensee shall immediately report the
9 disaster to the local health department and request an evaluation
10 of the food service establishment to determine the effect of the
11 disaster on the operation of the establishment.

12 Sec. 6149. (1) To satisfy section 3-603.11 of the food
13 code, the following must be met:

14 (a) A disclosure or reminder, or both, shall be made by
15 effective written means.

16 (b) Disclosure that an item contains raw or undercooked food
17 of animal origin by either or both of the following:

18 (i) Items are described to include the disclosure, such as
19 "oysters on the half shell (raw oysters)", "raw-egg caesar
20 salad", and "hamburgers (can be cooked to order)".

21 (ii) Items are asterisked with a footnote that states the
22 items are served raw or undercooked, contain, or may contain raw
23 or undercooked ingredients.

24 (c) A reminder of the increased risk associated with eating
25 such foods in raw or undercooked form. The reminder is satisfied
26 when items requiring disclosure are asterisked to a footnote that
27 states 1 of the following:

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1 (i) "Regarding the safety of these items, written
2 information is available on request."

3 (ii) "When eating out or cooking at home, thorough cooking
4 of foods of animal origin reduces the risk of foodborne illness.
5 Contact your physician or public health professional for further
6 information."

7 (iii) "Consuming raw or undercooked meats, poultry, seafood,
8 shellfish, or eggs may increase your risk of foodborne
9 illness."

10 (iv) "Consuming raw or undercooked meats, poultry, seafood,
11 shellfish, or eggs may increase your risk of foodborne illness,
12 especially if you have certain medical conditions."

13 (2) As used in this section, "effective written means" means
14 the information is displayed in a manner that is noticeable to be
15 read by an interested person actively seeking this information.
16 It does not include effectiveness in changing behavior, effec-
17 tiveness in educating the target audience, or the effectiveness
18 in being read. For purposes of this section, the opinion of the
19 person in charge on the effectiveness should be presumed to be
20 accurate unless there is a factual reason to believe otherwise.

21 Sec. 6151. (1) Prior to a license holder implementing
22 alternative practices and procedures to section 3-301.11(B) of
23 the food code, the license holder shall do all of the following:

24 (a) Evaluate alternatives to bare-hand contact and determine
25 them to be impractical.

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1 (b) Meet the critical requirements of the food code that are
2 necessary for the implementation of alternatives to section
3 3-301.11(B) of the food code as allowed under this section.

4 (c) Implement a documented food safety training program for
5 all employees having bare-hand contact with ready-to-eat foods.

6 (2) The training program shall include, but not be limited
7 to, the following areas:

8 (a) Proper hand washing practices and procedures including
9 the potential problems that exist with unsanitary hand washing
10 practices.

11 (b) Hygienic food practices and safe food preparation.

12 (c) The importance of not working when ill with any symptoms
13 of food-borne illness.

14 (3) Training described under this section shall be given to
15 new employees and periodic refresher training shall be given to
16 any employee having bare-hand contact with ready-to-eat foods.
17 The license holder shall document the training program.

18 (4) The license holder shall also implement a documented
19 plan to periodically monitor employees to ensure that the prac-
20 tices and procedures established under this section are being
21 followed and list the corrective actions that will be taken if
22 employees are not following the practices and procedures estab-
23 lished under this section.

24 (5) A license holder implementing alternative procedures and
25 practices under this section shall periodically review its opera-
26 tions, verify the effectiveness of the alternative practices and

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1 procedures, and monitor when ready-to-eat foods are handled by
2 its employees.

3 (6) Upon the request of the director, the license holder
4 shall identify any ready-to-eat foods that will be contacted with
5 bare hands, as well as the specific location and method for
6 preparation.

7 (7) Documentation required under subsections (1)(c), (3),
8 and (4) shall be readily available at the retail food establish-
9 ment for use by the person in charge and review by the director.

10 (8) The documentation required under subsections (1)(c),
11 (3), and (4) is not required to be approved by the director prior
12 to implementation of alternatives to section 3-301.11(B) of the
13 food code.

14 (9) The department shall provide guidance to retail food
15 establishments on the documentation of alternatives to
16 section 3-301.11(B) of the food code as required under this
17 section.

18 (10) The department may require the modifications or suspen-
19 sion of existing alternative practices and procedures implemented
20 under this section if the department determines that there is a
21 threat to public health.

