

HOUSE BILL NO. 6427

October 11, 2022, Introduced by Rep. Weiss and referred to the Committee on Regulatory Reform.

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 1105 and 6101 (MCL 289.1105 and 289.6101),
section 1105 as amended by 2014 PA 516 and section 6101 as amended
by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1105. (1) As used in this act:
2 (a) "Adulterated" means ~~food to which~~ any of the following
3 ~~apply~~: **as applied to food:**
4 (i) It bears or contains ~~any~~ **an added** poisonous or **added**

1 deleterious substance that may render it injurious to health unless
2 ~~the substance is not an added substance and~~ the quantity of that
3 substance in the food does not ordinarily render it injurious to
4 health.

5 (ii) It bears or contains any added poisonous or added
6 deleterious substance, other than a substance that is a pesticide
7 chemical in or on a raw agricultural commodity, ~~;~~ a food additive,
8 ~~;~~ or a color additive considered unsafe within the meaning of
9 subsection (2).

10 (iii) It is a raw agricultural commodity that bears or contains
11 a pesticide chemical considered unsafe within the meaning of
12 subsection (2).

13 (iv) It bears or contains any food additive considered unsafe
14 within the meaning of subsection (2). However, if a pesticide
15 chemical has been used in or on a raw agricultural commodity in
16 conformity with an exemption granted or limitation prescribed under
17 subsection (2) and the raw agricultural commodity ~~has been~~ **is**
18 subjected to processing, the residue of that pesticide chemical
19 remaining in or on that processed food is, notwithstanding the
20 provisions of subsection (2) and this subdivision, not considered
21 unsafe if that residue in or on the raw agricultural commodity ~~has~~
22 ~~been~~ **is** removed to the extent possible in good manufacturing
23 practice and if the concentration of that residue in the processed
24 food when ready to eat is not greater than the tolerance prescribed
25 for the raw agricultural commodity.

26 (v) It is or contains a new animal drug or conversion product
27 of a new animal drug that is unsafe within the meaning of section
28 ~~360b~~ **512** of the federal act, 21 USC 360b.

29 (vi) It consists in whole or in part of a diseased,

1 contaminated, filthy, putrid, or decomposed substance or it is
2 otherwise unfit for food.

3 (vii) It has been produced, prepared, packed, or held under
4 unsanitary conditions ~~in which it~~ **and** may have become contaminated
5 with filth or ~~in which it may have been~~ rendered diseased,
6 unwholesome, or injurious to health.

7 (viii) It is the product of a diseased animal or ~~an~~ animal that
8 has died other than by slaughter or ~~that~~ has been fed uncooked
9 garbage or uncooked offal from a slaughterhouse.

10 (ix) Its container is composed, in whole or in part, of any
11 poisonous or deleterious substance that may render the contents
12 injurious to health.

13 (x) A valuable constituent ~~has been~~ **is** in whole or in part
14 omitted or abstracted from the food; a substance ~~has been~~ **is**
15 substituted wholly or in part for the food; damage or inferiority
16 ~~has been~~ **is** concealed in any manner; or a substance has been added
17 to, ~~the food or~~ mixed **with**, or packed with the food ~~so as to~~
18 increase its bulk or weight, reduce its quality or strength, or
19 make it appear better or of greater value than it is.

20 (xi) It is confectionery and ~~has~~ **is** partially or completely
21 imbedded ~~in it any~~ **with a** nonnutritive object except if, as
22 provided by rules, the object is of practical functional value to
23 the confectionery product and would not render the product
24 injurious or hazardous to health; it is confectionery and bears or
25 contains any alcohol other than alcohol not in excess of ~~1/2 of 1%~~
26 **0.5%** by volume derived solely from the use of flavoring extracts;
27 or it is confectionery and bears or contains ~~any a~~ nonnutritive
28 substance except a nonnutritive substance such as harmless
29 coloring, harmless flavoring, harmless resinous glaze not in excess

1 of ~~4/10 of 1%,~~ **0.4%**, harmless natural wax not in excess of ~~4/10 of~~
2 ~~1%,~~ **0.4%**, harmless natural gum and pectin or any chewing gum by
3 reason of its containing harmless nonnutritive masticatory
4 substances which is in or on the confectionery by reason of its use
5 for some practical functional purpose in the manufacture,
6 packaging, or storage of such confectionery if the use of the
7 substance does not promote deception of the consumer or otherwise
8 result in adulteration or misbranding in violation of this act. For
9 the purpose of avoiding or resolving uncertainty as to the
10 application of this subdivision, the director may issue rules
11 allowing or prohibiting the use of particular nonnutritive
12 substances.

13 (xii) It is, ~~or bears,~~ or contains any color additive that is
14 unsafe within the meaning of subsection (2).

15 (xiii) It ~~has been~~ **is** intentionally subjected to radiation,
16 unless the use of the radiation ~~was~~ **is** in conformity with a rule or
17 exemption under this act or a regulation or exemption under the
18 federal act.

