

HOUSE BILL NO. 5024

September 20, 2023, Introduced by Rep. Farhat and referred to the Committee on Agriculture.

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 1111 and 4102 (MCL 289.1111 and 289.4102),
section 1111 as amended by 2018 PA 92 and section 4102 as amended
by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1111. As used in this act:
- 2 (a) "Raw agricultural commodity" means any food in its raw or
- 3 natural state including fruits that are washed, colored, or

1 otherwise treated in their unpeeled natural form before marketing.

2 (b) "Regulatory authority" means the department, the local
3 health department, or the authorized representative having
4 jurisdiction over the food establishment.

5 (c) "Retail food establishment" means an operation that sells
6 or offers to sell food directly to a consumer. Retail food
7 establishment includes both a retail grocery and a food service
8 establishment, but does not include a food processor.

9 (d) "Retail grocery" means an operation that sells or offers
10 to sell food to consumers for off-premises consumption. Food for
11 off-premises consumption does not include take-out food intended
12 for immediate consumption.

13 (e) "Rules" means ~~administrative~~ rules promulgated under this
14 act ~~pursuant to~~ **in accordance with** the administrative procedures
15 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

16 (f) "Shellfish dealer" means an interstate wholesaler handling
17 shellfish.

18 (g) "Shellfish dealer certification" means the issuance of a
19 numbered certificate to a person indicating that the person is in
20 compliance with the requirements of the guide for the control of
21 molluscan shellfish and ~~that the person~~ has permission from the
22 department to conduct 1 or more of the following shellfish
23 activities, as defined in the guide for the control of molluscan
24 shellfish:

25 (i) Shellstock shipper.

26 (ii) Shucker packer.

27 (iii) Repacker or reshipper.

28 (h) "Smoked fish rules" means R 285.569.1 to R 285.569.19 of
29 the Michigan Administrative Code.

1 (i) "Special transitory food unit" means a temporary food
2 establishment that is licensed to operate throughout ~~the~~**this** state
3 without the 14-day limits or a mobile food establishment that is
4 not required to return to a commissary.

5 (j) "Staple foods" does not include accessory foods such as
6 coffee, tea, cocoa, soda, noncarbonated drinks such as sports
7 drinks, punches, and flavored waters, candy, condiments, spices,
8 hot foods, or foods ready to go or made to take out, such as
9 prepared sandwiches or salads.

10 (k) "Sulfiting agents" means any of the following:

11 (i) Sulfur dioxide.

12 (ii) Sodium sulfite.

13 (iii) Sodium bisulfite.

14 (iv) Potassium bisulfite.

15 (v) Sodium metabisulfite.

16 (vi) Potassium metabisulfite.

17 (l) "Temporary food establishment" means a food establishment
18 that operates at a fixed location for a temporary period not to
19 exceed 14 consecutive days.

20 (m) "Temporary license" means a written authorization issued
21 by the director to operate for a specified limited time period.

22 (n) **"Third-party food delivery platform" means a company or**
23 **website, mobile application, or other internet service that offers**
24 **or arranges for the sale and same-day pickup and delivery of**
25 **prepared food from a food service establishment.**

26 (o) ~~(n)~~—"Transient tenant" means ~~a person~~**an individual** who
27 rents a room in a bed and breakfast for fewer than 30 consecutive
28 days.

29 (p) ~~(o)~~—"Trimming" means removing leaves, roots, and other

1 extraneous materials in preparation for grading, sorting, and sale
 2 as a whole fruit or vegetable. Trimming does not remove the peel or
 3 core and does not further cut the whole fruit or vegetable.

4 (q) ~~(p)~~—"U.S. standards for shell eggs" means "United States
 5 Standards, Grades, and Weight Classes for Shell Eggs", AMS 56 (July
 6 20, 2000), United States Department of Agriculture.

7 (r) ~~(q)~~—"Vending company base location" means a vending
 8 machine location or other food establishment required to be
 9 separately licensed under section 4105(5).

10 (s) ~~(r)~~—"Vending machine" means a self-service device that,
 11 ~~upon insertion of~~ **after inserting** a coin, paper currency, token,
 12 card, or key, or by manual operation, dispenses ~~a unit servings~~
 13 **servings** of food in bulk or in ~~packages~~ **a package** without the
 14 necessity of replenishing the device between each vending
 15 operation. Vending machine does not include any of the following:

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

19 (ii) A ~~water-dispensing~~ **water dispensing** machine that is
 20 registered under ~~chapter IV.~~ **section 4115.**

21 (t) ~~(s)~~—"Vending machine location" means the room, enclosure,
 22 space, or area in which 1 or more vending machines are installed
 23 and operated, or a micro market.

24 (u) ~~(t)~~—"Wholesale" means selling other than directly to
 25 consumers.

26 (v) ~~(u)~~—"Wild game" means animals from their natural state and
 27 not cultivated, domesticated, or tamed.