22 CHAPTER VII FOOD AND PROCESSING STANDARDS

23 Sec. 7101. Subject to section 1119(3), a food processing
24 plant shall comply with the regulations of the food and drug
25 administration in 21 C.F.R. part 110, except that refrigerated
26 potentially hazardous food shall be stored at 4.4 degrees
27 centigrade (40 degrees Fahrenheit) or below.

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1 Sec. 7103. (1) All thermally processed, low-acid foods that
2 are packaged in hermetically sealed containers shall be processed
3 in a licensed commercial food establishment.

4 (2) All processors of acidified, low-acid foods packaged in
5 hermetically sealed containers shall comply with the regulations
6 of the U.S. food and drug administration in 21 C.F.R. part 114.

7 (3) All thermally processed, low-acid foods that are pack-
8 aged in hermetically sealed containers shall comply with the reg-
9 ulations of the U.S. food and drug administration in 21
10 C.F.R. part 113.

11 (4) Hermetically sealed packages shall be handled to main-
12 tain product and container integrity.

13 Sec. 7105. The requirement that a processor of smoked fish
14 obtain a variance under the smoked fish rules is waived if the
15 processor demonstrates compliance with 21 C.F.R. part 123, the
16 "seafood HACCP plan".

17 Sec. 7107. (1) Bottled water shall be obtained from a water
18 supply approved by the department of environmental quality and in
19 compliance with the safe drinking water act, 1976 PA 399,
20 MCL 325.1001 to 325.1023.

21 (2) A copy of the current sanitary survey report from the
22 department of environmental quality under the safe drinking water
23 act, 1976 PA 399, MCL 325.1001 to 325.1023, and the water sample
24 results required under that act shall shall be available at the
25 bottling plant for the director to demonstrate approval of the
26 source and supply of the water.

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1 (3) Bottled water shall not contain any substance in excess
2 of the maximum contaminant level adopted for drinking water under
3 the safe drinking water act, 1976 PA 399, MCL 325.1001 to
4 325.1023.

5 (4) A water dispensing machine shall be clearly and conspic-
6 uously labeled with the declaration of identity of the product
7 dispensed.

8 Sec. 7109. A person shall not operate a bottled water plant
9 or bottle water for the purpose of sale or distribution in this
10 state without first demonstrating to the department that the
11 source, bottling facility, treatment and bottling practices
12 comply with 21 C.F.R. part 129, and product water meets the
13 requirements of this chapter.

14 Sec. 7111. Packaged food shall comply with standard of
15 identity requirements in 21 C.F.R. parts 131 to 169 and the defi-
16 nitions and standards of identity or composition contained in 9
17 C.F.R. part 319, and the general requirements in 21 C.F.R. part
18 130 and subpart A of 9 C.F.R. part 319 except as modified or
19 rejected by this act or rules promulgated under this act.

20 Sec. 7113. As used in this chapter:

21 (a) "Added fat" means the addition of fat tissue originating
22 from portions consisting of less than 12% muscle tissue in each
23 portion.

24 (b) "Added water or ice" means greater moisture content than
25 normally found in meat.

26 (c) "Artificial coloring" means coloring containing any dye
27 or pigment which was manufactured by a process of synthesis or

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1 other similar artifice or by extraction of a natural dye or
2 pigment from a plant or other material from which the dye or pig-
3 ment was formed.

4 (d) "Artificial flavoring" means any flavoring containing
5 any sapid or aromatic constituent manufactured by synthesis or
6 similar process.

7 (e) "Binders" means food and nonfood substances used as an
8 ingredient in comminuted meats for binding, stabilizing, thicken-
9 ing, or maintaining viscosity of the product.

10 (f) "By-products or variety meats" means hearts, livers,
11 brains, tongues, tripe, stomach, lungs, melts, eyes, weasand
12 meats, head meat, cheek meat, salivary glands, udder, lips, ears,
13 snouts, skin, feet, spleens, slaughterhouse by-products, spinal
14 cords, cracklings or crackling meal, packinghouse by-products,
15 processing plant by-products, partially defatted fatty tissues,
16 and partially defatted chopped meat.

17 (g) "Comminuted" means chopped, diced, flaked, ground, or
18 otherwise reduced to minute particles.

19 (h) "Extenders" means food substances used as an ingredient
20 in comminuted meats primarily for replacement of meat
21 ingredients.

22 (i) "Fat" means the quantity of adipose tissue determined by
23 chemical analysis.

24 (j) "Fresh meat" means meat that has undergone no cooking,
25 heating, or other processing except boning, cutting, comminuting,
26 or freezing.

