

Legislative Analysis



EXEMPT MOREL MUSHROOMS FROM FOOD LAW

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<http://www.house.mi.gov/hfa>

House Bill 5532 as enrolled

Sponsor: Rep. Triston Cole

House Committee: Agriculture

Senate Committee: Agriculture

Complete to 3-22-19

Analysis available at

<http://www.legislature.mi.gov>

(Vetoed by the Governor 1/5/17)

BRIEF SUMMARY: The bill would exempt morel mushrooms from a requirement in the state Food Law that mushroom species picked in the wild must be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

FISCAL IMPACT: The bill does not appear to have a direct or material fiscal impact on state or local government.

THE APPARENT PROBLEM:

According to the bill sponsor's testimony, the certification required to sell mushrooms is unnecessary for morel mushrooms because they are unique and easily identified. The sponsor also took issue with the \$175 fee associated with becoming certified to sell wild mushrooms, saying it was an unnecessary burden for individuals who sell morels, many of whom have sold this variety of mushroom for years with no issues.

THE CONTENT OF THE BILL:

Section 6101 of The Food Law incorporates by reference, with certain exceptions, Chapters 1 to 8 of the Food Code, a model system of food regulation published every four years by the U.S. Public Health Service, Food and Drug Administration (FDA). The specific exceptions to the national Food Code in state law are found in Section 6101 of the Food Law.

Although the FDA has issued a 2013 edition of the national Food Code, the state Food Law currently references the 2009 Food Code. With respect to the sale of wild mushrooms, the 2009 Food Code (Sec. 3-201.16) states that mushroom species picked in the wild must be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

House Bill 5532 would add language exempting morel mushrooms from this provision in the state Food Law.

The 2009 Food Code makes two exceptions to the general provision about mushrooms; Subsection B indicates that the section does not apply to:

- (1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation.
- (2) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

For Michigan, the food regulatory agency is the Department of Agriculture and Rural Development (MDARD).

BACKGROUND INFORMATION:

As stated above, the 2009 Food Code, which is the version adopted by reference in the current Food Law, is not the newest version of the code. The 2013 version of the Food Code contains different language regarding wild mushrooms. Rather than requiring that mushroom species picked in the wild be obtained from approved mushroom identification experts and individually inspected, the 2013 Food Code says that mushroom species picked in the wild cannot be offered for sale or service by a food establishment unless that food establishment has been approved to do so. The same exemptions contained in the 2009 Code also apply in the 2013 version.

ARGUMENTS:

For:

As noted above, supporters of the legislation feel the current requirement of obtaining a certificate, which is valid for five years, at a cost of \$175, is burdensome and harmful to the tourism industry, especially in areas known to be bountiful in morel mushrooms. Proponents further argue that morel mushrooms are easily identified, that chefs who purchase these mushrooms will know if they are buying the real thing, and that, therefore, no additional certification is necessary.

Against:

Critics of the bill say that if an individual is selling morel mushrooms for profit, the cost of a certificate is not a burden, given that morel mushrooms can sell for as much as \$50 per pound. Opponents have also noted that a variety of mushroom commonly known as the false morel is very similar in appearance to actual morel mushrooms and that, unless a knowledgeable chef is inspecting each mushroom during preparation, false morels may be used in meals, causing potential ill effects.

Vetoed 1-5-17:

In his veto message, Governor Snyder cited an increase in poisonings related to morel mushrooms in Michigan despite their regulation in the Food Law. The certification course for pickers of wild mushrooms was developed in response to such concerns. "It is important that wild mushrooms entering our food supply meet the same high safety standards as other products and ingredients," he wrote.

Governor Snyder further noted that the bill, by using the common name "morel" rather than indicating a species by scientific name, could have the unintended effect of exempting even more mushrooms from the certification process.

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