19 (xiv) It is bottled water that contains a substance at a level
20 higher than allowed under this act.

21 (b) "Advertisement" means a representation disseminated in any
22 manner or by any means, other than by labeling, for the purpose of
23 inducing, or which is likely to induce, directly or indirectly, the
24 purchase of food.

25 (c) "Agricultural use operation" means a maple syrup
26 production facility or similar food establishment that finishes a
27 raw commodity and is integral to the agricultural production of,
28 and is located at, a farm. An agricultural use operation is not
29 considered a food processor or retail processing operation for

1 purposes of personal or real property but must meet those same
 2 standards and licensing requirements ~~as prescribed in~~ **under** this
 3 act.

4 (d) "Bed and breakfast" means a private residence that offers
 5 sleeping accommodations to transient tenants in 14 or fewer rooms
 6 for rent, is the innkeeper's residence ~~in which~~ **where** the innkeeper
 7 resides while renting the rooms to transient tenants, and serves
 8 breakfasts, or other meals in the case of a bed and breakfast
 9 described in section 1107(t) (ii), at no extra cost to its transient
 10 tenants. A bed and breakfast is not a food service establishment if
 11 exempt under section 1107(t) (ii) or (iii).

12 (e) **"Brewpub" means that term as defined in section 105 of the**
 13 **Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.**

14 (f) ~~(e)~~—"Color additive" means a dye, pigment, or other
 15 substance that is made by a process of synthesis or similar
 16 artifice or is extracted, isolated, or otherwise derived, with or
 17 without intermediate or final change of identity from a vegetable,
 18 animal, mineral, or other source, or when added or applied to a
 19 food or any part of a food is capable alone or through reaction
 20 with other substances of imparting color to the food. Color
 21 additive does not include any material that is exempt or hereafter
 22 is exempted under the federal act. This subdivision does not apply
 23 to any pesticide chemical, soil or plant nutrient, or other
 24 agricultural chemical solely because of its effect in aiding,
 25 retarding, or otherwise affecting, directly or indirectly, the
 26 growth of other natural physiological process of produce of the
 27 soil and thereby affecting its color, whether before or after
 28 harvest. Color includes black, white, and intermediate grays.

29 (g) ~~(f)~~—"Consumer" means an individual who is a member of the

1 public ~~that~~ takes possession of food, ~~is~~**does** not ~~functioning~~
 2 **function** in the capacity of an operator of a food establishment or
 3 food processor, and does not offer the food for resale.

4 (h) ~~(g)~~—"Contaminated with filth" means contaminated as a
 5 result of not being securely protected from dust, dirt, and, as far
 6 as may be necessary by all reasonable means, from all foreign or
 7 injurious ~~contaminations~~**contaminants**.

8 (i) ~~(h)~~—"Continental breakfast" means the serving of only non-
 9 potentially-hazardous food such as a roll, pastry or doughnut,
 10 fruit juice, or hot beverage, but may also include individual
 11 portions of milk and other items incidental to those foods.

12 (j) ~~(i)~~—"Core item" means a provision in the food code that is
 13 not designated as a priority item or a priority foundation item.
 14 Core item includes ~~both~~**any** of the following:

15 (i) ~~(A)~~—An item that usually relates to general sanitation,
 16 operational controls, sanitation standard operating procedures
 17 (SSOPs), facilities or structures, equipment design, or general
 18 maintenance.

19 (ii) ~~(B)~~—The requirements of ~~section~~**sections** 2129(2) and
 20 6152(1).

21 (iii) **The requirements of section 6101(1)(d).**

22 (k) ~~(j)~~—"Cottage food operation" means ~~a person~~**an individual**
 23 who produces or packages cottage food products only in a kitchen of
 24 that ~~person's~~**individual's** primary domestic residence within this
 25 state.

26 (l) ~~(k)~~—"Cottage food product" means a food that is not
 27 potentially hazardous food as that term is defined in the food
 28 code. ~~Examples of cottage~~**Cottage** food product ~~include,~~**includes,**
 29 but ~~are~~**is** not limited to, jams, jellies, dried fruit, candy,

1 cereal, granola, dry mixes, vinegar, dried herbs, and baked goods
2 that do not require temperature control for safety. Cottage food
3 product does not include any **of the following**:

4 (i) Any potentially hazardous food regulated under 21 CFR parts
5 113 and 114, ~~examples of which include, including,~~ but are not
6 limited to, meat and poultry products, ~~÷~~salsa, ~~÷~~milk products, ~~÷~~
7 bottled water and other beverages, ~~÷~~and home-produced ice
8 products. ~~Cottage food product also does not include canned~~

9 (ii) Canned low-acid fruits or acidified vegetables. ~~and other~~

10 (iii) Other canned foods except for jams, jellies, and preserves
11 as **those terms are** defined in 21 CFR part 150.