28 Sec. 4102. (1) A cottage food operation is exempt from the
 29 licensing and evaluation provisions of this act. This exemption

1 does not include an exemption from the adulteration and other
2 standards imposed in this section or under this act, or both, and
3 does not limit the ability of the department to take appropriate
4 enforcement action for applicable violations as described in
5 section 5101. This subsection does not require a cottage food
6 operation to meet the standards contained in 21 CFR part 110 or the
7 food code.

8 (2) Cottage food products ~~shall~~**must** be prepackaged and
9 properly labeled ~~prior to~~**before** sale.

10 (3) ~~At a minimum,~~**Except as otherwise provided in subsection**
11 **(9)**, a cottage food operation shall place on the label of any food
12 it produces or packages the following information:

13 (a) ~~The~~**One of the following:**

14 (i) **The** name and address of the business of the cottage food
15 operation.

16 (ii) **The name, telephone number, and registration number issued**
17 **under subsection (8) of the business of the cottage food operation.**

18 (b) The name of the cottage food product.

19 (c) The ingredients of the cottage food product, in descending
20 order of predominance by weight.

21 (d) The net weight or net volume of the cottage food product.

22 (e) Allergen labeling as specified by federal labeling
23 requirements.

24 (f) If any nutritional claim is made, appropriate labeling as
25 specified by federal labeling requirements.

26 (g) The following statement printed in at least the equivalent
27 of 11-point font size in a color that provides a clear contrast to
28 the background: "Made in a home kitchen that has not been inspected
29 by the Michigan department of agriculture and rural development."

1 (4) ~~Cottage~~ **Except as otherwise provided in this subsection, a**
2 **cottage** food ~~products may~~ **product must** be sold directly from the
3 cottage food operation to the consumer. ~~only, and not by internet~~
4 ~~or mail order.~~ Sales by consignment or at wholesale are prohibited.
5 **A cottage food product may be sold by internet or mail order or may**
6 **be delivered to a consumer through a third-party food delivery**
7 **platform if the cottage food operation provides an opportunity for**
8 **a consumer to directly interact with the cottage food operation**
9 **before the cottage food product is sold. A cottage food product**
10 **sold by internet or mail order or delivered through a third-party**
11 **food delivery platform must be sold or delivered only to a consumer**
12 **in this state. As used in this subsection:**

13 (a) "Directly interact with" includes either a face-to-face
14 meeting or a virtual meeting.

15 (b) "Virtual meeting" includes, but is not limited to, a
16 meeting in which communication occurs electronically in a manner
17 that permits 2-way communications so that participants can see or
18 be seen and hear or be heard by all parties to the communication.

19 (5) ~~The gross sales of cottage food products by a cottage food~~
20 ~~operation shall not exceed \$20,000.00 annually until December 31,~~
21 ~~2017. After December 31, 2017, the~~ **The** gross sales of cottage food
22 products by a cottage food operation ~~shall~~ **must** not exceed
23 ~~\$25,000.00~~ **\$43,000.00** annually **until January 1, 2024. After January**
24 **1, 2024, the department shall annually adjust the gross sales**
25 **amount in this subsection by the percentage by which the Detroit**
26 **Consumer Price Index exceeds or is less than the Detroit Consumer**
27 **Price Index for the preceding calendar year. For the purposes of**
28 **this subsection, gross sales shall** **must** be computed on the basis of
29 the amount of gross sales within or at a particular domestic

1 residence and ~~shall~~**must** not be computed on a per-person basis
2 within or at that domestic residence. The department may request,
3 in writing, documentation to verify the annual gross sales figure.
4 **As used in this subsection, "Detroit Consumer Price Index" means**
5 **the most comprehensive index of consumer prices available for the**
6 **Detroit area from the United States Department of Labor, Bureau of**
7 **Labor Statistics.**

8 (6) Cottage food products ~~shall~~**must** be stored only in the
9 primary domestic residence.

10 (7) An exemption under this section does not affect the
11 application of any other state or federal laws or any applicable
12 ordinances enacted by any local unit of government.

13 (8) **If the MSU Product Center administers a registration**
14 **program for cottage food operations, the records of which must be**
15 **available to the department on request, a cottage food operation**
16 **may register with the MSU Product Center. The MSU Product Center**
17 **may do both of the following:**

18 (a) Issue a document that evidences the granting of a
19 registration and contains an identifying number unique to a cottage
20 food operation.

21 (b) Collect a 1-time registration fee of not more than \$50.00
22 to administer the registration program.

23 (9) A cottage food operation that registers with the MSU
24 Product Center under subsection (8) shall include on the label
25 described under subsection (3) the registration number issued to
26 the cottage food operation, if applicable. A cottage food operation
27 that does not register with the MSU Product Center under subsection
28 (8) shall include on the label described in subsection (3) the name
29 and address of the cottage food operation.

1 (10) Information obtained under subsection (8) is exempt from
2 disclosure under the freedom of information act, 1976 PA 442, MCL
3 15.231 to 15.246.