

# HOUSE BILL No. 5065

October 5, 2017, Introduced by Reps. Yaroch, Durhal, Howrylak, McCready, Dianda, Peterson, Cochran, Santana, Singh, Robinson, Rabhi, Hertel, Neeley, Phelps, Gay-Dagnogo, Allor, Wittenberg, Brinks, Greig, Lasinski, Love, Crawford, Faris, Inman, Hoadley, Camilleri, Clemente, Elder, LaGrand, LaFave, Barrett and LaSata and referred to the Committee on Appropriations.

A bill to amend 2000 PA 92, entitled  
"Food law,"  
by amending section 1107 (MCL 289.1107), as amended by 2016 PA 188.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1107. As used in this act:

2       (a) "Department" means the department of agriculture and rural  
3       development.

4       (b) "Director" means the director of the department or his or  
5       her designee.

6       (c) "Domestic residence" means a single-family dwelling or an  
7       area within a rental unit where a single person or family actually  
8       resides. Domestic residence does not include either of the  
9       following:

1           (i) A group or communal residential setting within any type of  
2 structure.

3           (ii) An outbuilding, shed, barn, or other similar structure.

4           (d) "Egg" does not include a balut, which is an embryo inside  
5 a fertile egg that has been incubated for a period sufficient for  
6 the embryo to reach a specific stage of development after which it  
7 is removed from incubation before hatching.

8           (e) "Evaluation" means a food safety audit, inspection, or  
9 food safety and sanitation assessment, whether announced or  
10 unannounced, that identifies violations or verifies compliance with  
11 this act and determines the degree of active control by food  
12 establishment operators over foodborne illness risk factors.

13           (f) "Extended retail food establishment" means a retail  
14 grocery that does both of the following:

15           (i) Serves or provides an unpackaged food for immediate  
16 consumption.

17           (ii) Provides customer seating in the food service area.

18           (g) "Fair" means a fair or exhibition operated and managed  
19 under 1929 PA 11, MCL 46.151 to 46.153, or held by an agricultural  
20 or horticultural society under 1855 PA 80, MCL 453.231 to 453.240.

21           (h) "Fair concession" means a food concession, storage,  
22 preparation, or dispensing operation at a state or county fair.

23           (i) "Farmers' market" means a public and recurring assembly of  
24 farmers or their representatives selling directly to consumers food  
25 and products that the farmers have produced themselves. In  
26 addition, the market may include a variety of other vendors as  
27 determined by market management.

1 (j) "Federal act" means the federal food, drug, and cosmetic  
2 act, chapter 675, 52 Stat. 1040, 21 USC 301 to 399d, as in effect  
3 on October 1, 2012.

4 (k) "Festival" means an event, staged by a local community or  
5 local organization, that centers on and celebrates a certain aspect  
6 of that community or organization. Festival includes, but is not  
7 limited to, a fair, art show, chili cook-off, car show, hot air  
8 balloon festival, religious festival, drama festival, or cultural  
9 festival.

10 (l) "First receiver" means a person who receives eggs from a  
11 producer at any place of business and candles, grades, sorts,  
12 packs, or packages the eggs.

13 (m) "Food" means articles used for food or drink for humans or  
14 other animals, chewing gum, and articles used for components of any  
15 such article.

16 (n) "Food additive" means any substance, the intended use of  
17 which, directly or indirectly, results in or may be reasonably  
18 expected to result in its becoming a component or otherwise  
19 affecting the characteristics of any food if that substance is not  
20 generally recognized among experts as having been adequately shown  
21 through scientific procedures to be safe under the conditions of  
22 its intended use. Food additive includes any substance intended for  
23 use in producing, manufacturing, packing, processing, preparing,  
24 treating, packaging, transporting, or holding food and includes any  
25 source of radiation intended for any use. Food additive does not  
26 include any of the following:

27 (i) A pesticide chemical in or on a raw agricultural

1 commodity.

2 (ii) A pesticide chemical to the extent that it is intended  
3 for use or is used in the production, storage, or transportation of  
4 any raw agricultural commodity.

5 (iii) A color additive.

