

# SENATE BILL No. 774

February 9, 2016, Introduced by Senators HUNE, ROBERTSON, SMITH, BRANDENBURG, KNEZEK, KNOLLENBERG, SCHMIDT, EMMONS, SHIRKEY, HILDENBRAND, PROOS, O'BRIEN, JOHNSON, MACGREGOR, JONES, SCHUITMAKER and HANSEN and referred to the Committee on Agriculture.

A bill to amend 2000 PA 92, entitled  
"Food law,"  
by amending sections 2111, 3115, 3123, 4116, and 6115 (MCL  
289.2111, 289.3115, 289.3123, 289.4116, and 289.6115), section 2111  
as amended by 2015 PA 61, section 3115 as amended by 2015 PA 142,  
section 3123 as amended by 2007 PA 113, and sections 4116 and 6115  
as amended by 2007 PA 114.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2111. (1) The director shall have free access at  
2       reasonable hours to any food establishment, **OTHER THAN A VENDING**  
3       **MACHINE LOCATION**, including a vehicle used to transport or hold  
4       food, for the purpose of evaluating that food establishment or  
5       vehicle to determine if this act or rules promulgated under this  
6       act are being violated. The director may secure samples of any

1 food, after paying or offering to pay for the samples, to determine  
2 if this act or rules promulgated under this act are being violated.

3 (2) The director may examine the records of the food  
4 establishment, **OTHER THAN A VENDING MACHINE LOCATION**, to obtain  
5 pertinent information about food, supplies, and equipment  
6 purchased, received, or used by, or persons employed by, the food  
7 establishment or location.

8 (3) The director may take photographs or copy records as part  
9 of an evaluation. If a food establishment identifies by written  
10 document or mark that a certain area or record contains visible  
11 trade secrets, the director shall identify any photographs of that  
12 area or copies of that record as being confidential and shall  
13 diligently protect the confidentiality.

14 Sec. 3115. (1) A local health department shall promptly review  
15 a license application for a food service establishment, including,  
16 but not limited to, a vending machine location, to determine if the  
17 application is complete and accurate. A local health department may  
18 return an incomplete or inaccurate application to a license  
19 applicant and request any additional information it considers  
20 necessary to ~~assure~~ **ENSURE** completeness or accuracy of the  
21 application.

22 (2) Subject to subsection (3), after a local health department  
23 determines that an application under subsection (1) is proper,  
24 complete, and accurate, it shall inspect the proposed or existing  
25 food service establishment, ~~including, but not limited to,~~ **OTHER**  
26 **THAN** a vending machine location, to determine compliance with this  
27 act.

(3) If a temporary food establishment will serve only low-risk food, instead of conducting an inspection under subsection (2), a local health department, based on a public health risk assessment, may conduct an in-office consultation, including food safety education, and operational review of the proposed temporary food establishment with the license applicant. The person in charge of the temporary food establishment must be present during the in-office consultation. A local health department that conducts an in-office consultation under this subsection may also conduct an inspection under subsection (2).

(4) A local health department shall conduct an inspection under subsection (2) or an in-office consultation under subsection (3), as applicable, before it makes its recommendation to the department on the issuance of a license **FOR A FOOD ESTABLISHMENT OTHER THAN A VENDING MACHINE LOCATION.**

(5) A local health department shall forward to the department its recommendation for license approval or approval with limitation.

Sec. 3123. (1) ~~A-**THE DIRECTOR SHALL PERFORM A**~~ compliance evaluation of each food service establishment, ~~shall be performed by the director~~ **OTHER THAN A VENDING MACHINE LOCATION**, at least once every 6 months or as required by a statewide department approved risk-based schedule. ~~Risk-based schedules shall be developed~~ **THE DEPARTMENT SHALL DEVELOP RISK-BASED SCHEDULES** in consultation with local health departments.

(2) A food service establishment, ~~which~~ **OTHER THAN A VENDING MACHINE LOCATION, THAT** operates for 9 or fewer months each year

1 shall be inspected at least once during the period of operation by  
2 the director or as prescribed in the department's risk-based  
3 schedule.

4 Sec. 4116. (1) ~~Beginning the effective date of the amendatory~~  
5 ~~act that added this subsection and notwithstanding~~ **NOTWITHSTANDING**  
6 any other provision of this act, the department shall issue an  
7 initial license not later than 90 days after the applicant files a  
8 completed application and shall issue a renewal license not later  
9 than 120 days after the applicant files a completed application.  
10 Receipt of the application is considered the date the application  
11 is received by any agency or department of ~~the state of Michigan.~~  
12 **THIS STATE.** If the application is considered incomplete by the  
13 department, the department shall notify the applicant in writing,  
14 or make the information electronically available, within 30 days  
15 after receipt of the incomplete application, describing the  
16 deficiency and requesting the additional information. The period  
17 regarding license issuance and renewal is tolled upon notification  
18 by the department of a deficiency until the date the requested  
19 information is received by the department. The determination of the  
20 completeness of an application does not operate as an approval of  
21 the application for the license and does not confer eligibility  
22 upon an applicant determined otherwise ineligible for issuance of a  
23 license.

24 (2) If the department fails to issue or deny a license within  
25 the time required by this section to an establishment that is  
26 otherwise ready to operate and is prevented from operating, the  
27 department shall return the license fee and shall reduce the

1 license fee for the applicant's next renewal application, if any,  
2 by 15%. The failure to issue a license within the time required  
3 under this section does not allow the department to otherwise delay  
4 the processing of the application, and that application, upon  
5 completion, shall be placed in sequence with other completed  
6 applications received at that same time. The department shall not  
7 discriminate against an applicant in the processing of the  
8 application based upon the fact that the license fee was refunded  
9 or discounted under this subsection.

10 (3) ~~Beginning October 1, 2005, the~~ **THE** director of the  
11 department shall submit a report by December 1 of each year to the  
12 standing committees and appropriations subcommittees of the senate  
13 and house of representatives concerned with agricultural and food  
14 issues. The director shall include all of the following information  
15 in the report concerning the preceding fiscal year:

16 (a) The number of initial and renewal applications the  
17 department received and completed within the appropriate time  
18 period described in subsection (1).

19 (b) The number of applications denied.

20 (c) The number of applicants not issued a license within the  
21 appropriate time period and the amount of money returned to  
22 licensees ~~and registrants~~ under subsection (2).

23 (4) As used in this section, "completed application" means an  
24 application complete on its face and submitted with any applicable  
25 licensing fees as well as any other information, records, approval,  
26 security, or similar item required by law or rule from a local unit  
27 of government, a federal agency, or a private entity but not from

1 another department or agency of ~~the state of Michigan.~~ **THIS STATE.**

2 In the case of an initial application, completed application  
3 includes the completion of construction or renovation of any  
4 facility and, **EXCEPT FOR A VENDING MACHINE LOCATION**, the passing of  
5 a satisfactory evaluation.

6       Sec. 6115. (1) After completion of the construction,  
7 alteration, conversion, or remodeling and before the opening of a  
8 food 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  
11 establishment, and, **EXCEPT FOR A VENDING MACHINE LOCATION**, shall  
12 arrange for a preopening evaluation.

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

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

19       Enacting section 1. This amendatory act takes effect 90 days  
20 after the date it is enacted into law.