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1 (k) "Lamb" means meat derived from sheep less than 1 year of
2 age.

3 (l) "Meat" means the edible part of clean, sound striated
4 muscle of cattle, swine, sheep, deer, goat, turkey, or chicken
5 slaughtered in compliance with all applicable laws, with or with-
6 out the accompanying and overlying fat, and sinew, nerve, gland,
7 and blood vessels which normally accompany the muscle tissues and
8 which are not separated from it in the process of dressing.

9 (m) "Skeletal meat" means the meat that is attached to a
10 part of the skeleton including head and cheek meat.

11 (n) "Veal" means meat derived from a calf not more than 1
12 year of age.

13 Sec. 7115. Sausage consists only of skeletal meat either
14 fresh, cured, salted, pickled, or smoked. Sausage may contain
15 the following:

16 (a) Salt or spice, sodium or potassium nitrate, sodium or
17 potassium nitrite, or ascorbic acid that comply with applicable
18 regulations of the United States department of agriculture food
19 safety inspection service or any other curing agents determined
20 appropriate by the department pursuant to rules promulgated under
21 this act. As used in this subdivision, "curing agent" means any
22 substance added to meat to cause or enhance preservation of the
23 meat product.

24 (b) Added edible animal fat from the animals specified, eggs
25 or egg products, chives, tomatoes, parsley, peppers, onions,
26 garlic, celery, seasoning, or other natural flavoring, honey,

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1 syrup, sugar, pure refined dextrose, or subsequent cooking or
2 smoking.

3 (c) Not more than 3-1/2% by weight nonfat dry milk, dry
4 whole milk, or calcium-reduced milk if it is declared in conjunc-
5 tion with the product name.

6 (d) Fruits, vegetables, or nuts, or a combination thereof,
7 if the name of the product is so qualified.

8 (e) The total percentage of moisture in the finished product
9 shall not exceed 4 times the percentage of protein, which shall
10 not be less than 12%. The protein content requirement shall not
11 apply to pork sausage, breakfast sausage, or roasted sausage but
12 the finished product shall contain not more than 50% of fat. To
13 facilitate chopping or mixing, water or ice may be used in
14 uncooked sausage in an amount not to exceed 3% of the total
15 ingredients.

16 (f) Fresh and fresh frozen sausage, smoked and unsmoked dry
17 sausage, may contain butylated hydroxyanisole, butylated hydroxy-
18 toluene or propyl gallate, or a combination of these antioxi-
19 dants, with or without citric acid, in amounts not to exceed
20 specifications established under 9 C.F.R. 318.7 and 9 C.F.R. part
21 319. When such antioxidants are added, the label on the product
22 shall declare the presence of antioxidants in the manner required
23 by the United States department of agriculture meat inspection
24 service.

25 (g) Sausage shall not contain any extenders, artificial fla-
26 vors, artificial color, binders, excess added water or ice, boric
27 acid or borates, sulphites, sulfur dioxide, sulphurous acid, or

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1 any other harmful preservative, by-products, or variety meats.
2 Extenders necessary to produce low fat products may be permitted
3 as described in rules promulgated under this act. No other parts
4 of the animal or any other substance excepting as above specified
5 shall be permitted in sausage.

6 (h) Harmless lactic acid bacterial starters may be used in
7 an amount not to exceed 1/2 of 1%. When used, the harmless bac-
8 terial starter shall be included in the list of ingredients in
9 the order of its predominance.

10 (i) The following products are considered to be sausage,
11 whether processed or inserted in either natural or artificial
12 casings or other containers: wieners, bologna, ring bologna,
13 knackwurst, bratwurst, roasted sausage, breakfast sausage, pork
14 sausage, chicken sausage, turkey sausage, leona, beer salami,
15 cooked salami, polish sausage, minced luncheon, kielbasa, bock-
16 wurst, all varieties of dry or semi-dry sausage, and other meat
17 food products prepared in sausage form and excluding loaves,
18 liver products, headcheese, sulze, blood sausage, potato sausage,
19 kiszka, tongue sausage, and New York or New England pressed
20 luncheon.

21 (j) "Fresh pork sausage", "Polish sausage", "fresh
22 kielbasa", and "fresh country-style sausage" are sausages pre-
23 pared from fresh pork meat.

24 (k) "Italian-style sausage" shall be uncured, unsmoked, and
25 contain at least 85% meat or meat and fat with no more than 35%
26 fat. It may contain red and green pepper, onion, and garlic.
27 Italian sausage shall be prepared from fresh pork meat.

