

Act No. 04  
Public Acts of 1993  
Approved by the Governor  
March 16, 1993  
Filed with the Secretary of State  
March 17, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Senator McManus

# **ENROLLED SENATE BILL No. 79**

AN ACT to amend sections 2 and 3 of Act No. 328 of the Public Acts of 1978, entitled "An act to license persons engaged in processing, packing, repacking, canning, preserving, freezing, fabricating, storing, selling, or offering for sale food or drink for human consumption; to prescribe the powers and duties of the department of agriculture; to provide exemptions; to prescribe penalties; and to repeal certain acts and parts of acts," section 2 as amended by Act No. 200 of the Public Acts of 1984 and section 3 as amended by Act No. 131 of the Public Acts of 1986, being sections 289.802 and 289.803 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 2 and 3 of Act No. 328 of the Public Acts of 1978, section 2 as amended by Act No. 200 of the Public Acts of 1984 and section 3 as amended by Act No. 131 of the Public Acts of 1986, being sections 289.802 and 289.803 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. As used in this act:

- (a) "Department" means the department of agriculture.
- (b) "Director" means the director of the department of agriculture.
- (c) "Food" means items used for human consumption and the components of those items, but does not include alcoholic beverages, drugs, or medicines.
- (d) "Person" means an individual, partnership, firm, or corporation operating within the state.
- (e) "Certified health department" means a county, district, or city health department that meets the criteria for certification of health departments established by rule pursuant to section 5, and that is authorized by the director to enforce this act and any rules promulgated pursuant to section 5.
- (f) "Grocery items" means prepackaged foods that are offered for sale for other than immediate consumption. Grocery items does not include comminuted meats.

Sec. 3. (1) Except as provided in section 7, before a person engages in processing, packing, repacking, canning, preserving, freezing, fabricating, storing, selling, or offering to sell food, the person shall obtain a license from the department for each establishment operated by that person at which those activities occur. Only 1 license is required for a single location at which a combination of the operations described in this subsection occur.

(2) A license expires annually on March 31 and shall be renewed before April 1 of each year unless suspended, denied, or revoked by the department.

(3) The department shall impose the following license fees for each year or portion of a year:

(a) Fifteen dollars for each of the following:

(i) A food concession at a state or county fair.

(ii) An establishment at which a licensee primarily engages in processing, packing, repacking, canning, preserving, freezing, or fabricating food harvested by the licensee.

(iii) An establishment that has an area of 1,000 square feet or less open to the public at which activities described in subsection (1) occur.

(b) Fifty-two dollars for all other establishments at which activities described in subsection (1) occur.

(4) Beginning January 1, 1987, the department shall impose, for a renewal application postmarked or delivered in person beginning April 1 of each year, a late fee of an additional \$10.00 for each business day the application is late. The late fee for a new application submitted after the establishment has opened for business is an additional \$10.00 for each business day the application is late. A late fee shall not exceed \$100.00. A license shall not be issued or renewed until the fee and any late fee which is due has been paid. A hearing is not required before refusal to issue or renew a license under this section. The department may waive the late fee for producers of maple syrup, honey, and other seasonal agricultural products if the license application is submitted not less than 30 days before the applicant engages in processing, packing, freezing, storing, selling, or offering for sale the food or drink. The fee shall be retained by any certified health department or in an area where there is no certified health department by the department. Fees collected shall be used for administrative and enforcement needs of this act.

(5) An application for a license shall be made to the department or to a certified health department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3), and, if applicable, subsection (4).

(6) A city, county, or other local unit of government shall not impose licensing provisions for persons regulated under this act.

(7) A license shall not be granted under this act to a person engaged in the canning, preserving, or freezing of fruits and vegetables unless the licensee or applicant for a license has reimbursed producers for fruits and vegetables purchased within the previous calendar year, unless otherwise provided by written contract.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.