

HOUSE BILL No. 4194

February 1, 2007, Introduced by Reps. Gonzales, Clack, Polidori, Bieda, Hammon, Cushingberry, Kathleen Law, Ball, Valentine, Bennett, Rick Jones, Hopgood, Leland and Johnson and referred to the Committee on Health Policy.

A bill to amend 2000 PA 92, entitled "Food law of 2000," by amending section 1105 (MCL 289.1105) and by adding section 6150.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1105. As used in this act:

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

4 (i) It bears or contains any poisonous or deleterious substance
5 that may render it injurious to health except that, if the
6 substance is not an added substance, the food is not considered
7 adulterated if the quantity of that substance in the food does not
8 ordinarily render it injurious to health.

9 (ii) It bears or contains any added poisonous or added
10 deleterious substance, other than a substance that is a pesticide

1 chemical in or on a raw agricultural commodity; a food additive; or
2 a color additive considered unsafe within the meaning of
3 subparagraph (v).

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

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

20 (v) Any added poisonous or deleterious substance, any food
21 additive, and pesticide chemical in or on a raw agricultural
22 commodity, or any color additive is considered unsafe for the
23 purpose of application of this definition, unless there is in
24 effect a federal regulation or exemption from regulation under the
25 federal act, meat inspection act, poultry product inspection act,
26 or other federal acts, or a rule adopted under this act limiting
27 the quantity of the substance, and the use or intended use of the

1 substance, and the use or intended use of the substance conforms to
2 the terms prescribed by the rule.

3 (vi) It is or contains a new animal drug or conversion product
4 of a new animal drug that is unsafe within the meaning of section
5 512 of the federal act, 21 ~~U.S.C.~~ **USC** 512.

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

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

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

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

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

26 (xii) It is confectionery and has partially or completely
27 imbedded in it any nonnutritive object except in the case of any

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

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

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

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

27 (b) "Advertisement" means a representation disseminated in any

1 manner or by any means, other than by labeling, for the purpose of
2 inducing, or which is likely to induce, directly or indirectly, the
3 purchase of food.

4 (C) "ARTIFICIAL TRANS FAT" MEANS AN UNSATURATED FAT OR FATTY
5 ACID THAT IS PRODUCED BY THE PARTIAL HYDROGENATION OF PLANT OILS
6 AND THAT CONTAINS 1 OR MORE INSTANCES OF ATOMS BONDED IN A TRANS
7 CONFIGURATION.

8 (D) ~~(e)~~ "Bed and breakfast" means a private residence that
9 offers sleeping accommodations to transient tenants in 14 or fewer
10 rooms for rent, is the innkeeper's residence in which the innkeeper
11 resides while renting the rooms to transient tenants, and serves
12 breakfasts at no extra cost to its transient tenants. A bed and
13 breakfast is not considered a food service establishment if exempt
14 under section ~~1107 (l) (iii) or (iv)~~ 1107 (K) (iii) OR (iv) .

15 (E) ~~(d)~~ "Color additive" means a dye, pigment, or other
16 substance made by process of synthesis or similar artifice or
17 extracted, isolated, or otherwise derived, with or without
18 intermediate or final change of identity from a vegetable, animal,
19 mineral, or other source, or when added or applied to a food or any
20 part of a food is capable alone or through reaction with other
21 substance of imparting color to the food. Color additive does not
22 include any material that is exempt or hereafter is exempted under
23 the federal act. This subdivision does not apply to any pesticide
24 chemical, soil or plant nutrient, or other agricultural chemical
25 solely because of its effect in aiding, retarding, or otherwise
26 affecting, directly or indirectly, the growth of other natural
27 physiological process of produce of the soil and thereby affecting

1 its color, whether before or after harvest. Color includes black,
2 white, and intermediate grays.

3 (F) ~~(e)~~—"Contaminated with filth" means contamination
4 applicable to any food not securely protected from dust, dirt, and,
5 as far as may be necessary by all reasonable means, from all
6 foreign or injurious contaminations.

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

11 (H) ~~(g)~~—"Critical violation" or "critical item" means a
12 violation of the food code that the director determines is more
13 likely than other violations to contribute to food contamination,
14 illness to humans, or environmental health hazard.

15 **SEC. 6150. (1) THE DEPARTMENT SHALL DEVELOP THE TEXT FOR A**
16 **WARNING TO CONSUMERS REGARDING FOODS CONTAINING ARTIFICIAL TRANS**
17 **FATS AND SHALL MAKE THIS WARNING AVAILABLE ON ITS WEBSITE, NOT**
18 **LATER THAN JULY 1, 2007, TO FOOD SERVICE ESTABLISHMENTS.**

19 **(2) BEGINNING OCTOBER 1, 2007, FOOD SERVICE ESTABLISHMENTS**
20 **THAT OFFER FOR SALE FOOD CONTAINING ARTIFICIAL TRANS FAT SHALL**
21 **INDICATE WHICH FOODS CONTAIN ARTIFICIAL TRANS FAT AND SHALL INCLUDE**
22 **A WARNING IN SUBSTANTIAL COMPLIANCE WITH THE WARNING DEVELOPED BY**
23 **THE DEPARTMENT ON MENUS AND TABLE TENTS. THE TEXT FOR THE WARNING**
24 **SHALL MEET THE FOLLOWING REQUIREMENTS:**

25 **(A) THE TEXT SIZE FOR HANDHELD MENUS OR TABLE TENTS SHALL BE**
26 **VISUALLY EQUIVALENT TO AT LEAST 11-POINT FONT SIZE OR MAY BE**
27 **VISUALLY EQUIVALENT TO THE FONT SIZE OF MENU ITEM DESCRIPTIONS.**

1 (B) TEXT COLOR SHALL PROVIDE A CLEAR CONTRAST TO THE
2 BACKGROUND.