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1 (l) "Fresh beef sausage" is prepared with fresh beef meat
2 and shall not contain more than 30% fat.

3 (m) "Poultry-meat sausage" shall be made from fresh chicken
4 and turkey meat containing the natural proportions of light and
5 dark meat unless otherwise designated. The name shall be identi-
6 fied by the species contained if the product contains all its
7 meat from 1 species. It shall not contain more than 30% fat.

8 (n) "Venison sausage" shall be made from the meat of deer
9 from approved sources. A person shall not offer for sale, sell,
10 or expose for sale any other product described as venison
11 sausage. Fat of another species and approved source may be added
12 to venison sausage.

13 (o) Sausage containing wild game and made on commercial
14 order shall be labeled "not for sale". Wild game from more than
15 1 owner shall not be mixed into sausage unless a licensed proces-
16 sor butchered all the wild game. Processors shall reject any
17 carcass that shows evidence of spoilage or contamination. Wild
18 game and wild-game product and processing times shall be kept
19 separate from other meat and meat processing, including, but not
20 limited to, storage in separate or structurally-partitioned
21 coolers. Food contact surfaces shall be thoroughly washed and
22 sanitized after the processing of wild game and before the
23 resumption of any other processing.

24 Sec. 7117. Hamburger or ground beef consists of fresh beef
25 meat that has been comminuted and shall be identified as either
26 hamburger or ground beef. Hamburger shall not contain more than
27 30% of fat. Ground beef shall meet the same requirements as

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1 hamburger except that it shall not contain more than 20% of fat.
2 Monosodium glutamate may be added if declared. Hamburger may
3 contain added beef fat, but ground beef shall not contain added
4 fat. Ground beef and hamburger shall not contain added water or
5 ice. Only ground beef may be qualified by the name of a particu-
6 lar cut of meat, such as "ground beef round" or "ground beef
7 chuck". If so qualified, it shall consist entirely of meat from
8 the particular meat cut and be certified as that specific cut by
9 a method of certification as the director may establish by rule.
10 Hamburger or ground beef shall not contain by-products or variety
11 meats, binders, extenders, artificial color, vegetable coloring,
12 chemical preservative, boric acid or borates, sulphites, sulfur
13 dioxide, or sulphurous acid. No other parts of the animal or any
14 other substance except as otherwise provided in this subsection
15 is permitted in hamburger or ground beef.

16 Sec. 7119. Other comminuted meat food products, including
17 nonspecific loaves and liver products, headcheese, blood sausage,
18 kiska, tongue sausage, chili con carne with beans, or any other
19 meat food products that may be allowed, shall be produced in com-
20 pliance with applicable regulations of the United States depart-
21 ment of agriculture meat inspection service.

22 Sec. 7121. Chili or chili con carne shall consist of not
23 less than 40% of meat computed on the weight of the fresh meat
24 and shall not contain by-products and variety meats except that
25 head meat, cheek meat, and heart meat, exclusive of the heart
26 cap, may be used to the extent of 25% of the meat ingredients
27 with specific declaration on the label. The mixture may contain

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1 not more than 8%, individually or collectively, of cereal,
2 vegetable starch, vegetable flour, soy flour, soy protein concen-
3 trate, isolated soy protein, dried milk, calcium reduced dry skim
4 milk, nonfat dry milk solids, or seasoning. Chili con carne
5 shall not contain binders, artificial color, vegetable coloring,
6 chemical preservative, boric acid or borates, sulphites, sulfur
7 dioxide, or sulphurous acid. No other parts of the animal are
8 permitted in chili con carne.

9 Sec. 7123. Meat loaf consists of comminuted meat, processed
10 in the form of a loaf, containing not less than 65% meat. Meat
11 loaf mix consists of meat loaf sold in bulk uncooked form. Meat
12 loaf may contain salt, seasoning, sodium or potassium nitrate,
13 ascorbic acid, or the salts thereof, sodium or potassium nitrite,
14 cereal vegetables, vegetable protein, nonfat dry milk solids, soy
15 flour, eggs or egg products, macaroni, cheese, condiments, nuts,
16 fruits, or gelatin. Binders and extenders shall not exceed 12%
17 of the product. To facilitate chopping or mixing, water or ice
18 may be used in an amount not to exceed 3% of the total
19 ingredients. Meat loaf shall not contain by-products of variety
20 meats, artificial flavors or color, vegetable coloring, chemical
21 preservative, boric acid or borates, sulfur dioxide, sulphites,
22 or sulphurous acid. No other substance is permitted in meat loaf
23 or meat loaf mix, except as otherwise provided in this section.

