



# HOUSE BILL No. 5197

November 10, 1993, Introduced by Reps. Gernaat, Middleton, Lowe, Bobier, Bender, Harder, Curtis, Sikkema, DeLange, McBryde, London, McNutt, Hill, Llewellyn, Gnodtke, McManus, Jersevic, Oxender, Rhead, Goschka, Wetters, Martin, Cropsey, Bodem, Randall, Anthony, Stille, Shepich, Gagliardi, Alley, Shugars and Galloway and referred to the Committee on Agriculture and Forestry.

A bill to amend section 8 of Act No. 298 of the Public Acts of 1968, entitled

"An act to protect the public health, and to prevent fraud and deception in the manufacture, sale, offering for sale, exposing for sale, and possession with intent to sell, of adulterated or deleterious ice cream, ice cream mix, ice milk mix, frozen custard, french ice cream, french custard ice cream, sherbet, fruit sherbet, ice milk, ices, quiescently frozen confections, quiescently frozen dairy confections, including coated ice cream and similar products and the coating thereof; fixing standards for ice cream, frozen custard, french ice cream, french custard ice cream, sherbet, fruit sherbet, ice milk, ices, quiescently frozen confections, and quiescently frozen dairy confections, and to prevent sale of imitation of such products; providing for licensing, authorizing and regulating the manufacture and sale of artificially sweetened ice cream and ice milk; conferring powers and imposing duties upon the department of agriculture; prescribing penalties, providing for the enforcement thereof; and to repeal certain acts and parts of acts,"

being section 288.328 of the Michigan Compiled Laws.

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

1       Section 1. Section 8 of Act No. 298 of the Public Acts of  
2 1968, being section 288.328 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4       Sec. 8. (1) A person shall not operate ~~any~~ An ice cream  
5 plant unless it is maintained and operated with strict regard for  
6 the purity and wholesomeness of the ~~food products~~ FROZEN  
7 DESSERTS produced ~~therein~~ IN THE ICE CREAM PLANT. The entire  
8 ~~establishment~~ ICE CREAM PLANT, including fixtures, furnishings,  
9 machinery, apparatus, implements, utensils, receptacles, and all  
10 equipment used in production, keeping, storing, handling, or dis-  
11 tributing shall be maintained and operated in a clean, sanitary  
12 manner. The equipment, containers, and piping shall be con-  
13 structed of a smooth, nontoxic, impervious, corrosion-resistant  
14 material and fabricated in such a manner that there is no contam-  
15 ination of the products handled ~~therein~~ IN THEM and they can be  
16 easily sanitized. All equipment shall be kept in good working  
17 order and condition and shall be located so as to facilitate  
18 cleaning and practically eliminate the possibility of  
19 contamination. All equipment and utensils used in the production  
20 of ~~food products defined herein~~ FROZEN DESSERTS whose surface  
21 comes in contact with ~~any such products~~ A FROZEN DESSERT or  
22 ~~any of the ingredients thereof~~ AN INGREDIENT OF A FROZEN  
23 DESSERT shall be thoroughly cleaned after using and sanitized  
24 immediately ~~prior to~~ BEFORE using. The clothing habits and  
25 conduct of the employees shall be conducive to and promote clean-  
26 liness and sanitation. There shall be proper, suitable, and  
27 adequate toilets and lavatories, and equipment for cleansing,

1 constructed and operated in a clean and sanitary manner IN AN ICE  
2 CREAM PLANT.

3 (2) No ice cream, ice cream mix, ice milk mix, frozen cus-  
4 tard, french ice cream, french custard ice cream, ice milk, sher-  
5 bet, sherbet mix, fruit sherbet, a quiescently frozen confection  
6 containing milk solids, or a quiescently frozen dairy confection  
7 shall be manufactured, processed, sold, exposed, or offered for  
8 sale or delivered unless it has been made from a mixture that has  
9 been properly pasteurized by heating every particle of the mix-  
10 ture PURSUANT TO SUBDIVISIONS (A) AND (B) OR RECONSTITUTED FROM A  
11 PROPERLY PASTEURIZED DRY MIX USING A POTABLE WATER SOURCE  
12 APPROVED BY THE DEPARTMENT OF AGRICULTURE AND PREPARED IN A  
13 CLEAN, SANITARY MANNER:

14 (a) To a temperature not lower than 150 degrees Fahrenheit  
15 and holding at such temperature continuously for not less than 30  
16 minutes and promptly cooling ~~thereafter~~ to a temperature of 50  
17 degrees Fahrenheit or lower.

