

HOUSE BILL No. 4195

February 1, 2007, Introduced by Reps. Gonzales, Clack, Polidori, Bieda, Hammon, 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 6140.

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

1 deleterious substance, other than a substance that is a pesticide
2 chemical in or on a raw agricultural commodity; a food additive; or
3 a color additive considered unsafe within the meaning of
4 subparagraph (v).

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

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

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

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

4 (vi) It is or contains a new animal drug or conversion product
5 of a new animal drug that is unsafe within the meaning of section
6 512 of the federal act, 21 ~~U.S.C.~~ **USC** 512.

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

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

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

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

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

27 (xii) It is confectionery and has partially or completely

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

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

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

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

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

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

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

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

1 physiological process of produce of the soil and thereby affecting
2 its color, whether before or after harvest. Color includes black,
3 white, and intermediate grays.

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

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

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

16 SEC. 6140. (1) SUBJECT TO THE EFFECTIVE DATES CONTAINED IN
17 THIS SUBSECTION, A FOOD SERVICE ESTABLISHMENT THAT IS OWNED OR
18 FRANCHISED BY A PERSON HAVING 20 OR MORE LOCATIONS IN THIS STATE
19 SHALL NOT STORE, DISTRIBUTE, HOLD FOR SERVICE, USE IN THE
20 PREPARATION OF ANY MENU ITEM, OR SERVE ANY FOOD CONTAINING
21 ARTIFICIAL TRANS FAT. THE PROHIBITION CONTAINED IN THIS SECTION
22 DOES NOT APPLY TO FOOD THAT IS BEING SERVED DIRECTLY TO CONSUMERS
23 IN A MANUFACTURER'S ORIGINAL SEALED PACKAGE. A FOOD SERVICE
24 ESTABLISHMENT SHALL COMPLY WITH THE FOLLOWING EFFECTIVE DATES
25 RELATIVE TO THE PROVISIONS OF THIS SECTION:

26 (A) JULY 1, 2007, REGARDING OILS, SHORTENINGS, AND MARGARINES
27 CONTAINING ARTIFICIAL TRANS FATS THAT ARE USED IN FRYING OR IN

1 SPREADS.

2 (B) JULY 1, 2008, REGARDING OILS OR SHORTENINGS USED FOR DEEP
3 FRYING OF YEAST DOUGH OR CAKE BATTER AND ALL OTHER FOODS CONTAINING
4 ARTIFICIAL TRANS FATS.

5 (2) A FOOD IS CONSIDERED TO CONTAIN ARTIFICIAL TRANS FAT IF IT
6 IS LABELED AS, LISTS AS AN INGREDIENT, OR HAS VEGETABLE SHORTENING,
7 MARGARINE, OR ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL,
8 EXCEPT THAT A FOOD WHOSE NUTRITION FACTS LABEL OR OTHER
9 DOCUMENTATION FROM THE MANUFACTURER LISTS THE ARTIFICIAL TRANS FAT
10 CONTENT AS LESS THAN 0.5 GRAMS PER SERVING IS NOT CONSIDERED TO
11 CONTAIN ARTIFICIAL TRANS FAT.

12 (3) SUBJECT TO SUBSECTION (4), A FOOD SERVICE ESTABLISHMENT
13 THAT IS OWNED OR FRANCHISED BY A PERSON HAVING 20 OR MORE LOCATIONS
14 IN THIS STATE SHALL MAINTAIN ON-SITE ORIGINAL FOOD LABELS FOR ALL
15 OF THE FOLLOWING:

16 (A) FOOD THAT IS OR CONTAINS FATS, OILS, OR SHORTENING.

17 (B) FOOD THAT, WHEN PURCHASED BY THAT FOOD SERVICE
18 ESTABLISHMENT, IS REQUIRED BY STATE OR FEDERAL LAW TO HAVE LABELS
19 DISCLOSING THE PRESENCE OF ARTIFICIAL TRANS FAT.

20 (C) FOOD THAT IS CURRENTLY BEING STORED, DISTRIBUTED, HELD FOR
21 SERVICE, OR USED IN PREPARATION OF ANY MENU ITEMS OR SERVED BY THE
22 FOOD SERVICE ESTABLISHMENT.

23 (4) THE FOOD SERVICE ESTABLISHMENT THAT IS OWNED OR FRANCHISED
24 BY A PERSON HAVING 20 OR MORE LOCATIONS IN THIS STATE MAY MAINTAIN,
25 INSTEAD OF THE ORIGINAL LABELS, DOCUMENTATION GENERATED BY THE
26 MANUFACTURERS AND ACCEPTABLE TO THE DEPARTMENT THAT INDICATES
27 WHETHER FOOD OR FOOD PRODUCTS CONTAIN VEGETABLE SHORTENING,

1 MARGARINE, OR ANY KIND OF PARTIALLY HYDROGENATED VEGETABLE OIL, OR
2 INDICATING THE ARTIFICIAL TRANS FAT CONTENT.

3 (5) THE FOOD SERVICE ESTABLISHMENT THAT IS OWNED OR FRANCHISED
4 BY A PERSON HAVING 20 OR MORE LOCATIONS IN THIS STATE SHALL OBTAIN
5 AND MAINTAIN, REGARDING BAKED GOODS OR OTHER FOOD PRODUCTS THAT ARE
6 NOT REQUIRED TO BE LABELED BY STATE OR FEDERAL LAW, DOCUMENTATION
7 GENERATED BY THE MANUFACTURERS AND ACCEPTABLE TO THE DEPARTMENT
8 THAT INDICATES WHETHER FOOD OR FOOD PRODUCTS CONTAIN VEGETABLE
9 SHORTENING, MARGARINE, OR ANY KIND OF PARTIALLY HYDROGENATED
10 VEGETABLE OIL, OR INDICATING THE ARTIFICIAL TRANS FAT CONTENT.