24 Sec. 7125. Ground lamb, chicken, turkey, and veal shall not
25 contain any added water or ice, artificial flavoring, by-products
26 or variety meats, binders, extenders, artificial color, vegetable
27 coloring, or chemical preservatives. No other parts of the

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1 animal or any other substance shall be permitted except as
2 follows:

3 (a) Ground lamb shall consist of comminuted fresh lamb meat,
4 with or without added lamb fat, and shall not contain more than
5 25% fat.

6 (b) Ground chicken shall consist of comminuted fresh chicken
7 meat, with or without added chicken fat, and shall not contain
8 more than 15% fat.

9 (c) Ground turkey shall consist of comminuted fresh turkey
10 meat, with or without added turkey fat, and shall not contain
11 more than 15% fat.

12 (d) Ground veal shall consist of comminuted fresh veal meat,
13 with or without added veal fat, and shall not contain more than
14 20% fat.

15 (e) Ground pork shall consist of comminuted fresh pork with
16 or without the addition of pork fat as such and shall not contain
17 more than 30% fat. Ground pork shall not contain extenders,
18 binders, variety meats, by-products, added water or ice, artifi-
19 cial flavor or color, vegetable coloring, chemical preservative,
20 boric acid or borates, sulphites, sulfur dioxide, or sulphurous
21 acid. No other parts of the animal or any other substance is
22 permitted in ground pork.

23 Sec. 7127. "Meat pattie" is a product prepared in pattie
24 form. "Meat pattie mix" is a product sold in bulk uncooked
25 form. Meat patties and meat pattie mix are a mixture of fresh
26 comminuted meat with or without the addition of fat and
27 seasonings and containing not less than 65% meat. Binders and

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1 extenders may be used up to 12% of the finished product. Meat
2 pattie and meat pattie mix shall not contain artificial color or
3 flavor, by-products or variety meats, added water or ice, or more
4 than 30% fat. Meat patties and meat pattie mix with fruits, veg-
5 etables, nuts, or mushrooms, either as a coating or ingredient,
6 are permitted if labeled and advertised as "meat patties with
7 _____", inserting the common or usual name of the addition.

8 Sec. 7129. (1) If a food is subject to a standard estab-
9 lished under this chapter, it shall be identified by the name
10 required by that standard. If no standard applies, the product
11 shall be identified by its common or usual name. If no common or
12 usual name exists, the product shall be identified by an appro-
13 priately descriptive name that is not misleading and that accu-
14 rately identifies or describes, in as simple and direct terms as
15 possible, the basic nature of the food and its characterizing
16 ingredients or properties. A product manufactured or sold under
17 the provisions of this act, which is sold in closed or sealed
18 packages shall bear a complete label. The label shall bear the
19 true name of the product as defined in this act, an ingredient
20 statement if the product contains more than 1 ingredient, the net
21 weight of the product, and the name and address of the
22 manufacturer.

23 (2) Products sold from bulk retail displays shall bear a
24 sign or placard containing the true and approved name of the
25 product. If the product contains more than 1 ingredient, an
26 ingredient statement shall be placarded, posted, or otherwise
27 available for the customer in written form.

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1 (3) Meat products using antioxidants shall indicate on the
2 label, or in the absence of a label an adjacent placard, their
3 presence and purpose.

4 (4) Meat products containing monosodium glutamate, hydro-
5 lyzed vegetable protein, or any other source of monosodium gluta-
6 mate shall indicate on the label or, in the absence of a label,
7 an adjacent placard in its presence.

8 (5) The meat ingredients in a meat product that specifies 1
9 type of meat in its name, such as ham loaf, pork loaf, veal pat-
10 ties, or turkey sausage, shall be entirely from the species indi-
11 cated in the product name. The meat in a meat product that spec-
12 ifies more than 1 type of meat in its name, such as beef and
13 turkey sausage, shall be entirely from the types indicated, and
14 shall contain at least 20% of each meat. A meat product that
15 contains a type of meat consisting of less than 20% of that meat
16 may be labeled as "(product) _____ added" or "product with
17 _____", inserting the common name of that meat. Sausage labeled
18 or advertised as all meat or all beef shall not contain any
19 nonfat dry milk solids or dry whole milk.

20 (6) All required words and numbers shall be legible to
21 potential customers.