12 (2) Any added poisonous or deleterious substance, food
13 additive, pesticide chemical in or on a raw agricultural commodity,
14 or color additive is considered unsafe for the purpose of
15 subsection (1) (a), unless there is in effect a federal regulation
16 or exemption from regulation under the federal act, the federal
17 meat inspection act, 21 USC 601 to 683, the poultry products
18 inspection act, 21 USC 451 to 472, or another federal statute, or a
19 rule limiting the quantity of the substance, and the use or
20 intended use of the substance, and the use or intended use of the
21 substance conforms to the terms prescribed by the federal
22 regulation or exemption or the rule.

23 Sec. 6101. (1) Chapters 1 through 8 of the food code are
24 incorporated by reference except as amended and modified as
25 follows:

26 (a) Where provisions of this act and rules specify different
27 requirements.

28 (b) Section 3-401.14 is modified to read as follows:

29 "3-401.14 Non-Continuous Cooking of Raw Animal Foods.

1 Raw animal foods that are cooked using a non-continuous
2 cooking process shall be:

3 (A) Subject to an initial heating process that is no longer
4 than 60 minutes in duration;^P

5 (B) Immediately after initial heating, cooled according to the
6 time and temperature parameters specified for cooked potentially
7 hazardous food (time/temperature control for safety food) under
8 paragraph 3-501.14(A);^P

9 (C) After cooling, held frozen or cold, as specified for
10 potentially hazardous food (time/temperature control for safety
11 food) under paragraph 3-501.16(A) (2);^P

12 (D) ~~Prior to~~**Before** sale or service, cooked using a process
13 that heats all parts of the food to a time/temperature specified in
14 paragraph 3-401.11(A);^P

15 (E) Cooled according to the time and temperature parameters
16 specified for cooked potentially hazardous food (time/temperature
17 control for safety food) under paragraph 3-501.14(A) if not either
18 hot held as specified under paragraph 3-501.16(A), served
19 immediately, or held using time as a public health control as
20 specified under section 3-501.19 after complete cooking;^P and

21 (F) Stored as follows:

22 (1) After initial heating but ~~prior to~~**before** cooking as
23 specified under paragraph (D) of this section, separate from ready-
24 to-eat foods as specified under paragraph 3-302.11;^{Pf} and

25 (2) After initial heating, but ~~prior to~~**before** complete
26 cooking, marked or otherwise identified as foods that must be
27 cooked as specified under paragraph (D) of this section ~~prior to~~
28 **before** being offered for sale or service.^{Pf} The food may be
29 identified in any effective manner provided that the marking system

1 is disclosed to the regulatory authority upon request."

2 (c) Section 2-103.11(L) is modified to read as follows:

3 "Employees are properly trained in food safety as it relates
4 to their assigned duties;^{PF} and".

5 (d) Section 6-501.115(B) is modified by the addition of
6 subparagraph (6) that reads as follows:

7 "(6) A dog that is controlled by a customer in a brewpub if
8 all of the following apply:

9 (a) The brewpub does not serve food.

10 (b) A health or safety hazard will not result from the
11 presence or activities of the dog.

12 (c) All of the following requirements are met:

13 (i) The brewpub is maintained free of visible dog hair, dog
14 dander, and other dog-related waste and debris. The brewpub is
15 cleaned and disinfected appropriately as needed.

16 (ii) Surfaces contaminated by the waste created from a dog's
17 bodily functions are immediately cleaned and disinfected.

18 (iii) Equipment used to clean and that comes in contact with
19 waste from a dog's bodily functions is stored separate from all
20 other cleaning equipment and is not used for other cleaning
21 purposes.

22 (iv) All dog waste is disposed of at least daily outside of the
23 brewpub in a covered waste receptacle.

24 (v) An employee who touches the dog or cleans waste from the
25 dog's bodily functions does not serve beverages or handle tableware
26 until the employee has washed the employee's hands.

27 (vi) The dog is not allowed on a seat, chair, or customer's
28 lap, or allowed to contact a tabletop, countertop, or similar
29 surface in the brewpub.

1 (vii) The dog is not allowed to contact reusable tableware
2 unless the tableware is dedicated for use by dogs and readily
3 distinguishable as such or is provided by the customer handling the
4 dog.

5 (viii) The dog is not allowed in an area where drinks are
6 prepared.

7 (ix) The dog is not unattended.

8 (x) The customer is 18 years of age or older.

9 (xi) The customer keeps the dog on a leash.

10 (d) The brewpub may do any of the following:

11 (i) Determine the location and the amount of space designated
12 for a customer accompanied by the customer's dog.

13 (ii) Establish a limit on the size and type of dog and any
14 other limitation relating to a customer's dog.

15 (iii) Deny entry or eject from the brewpub a customer and the
16 customer's dog."

17 (2) The director, by rule, may adopt any changes or updates to
18 the food code.

19 (3) The annexes of the food code are ~~considered~~ persuasive
20 authority for interpretation of the food code.