

HOUSE BILL NO. 5486

February 22, 2024, Introduced by Rep. Schriver and referred to the Committee on Government Operations.

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

1 area within a rental unit where a single ~~person~~**individual** or
2 family actually resides. Domestic residence does not include either
3 of the following:

4 (i) A group or communal residential setting within any type of
5 structure.

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

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

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

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

18 (i) Serves or provides an unpackaged food for immediate
19 consumption.

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

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

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

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

1 determined by market management.

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

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

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

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

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

28 (i) A pesticide chemical in or on a raw agricultural commodity.

29 (ii) A pesticide chemical to the extent that it is intended for

1 use or is used in the production, storage, or transportation of any
2 raw agricultural commodity.

3 (iii) A color additive.

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

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

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

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

24 (ii) An inpatient food operation located in a health facility
25 or agency subject to licensure under article 17 of the public
26 health code, MCL 333.20101 to ~~333.22260~~.**333.22121**.

27 (iii) A food operation located in a prison, jail, state mental
28 health institute, boarding house, fraternity or sorority house,
29 convent, or other facility where the facility is the primary

1 residence for the occupants and the food operation is limited to
2 serving meals to the occupants as part of their living arrangement.

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

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

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

22 (t) "Food service establishment" means a fixed or mobile
23 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,
24 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail
25 lounge, nightclub, drive-in, industrial feeding establishment,
26 private organization serving the public, rental hall, catering
27 kitchen, delicatessen, theater, commissary, food concession, or
28 similar place in which food or drink is prepared for direct
29 consumption through service on the premises or elsewhere, and any

1 other eating or drinking establishment or operation where food is
2 served or provided for the public. Food service establishment does
3 not include any of the following:

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

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

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

10 (iv) A child care organization regulated under 1973 PA 116, MCL
11 722.111 to 722.128, unless the establishment is carrying out an
12 operation considered by the director to be a food service
13 establishment.

14 (v) A vending machine location. However, if a food service
15 establishment operates a vending machine location on the same
16 premises, the vending machine location is considered part of the
17 food service establishment.

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

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 5477 (request no.
22 01038'23) of the 102nd Legislature is enacted into law.