22 Sec. 7131. A person shall not sell or offer for sale a pro-
23 duct that is not manufactured to the ingredient standards of this
24 act unless the federal government legally preempts Michigan's
25 ingredient standards. In that case, federally inspected meats
26 not meeting the ingredient requirements of this act shall be

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1 identified as federally inspected on intact, sealed packaging
2 from the federally inspected location.

3 Sec. 7133. (1) All products manufactured under terms of
4 this chapter may be sold in colored artificial casings or con-
5 tainer only if they are in complete compliance with all applica-
6 ble regulations of the United States department of agriculture.
7 These products shall not be sold in colored natural casings.

8 (2) In addition to the requirements of section 1105(a), any
9 product within the purview of this section shall be considered
10 adulterated if it is the product of an animal which has died oth-
11 erwise than by slaughter.

12 Sec. 7135. (1) Temporary permits granted for interstate
13 shipment of experimental packs of food varying from the require-
14 ments of federal definitions and standards of identity are auto-
15 matically effective in this state under the conditions provided
16 in such permits.

17 (2) The department may issue additional temporary permits
18 where they are necessary to the completion or conclusiveness of
19 an otherwise adequate investigation and where the interests of
20 consumers are safeguarded.

21 (3) Such temporary permits are subject to the terms and con-
22 ditions the department may prescribe by rule.

23 Sec. 7137. Food may not contain unapproved food additives
24 or additives that exceed amounts specified in 21 C.F.R. parts 170
25 to 180 relating to food additives, generally recognized as safe
26 or prior sanctioned substances that exceed amounts specified in
27 21 C.F.R. parts 181 to 186, substances that exceed amounts

1 specified in 9 C.F.R. 318.7, or pesticide residues that exceed
2 provisions specified in 40 C.F.R. part 185.

3 CHAPTER VIII LABELING AND ADVERTISING

4 Sec. 8101. Packaged food shall be labeled as specified in
5 21 C.F.R. part 101, 9 C.F.R. part 317, and subpart N of 9
6 C.F.R. part 381, and as specified under sections 3-202.17 and
7 3-202.18 of the food code.

8 Sec. 8103. (1) All bulk displays of unpackaged food and
9 drink offered for sale at a retail food establishment, including
10 salad bars, which contain a detectable amount of sulfiting agents
11 shall be prominently placarded with a sign which is clearly visi-
12 ble to the customer and which declares either of the following
13 statements:

14 (a) (NAME OF PRODUCT)

15 THIS PRODUCT CONTAINS A SULFITING AGENT. SULFITES MAY CAUSE
16 AN ALLERGIC REACTION IN CERTAIN PERSONS, PARTICULARLY
17 ASTHMATICS.

18 (b) (NAME OF PRODUCT) -----, the blank to be filled in with
19 the name of the sulfiting agent, and if added as a preservative,
20 a separate description of its function.

21 (2) All letters on the sign shall be of the same type style
22 and color, not less than 1/4 inch in height, and of a color in
23 clear contrast to the background. A smaller type size may be
24 permitted if the department determines space is not available for
25 the placard and the largest type size possible is used. If a
26 retail establishment has multiple bins of sulfite-treated food
27 which are segregated, 1 placard listing all of the applicable

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1 products is acceptable if it is placed at approximately eye level
2 over the bins.

3 Sec. 8105. (1) A person shall not do any of the following:

4 (a) Make, publish, disseminate, circulate, or place before
5 the public any advertisement containing any assertion, represen-
6 tation, or statement which is untrue, deceptive, or misleading or
7 falsely represents the kind, classification, grade, or quality of
8 meat.

9 (b) Use any term of quality without using or having for sale
10 the quality of meat advertised or offered for sale.

11 (c) Use the term "USDA" unless the official grade is also
12 designated.

13 (d) Designate or use any brand name of a company unless the
14 meat so advertised or displayed for sale is of a quality which
15 the use or designation of the brand name of such company would
16 reasonably indicate.

17 (2) A person shall not advertise or display for sale any of
18 the following:

19 (a) Any meat of the ovine species that is 2 years old or
20 over as "yearling" or "lamb". Such meat shall be clearly desig-
21 nated "mutton".

22 (b) Any meat described by the use of the words "prime",
23 "choice", or "good" unless such meat advertised for sale actually
24 bears the "USDA" federal stamp designating such grade or is of
25 equal quality as the federal grade would designate.

26 (c) Any ham unless the advertisement or display states
27 whether the ham is skinned or regular.

