

HOUSE BILL No. 4025

January 25, 2001, Introduced by Reps. Kolb, Woodward, Lipsey, Zelenko, McConico and Williams and referred to the Committee on Commerce.

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

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 sub-
5 stance 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
8 not 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
11 chemical in or on a raw agricultural commodity; a food additive;

1 or a color additive considered unsafe within the meaning of
2 subparagraph (v).

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

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

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

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

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

6 (vii) It consists in whole or in part of a diseased, contam-
7 inated, filthy, putrid, or decomposed substance or it is other-
8 wise unfit for food.

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

13 (ix) It is the product of a diseased animal or an animal
14 that has died other than by slaughter or that has been fed
15 uncooked 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 substi-
21 tuted wholly or in part for the food; damage or inferiority has
22 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
5 of 1% by volume derived solely from the use of flavoring
6 extracts; or it bears or contains any nonnutritive substance
7 except a nonnutritive substance such as harmless coloring, harm-
8 less flavoring, harmless resinous glaze not in excess of 4/10 of
9 1%, harmless natural wax not in excess of 4/10 of 1%, harmless
10 natural gum and pectin or to any chewing gum by reason of its
11 containing harmless nonnutritive masticatory substances which is
12 in or on confectionery by reason of its use for some practical
13 functional purpose in the manufacture, packaging, or storage of
14 such 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 applica-
18 tion of this subdivision, the director may issue rules allowing
19 or 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,
23 unless the use of the radiation was in conformity with a rule or
24 exemption under this act or a regulation or exemption under the
25 federal act.

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

1 (xvi) IT IS GENETICALLY MODIFIED FOOD OR COMES FROM A
2 GENETICALLY MODIFIED ORGANISM WITHOUT BEING CLEARLY LABELED AS
3 SUCH IN A MANNER ACCEPTABLE TO THE DEPARTMENT. AS USED IN THIS
4 SUBPARAGRAPH, "GENETICALLY MODIFIED FOOD" MEANS A FOOD THAT IS
5 DERIVED FROM A GENETICALLY MODIFIED ORGANISM OR FROM A PLANT OR
6 ANIMAL FED OR TREATED WITH MATERIALS FROM A GENETICALLY MODIFIED
7 ORGANISM. GENETICALLY MODIFIED FOOD INCLUDES A FOOD PRODUCT CON-
8 TAINING AN INGREDIENT FROM A GENETICALLY MODIFIED ORGANISM OR A
9 PLANT OR ANIMAL FED OR TREATED WITH MATERIALS FROM A GENETICALLY
10 MODIFIED ORGANISM; AND "GENETICALLY MODIFIED ORGANISM" MEANS AN
11 ORGANISM WHOSE GENOME HAS BEEN ALTERED USING CELLULAR AND MOLECU-
12 LAR METHODS FOR GENETIC MODIFICATION THAT IS NOT TRADITIONALLY
13 USED TO SELECT BENEFICIAL GENETIC TRAITS.

14 (b) "Advertisement" means a representation disseminated in
15 any manner or by any means, other than by labeling, for the pur-
16 pose of inducing, or which is likely to induce, directly or indi-
17 rectly, the purchase of food.

18 (c) "Bed and breakfast" means a private residence that
19 offers sleeping accommodations to transient tenants in 14 or
20 fewer rooms for rent, is the innkeeper's residence in which the
21 innkeeper resides while renting the rooms to transient tenants,
22 and serves breakfasts at no extra cost to its transient tenants.
23 A bed and breakfast is not considered a food service establish-
24 ment if exempt under section 1107 (1)(iii) or (iv).

25 (d) "Color additive" means a dye, pigment, or other sub-
26 stance made by process of synthesis or similar artifice or
27 extracted, isolated, or otherwise derived, with or without

1 intermediate or final change of identity from a vegetable,
2 animal, mineral, or other source, or when added or applied to a
3 food or any part of a food is capable alone or through reaction
4 with other substance of imparting color to the food. Color addi-
5 tive does not include any material that is exempt or hereafter is
6 exempted under the federal act. This subdivision does not apply
7 to any pesticide chemical, soil or plant nutrient, or other agri-
8 cultural chemical solely because of its effect in aiding, retard-
9 ing, or otherwise affecting, directly or indirectly, the growth
10 of other natural physiological process of produce of the soil and
11 thereby affecting its color, whether before or after harvest.
12 Color includes black, white, and intermediate grays.

13 (e) "Contaminated with filth" means contamination applicable
14 to any food not securely protected from dust, dirt, and, as far
15 as may be necessary by all reasonable means, from all foreign or
16 injurious contaminations.

17 (f) "Continental breakfast" means the serving of only
18 non-potentially-hazardous food such as a roll, pastry or dough-
19 nut, fruit juice, or hot beverage, but may also include individ-
20 ual portions of milk and other items incidental to those foods.

21 (g) "Critical violation" or "critical item" means a viola-
22 tion of the food code that the director determines is more likely
23 than other violations to contribute to food contamination, ill-
24 ness to humans, or environmental health hazard.