

Act No. 112
Public Acts of 2010
Approved by the Governor
July 12, 2010
Filed with the Secretary of State
July 12, 2010
EFFECTIVE DATE: July 12, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Proos, Marleau, McMillin, Caul, Opsommer, Calley, Lori, Pearce, Ball, Green, Booher, Walsh, Crawford, Stamas, Hansen, Rocca, Schuitmaker, Meekhof, Elsenheimer, Hildenbrand, Denby, Lund, Pavlov, Wayne Schmidt, Kurtz, Tyler, Clemente, Genetski, Bolger, Kowall, Sheltroun, Mayes, Moss and Horn

ENROLLED HOUSE BILL No. 5280

AN ACT to amend 2000 PA 92, entitled “An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts,” by amending section 4101 (MCL 289.4101), as amended by 2007 PA 113, and by adding section 4102.

The People of the State of Michigan enact:

Sec. 4101. (1) Except as provided in sections 4102 and 4105, a person shall not operate a food establishment unless licensed by the department as a food establishment.

(2) Separate areas for food service or preparation located in 1 building and actively operated under 1 management are considered to be 1 food establishment and only 1 license is required. The director may require separate licenses for these areas if managed separately even though under the same owner.

(3) Except as otherwise provided in this act, a city, county, or other local unit of government shall not adopt or enforce licensing ordinances or regulations for persons regulated under this act.

Sec. 4102. (1) A cottage food operation is exempt from the licensing and evaluation provisions of this act. This exemption does not include an exemption from the adulteration and other standards imposed in this section or under this act, or both, and does not limit the ability of the department to take appropriate enforcement action for applicable violations as described in section 5101. This subsection does not require a cottage food operation to meet the standards contained in 21 CFR 110 or the 2005 federal food code, or both.

(2) Cottage food products shall be prepackaged and properly labeled prior to sale.

(3) At a minimum, a cottage food operation shall place on the label of any food it produces or packages the following information:

- (a) The name and address of the business of the cottage food operation.
- (b) The name of the cottage food product.
- (c) The ingredients of the cottage food product, in descending order of predominance by weight.
- (d) The net weight or net volume of the cottage food product.
- (e) Allergen labeling as specified by federal labeling requirements.
- (f) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements.

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

(4) Cottage food products may be sold directly from the cottage food operation to the consumer only, and not by internet or mail order. Sales by consignment or at wholesale are prohibited.

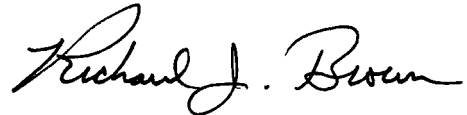
(5) The gross sales of cottage food products shall not exceed \$15,000.00 annually. The determination of the \$15,000.00 annual gross sales shall be computed on the basis of the amount of gross sales within or at a particular domestic residence and shall not be computed on a per-person basis within or at that domestic residence. The department may request in writing documentation to verify the annual gross sales figure.

(6) Cottage food products shall be stored only in the primary domestic residence.

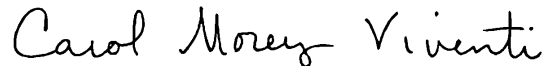
(7) An exemption under this section does not affect the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5837 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 5837, referred to in enacting section 1, was filed with the Secretary of State July 12, 2010, and became 2010 PA 113, Imd. Eff. July 12, 2010.