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1 (d) Any ham portion described by the use of the words
2 "one-half" or "half ham" that has had a center slice removed.

3 (e) Any pork shoulder described as "ham".

4 (f) Any meat or meat product which has been branded or
5 marked as imitation by a manufacturer or processor unless the
6 advertisement or display clearly states that such meat or meat
7 product is an imitation.

8 (3) A person shall not substitute in any sale any inferior
9 or cheaper cut of meat without informing the purchaser that such
10 substitution is being made.

11 (4) A person shall not keep or display any canned meats or
12 canned meat products at a temperature exceeding 6° Centigrade
13 (41° Fahrenheit) if the label of such meats or meat products
14 specifies that they shall be kept under refrigeration.

15 (5) Whenever it becomes necessary for the purposes of this
16 act to procure a sample or samples of meat or meat products, the
17 person in charge of the place where inspection is made must
18 permit the sample or samples to be obtained upon being tendered
19 the advertised or offered price of the item being procured.

20 Sec. 8107. (1) As used in this section:

21 (a) "Date" means the recommended last day of sale.

22 (b) "Perishable food" means any food in package form which
23 the manufacturer, packer, or retailer, in conjunction with the
24 department, determines as having a significant risk of spoilage,
25 loss of value, or loss of palatability within 90 days of the date
26 of packaging.

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1 (c) "Prepackaged" means packaged prior to being displayed or
2 offered for sale.

3 (2) A retail food establishment shall not sell or offer for
4 sale a prepackaged perishable food unless there is clearly and
5 conspicuously stamped upon or attached to the package a date
6 identified by month and day except that bakery products with a
7 shelf life of 7 days or less may be dated with a day of the week
8 or an abbreviation.

9 (3) The date may be displayed with or without explanatory
10 terms. If explanatory terms are used, such terms shall be
11 limited to 1 of the following: "Sell by _____", "Sell before
12 _____", "Last date of sale _____", "Recommended last date of sale
13 _____", or "Recommended sale date _____". Other meaningful terms
14 may be used if specifically approved by the department.

15 (4) This section does not prohibit the sale of food after
16 the date if the product is wholesome and sound and is clearly
17 identified as having passed the date.

18 (5) The retail or final seller is responsible for the proper
19 advertisement of perishable food sold after the date.

20 (6) A person who prepackages perishable food shall do all of
21 the following:

22 (a) Establish a meaningful date that takes into considera-
23 tion the food quality and characteristics of the food, its pack-
24 aging, and customary conditions encountered in commercial
25 channels.

26 (b) Allow a reasonable period after the date for consumption
27 of the food without physical spoilage.

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1 (c) Keep a record of the method of determination of the
2 date.

3 (7) A retailer who purchases prepackaged perishable food
4 may, upon written agreement with the person prepackaging such
5 food, determine, identify, and be responsible for the date placed
6 on, or attached to, each package of such food.

7 (8) The date shall not be altered. A person shall not
8 rewrap or repackage a perishable food, in its original form and
9 texture, with a date on the package different from the original.

10 (9) The date shall be calculated to allow a reasonable
11 period for the subsequent consumption of the food, but shall not
12 allow for a period which would result in a health nuisance as
13 described in section 2107.

14 (10) This section does not apply to fresh fruits and vegeta-
15 bles, canned food, and frozen food, nor to milk and milk products
16 dated in accordance with section 1 of the fluid milk act of 1965,
17 1965 PA 233, MCL 288.21.

18 (11) The requirements of this section do not apply to any of
19 the following:

20 (a) An individually packaged food item that is a component
21 of a larger food item if the larger food item is identified with
22 a date the same as or earlier than the date of that component.

23 (b) Perishable foods packaged under, and in compliance with,
24 federal laws and regulations, if providing information equal to
25 or greater than the information required by this section.

26 (c) Smoked fish under the smoked fish rules.

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1 Sec. 8109. All products that are sold or otherwise
2 distributed from a manufacturing, processing, packing, or
3 repacking activity shall be marked with a meaningful, visible,
4 and legible code to enable positive lot identification and to
5 facilitate, where necessary, the segregation of specific lots
6 that may have become contaminated or are otherwise unfit for
7 their intended use. Invisible coding is not considered meaning-
8 ful coding. The coding format shall be provided to the depart-
9 ment upon request. Coding records shall be retained for a period
10 of time that exceeds the shelf life of the product or for 2
11 years, whichever is shorter.