6 (iv) Any substance used in accordance with a sanction or  
7 approval granted before the enactment of the food additives  
8 amendment of 1958, Public Law 85-929, ~~pursuant to~~ **UNDER** the federal  
9 act, the poultry products inspection act, 21 USC 451 to 472, or the  
10 federal meat inspection act, 21 USC 601 to 683.

11 (o) "Food code" means "Food Code, 2009 Recommendations of the  
12 United States Public Health Service Food and Drug Administration",  
13 which regulates the design, construction, management, and operation  
14 of certain food establishments.

15 (p) "Food establishment" means an operation where food is  
16 processed, packed, canned, preserved, frozen, fabricated, stored,  
17 prepared, served, vended, sold, or offered for sale. Food  
18 establishment includes, but is not limited to, a food processor, a  
19 food warehouse, a food service establishment, a vending machine  
20 location, and a retail grocery. Food establishment does not include  
21 any of the following:

22 (i) A charitable, religious, fraternal, or other nonprofit  
23 organization operating a home-prepared baked goods sale or serving  
24 only home-prepared food in connection with its meetings or as part  
25 of a fund-raising event.

26 (ii) An inpatient food operation located in a health facility  
27 or agency subject to licensure under article 17 of the public

1 health code, MCL 333.20101 to 333.22260.

2 (iii) ~~A~~**SUBJECT TO SECTION 80 OF THE CORRECTIONS CODE OF 1953,**  
3 **1953 PA 232, MCL 791.280, A** food operation located in a prison,  
4 jail, state mental health institute, boarding house, fraternity or  
5 sorority house, convent, or other facility ~~where~~**IF** the facility is  
6 the primary residence for the occupants and the food operation is  
7 limited to serving meals to the occupants as part of their living  
8 arrangement.

9 (q) "Food processor" means a food establishment that  
10 processes, manufactures, wholesales, packages, labels, or stores  
11 food. Food processor does not include a maple syrup producer.  
12 Processing is an act, such as canning, freezing, dehydrating,  
13 drying, distilling, extracting, preserving, grinding, crushing,  
14 milling, washing, trimming, packing, or otherwise preserving or  
15 changing the form of a food.

16 (r) "Food safety and sanitation assessment" means judging or  
17 assessing specific food handling activities, events, conditions, or  
18 management systems to determine their potential effectiveness in  
19 controlling risks for foodborne illness and their compliance with  
20 this act, accompanied by a report of findings.

21 (s) "Food safety audit" means the methodical examination and  
22 review of records, food sources, food handling procedures, and  
23 facility cleaning and sanitation practices for compliance with this  
24 act, accompanied by a report of findings. Food safety audit  
25 includes checking or testing, or both, of observable practices and  
26 procedures to determine compliance with standards contained in or  
27 adopted by this act, accompanied by a report of findings.

1           (t) "Food service establishment" means a fixed or mobile  
2 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,  
3 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail  
4 lounge, nightclub, drive-in, industrial feeding establishment,  
5 private organization serving the public, rental hall, catering  
6 kitchen, delicatessen, theater, commissary, food concession, or  
7 similar place in which food or drink is prepared for direct  
8 consumption through service on the premises or elsewhere, and any  
9 other eating or drinking establishment or operation where food is  
10 served or provided for the public. Food service establishment does  
11 not include any of the following:

12           (i) A motel that serves continental breakfasts only.

13           (ii) A bed and breakfast that has 10 or fewer sleeping rooms  
14 for rent.

15           (iii) A bed and breakfast that has more than 10 sleeping rooms  
16 for rent, if the bed and breakfast serves continental breakfasts  
17 only.

18           (iv) A child care organization regulated under 1973 PA 116,  
19 MCL 722.111 to 722.128, unless the establishment is carrying out an  
20 operation considered by the director to be a food service  
21 establishment.

22           (v) A vending machine location. However, if a food service  
23 establishment operates a vending machine location on the same  
24 premises, the vending machine location is considered part of the  
25 food service establishment.

26           (u) "Food warehouse" means a food establishment that stores or  
27 distributes food for wholesale.

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

3           Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5066 (request no.  
5 03743'17) of the 99th Legislature is enacted into law.