18 (b) To a temperature not lower than 175 degrees Fahrenheit  
19 for not less than 25 seconds in equipment provided with an accu-  
20 rate indicating thermometer, a flow diversion valve, and an accu-  
21 rate recording thermometer so connected and operated as to auto-  
22 matically actuate the flow diversion valve diverting all of the  
23 mixture before the falling temperature of the mixture reaches 175  
24 degrees Fahrenheit and promptly cooling ~~thereafter~~ to a temper-  
25 ature of 50 degrees Fahrenheit or lower. Such a mixture shall be  
26 pasteurized in equipment approved by the director of agriculture  
27 and with the use of an accurately operating self-recording

1 thermometer, the charts for which shall be dated and held for a  
2 period of at least 60 days. ~~Nothing in this definition shall be~~  
3 ~~construed as barring any other~~ THIS SUBDIVISION DOES NOT PRO-  
4 HIBIT THE USE OF ANOTHER pasteurization process ~~which~~ THAT has  
5 been recognized by the department of agriculture to be equally  
6 efficient and ~~which~~ THAT is approved by the department.

7 (3) A municipality or county shall not impose any different  
8 standards or requirements for ~~unfrozen or~~ frozen desserts OR  
9 ICE CREAM MIXES, ICE MILK MIXES, OR SHERBET MIXES than those pro-  
10 vided for in this act, or prohibit ~~the~~ THEIR sale ~~of same~~ if  
11 they have been produced and processed under supervision of the  
12 department of agriculture.

13 (4) ~~No sanitary requirement or standard issued under this~~  
14 ~~act shall~~ THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT DO  
15 NOT prohibit the sale of products defined in this act ~~or the~~  
16 ~~rules issued pursuant hereto which~~ THAT are produced or pro-  
17 cessed under ~~laws or rules~~ THE LAW of ~~any governmental unit~~  
18 ~~without the~~ ANOTHER state, ~~which are~~ IF THE LAW OF THE OTHER  
19 STATE IS substantially equivalent to the requirements of ~~the~~  
20 ~~rules issued under~~ this act and ~~which are~~ THE RULES PROMUL-  
21 GATED UNDER THIS ACT AND IS enforced with equal effectiveness,  
22 ~~in the opinion of~~ AS DETERMINED BY the department of  
23 agriculture, and if the ~~government unit~~ OTHER STATE accepts  
24 products defined in this act ~~or~~ AND the rules ~~issued pursuant~~  
25 ~~hereto which~~ PROMULGATED UNDER THIS ACT THAT are manufactured in  
26 this state in compliance with this act.

~~(5) The department of agriculture reserves the right to inspect the equipment and sanitary conditions of any plant or place of business located outside the state where such products as defined in this act or rules issued pursuant hereto are manufactured or processed for sale or consumption within this state. When in the opinion of the department of agriculture that the rules of the out of state governmental units are not enforced with equal effectiveness as those within this state, the actual and reasonable cost of such inspections, including salary, transportation, meals and lodging of the representative of the department of agriculture shall be charged by the department of agriculture to and paid by the person, firm, association or corporation subject to such inspection. No person, firm, association or corporation shall sell, or have in his possession to sell or dispose of, any such products defined in this act or rules issued pursuant hereto unless such inspection shall have been made and the cost thereof paid to the department of agriculture, and unless such product shall have been found by the department of agriculture to comply with the requirements of this act and regulations issued under this act, or unless the out of state governmental unit accepts the same products manufactured in this state.~~

~~(6) No license from the department of agriculture shall be required in respect to any product defined in this act, or the rules issued pursuant hereto, made, manufactured or processed without this state and shipped or delivered in interstate commerce into this state for sale or consumption therein.~~