12 Sec. 8111. (1) A person shall not manufacture for sale,
13 offer or expose for sale, sell or deliver, or have in his or her
14 possession with intent to sell or deliver, any vinegar not in
15 compliance with the provisions of this chapter.

16 (2) The word "vinegar" as used in this section is limited to
17 a water solution of acetic acid derived by the alcoholic and sub-
18 sequent acetous fermentation of fruits, grain, vegetables, sugar,
19 or syrups and if not distilled must carry in solution the extrac-
20 tive matter derived solely from the substances indicated on the
21 label as its source.

22 (3) Vinegar shall not be sold or offered for sale as apple
23 or cider vinegar which is not the legitimate product of pure
24 apple juice. The term "cider vinegar" or "apple cider vinegar"
25 as used in this section means vinegar derived by the alcoholic
26 and subsequent acetous fermentation of the expressed juice of
27 apples, the acidity, solids, and ash of which have been derived

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1 exclusively from apples and which contains not less than 4% of
2 absolute acetic acid. Cider vinegar which, during the course of
3 manufacture, has developed in excess of 4% acetic acid may be
4 reduced to a strength of not less than 4%, and cider vinegar so
5 reduced is not regarded as adulterated.

6 (4) Every manufacturer or producer of cider vinegar shall
7 plainly label on the head of the cask, barrel, keg, or other con-
8 tainer of such vinegar, his or her name, place of business, and
9 the words "cider vinegar" or "apple cider vinegar". A person
10 shall not mark or label as cider vinegar or apple cider vinegar
11 any package containing that which is not cider vinegar. Any vin-
12 egar sold or offered for sale shall be marked or labeled plainly
13 upon the package or container from which it is sold and also on
14 the original package or container in which it is sold or deliv-
15 ered, in a manner that shows its true character and source.

16 (5) Vinegar sold or offered for sale as sugar vinegar shall
17 be strictly and distinctly fermented from sucrose, molasses,
18 refiner's syrup, or nutritive carbohydrate sweetener.

19 (6) Vinegar sold or offered for sale as malt vinegar shall
20 be strictly and distinctly fermented from malted barley, cereals,
21 or a concentrate of malted barley or cereals, which has been
22 enzymatically converted by the malting process.

23 (7) Vinegar shall not be sold or offered for sale in which
24 foreign substances, other than substances permitted under this
25 act, drugs, or acids have been introduced. Vinegar shall not
26 contain any artificial color except as permitted under this act.
27 Vinegar shall contain not less than 4 grams of acetic acid per

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1 100 cubic centimeters at 20° Centigrade. If vinegar contains any
2 artificial substance, except as permitted under this act, or con-
3 tains less than the required amount of acidity, it shall be con-
4 sidered to be adulterated.

5 (8) Vinegar made by fermentation and oxidation of the juice
6 of grapes or the acetous fermentation of wine, without the inter-
7 vention of distillation, shall be labeled with the name of the
8 fruit or substance from which the vinegar has been made.

9 (9) Vinegar made by acetous fermentation of dilute distilled
10 ethyl alcohol shall be labeled "distilled vinegar", "white dis-
11 tilled vinegar", "distilled white vinegar", or "white vinegar".
12 Vinegar, except flavored vinegar and blended vinegar, made in
13 part from distilled vinegar shall be conspicuously labeled
14 "distilled vinegar" and shall have the component vinegars
15 declared in the ingredient statement.

16 (10) Flavored vinegar shall be labeled "_____ flavored
17 vinegar". The space shall be filled in with the name of the
18 characteristic flavor. All of the words in the name shall appear
19 on a background of contrasting color. The flavor name shall be
20 in letters at least 1/2 the size of the letters in the word
21 "vinegar". The word "flavored" shall be in letters at least 1/2
22 the size of the letters in the flavor name.

23 (11) Blended vinegar shall be labeled "blended vinegar" or
24 "_____ vinegar", the blank to be filled in with a name which
25 accurately describes the nature or function of the vinegar. All
26 of the words in the name shall be in letters on a background of
27 contrasting color.

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1 (12) As used in this section:

2 (a) "Blended vinegar" means the acetous fermentation of a
3 blend of raw materials or a blend of 2 or more of the vinegars
4 defined in this chapter but not including apple cider vinegar.

5 (b) "Flavored vinegar" means vinegar to which garlic, shallots,
6 chili, tarragon, herbs, or spices, or the extract of any of
7 those substances, is added to impart a characteristic flavor.