



HOUSE BILL No. 5706

September 13 1994, Introduced by Rep Varga and referred to the Committee on Consumers

A bill to amend the title and section 2 of Act No 298 of the Public Acts of 1968, entitled
Frozen desserts act of 1968,
section 2 as amended by Act No 323 of the Public Acts of 1982
being section 288 322 of the Michigan Compiled Laws and to add
section 4a

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 The title and section 2 of Act No 298 of the
2 Public Acts of 1968, section 2 as amended by Act No 323 of the
3 Public Acts of 1982 being section 288 322 of the Michigan
4 Compiled Laws, are amended and section 4a is added to read as
5 follows

TITLE

1
2 An act to protect the public health ~~, and~~ TO PERMIT DIS-
3 CLOSURE OF CERTAIN INFORMATION to prevent fraud and deception in
4 the manufacture sale offering for sale exposing for sale and
5 possession with intent to sell of adulterated or deleterious ice
6 cream ice cream mix ice milk mix frozen custard french ice
7 cream, french custard ice cream, sherbet, fruit sherbet, ice
8 milk ices quiescently frozen confections quiescently frozen
9 dairy confections, including coated ice cream and similar prod-
10 ucts and the coating ~~thereof~~ OF ICE CREAM AND SIMILAR PRODUCTS
11 ~~fixing~~ TO ESTABLISH standards for AND PREVENT THE SALE OF IMI-
12 TATIONS OF ice cream, frozen custard french ice cream french
13 custard ice cream sherbet fruit sherbet ice milk ices quies-
14 cently frozen confections, and quiescently frozen dairy
15 confections ~~, and to prevent sale of imitation of such prod-~~
16 ~~ucts providing~~ TO PROVIDE for licensing authorizing and regu-
17 lating the manufacture and sale of artificially sweetened ice
18 cream and ice milk ~~conferring~~ TO CONFER powers and ~~imposing~~
19 IMPOSE duties upon the department of agriculture ~~prescribing~~
20 TO PRESCRIBE penalties ~~providing~~ AND PROVIDE for ~~the~~
21 enforcement ~~thereof~~ and to repeal certain acts and parts of
22 acts

23 Sec 2 As used in this act

24 (a) Ice cream means any frozen, sweetened milk product
25 which is stirred during the process of freezing and includes
26 every such frozen milk product which contains milk fat or milk
27 solids not fat and which in any manner simulates the texture or

1 characteristics of ice cream no matter under what coined or trade
2 name it may be sold Ice cream shall be made from a combination
3 of 1 or more of the following ingredients any clean wholesome
4 cream milk and all forms of milk fat and any clean and whole-
5 some form of milk solids not fat with 1 or more of the following
6 ingredients sugars and flavoring, with or without eggs, color-
7 ing water, fruit juice fruit chocolate, cocoa malted milk
8 nuts, properly prepared and cooked cereal cakes or confections
9 stabilizers and emulsifiers and microcrystalline cellulose, each
10 of which ingredients shall be wholesome edible material, and
11 other ingredients approved by the department of agriculture The
12 finished product may contain not more than 1/2 of 1% by weight of
13 a stabilizer and may contain not more than 1/5 of 1% by weight of
14 emulsifier Not over 1 5% of microcrystalline cellulose may be
15 used The finished product shall contain not less than 10% of
16 milk fat by weight except when fruit, nuts cocoa, malted milk
17 chocolate cakes properly prepared and cooked cereal or confec-
18 tions are used for the purpose of flavoring the weight of milk
19 fat and total milk solids shall not be less than 10% and 20%
20 respectively of the remainder obtained by subtracting the weight
21 of such ingredients from the weight of the finished ice cream
22 but in no case is the weight of the milk fat or total milk solids
23 to be less than 8% and 16% respectively of the weight of the fin-
24 ished ice cream The finished ice cream shall contain not less
25 than 1 6 pounds of total food solids to the gallon and weigh not
26 less than 4-1/2 pounds to the gallon exclusive of the weight of
27 the optional ingredient microcrystalline cellulose Ice cream

1 manufactured, prepared, or processed for consumption by those who
2 must restrict their sugar intake shall contain only those ingre-
3 dients prescribed by this section but shall be sweetened with an
4 artificial sweetening agent and contain edible carbohydrates
5 other than sugar The artificial sweetening agent and the edible
6 carbohydrates must be approved by the department of agriculture
7 and no sugars, other than those naturally present in the milk
8 solids or fruit agent, shall be added

9 (b) French ice cream , french custard ice cream and
10 frozen custard' shall conform to the definition and standards
11 for ice cream no matter under what trade or coined name it may
12 be sold or offered for sale except that it shall contain not less
13 than 1 4% by weight of egg yolk solids When chocolate cocoa,
14 malted milk fruit nuts properly prepared and cooked cereal
15 cakes, or confections are used, the content of egg yolk solids
16 may be reduced in proportion to such ingredient or ingredients
17 added under the conditions prescribed in subdivision (a) for
18 reduction in milk fat and total milk solids

19 (c) Variegated ice cream means any mixture of ice cream
20 with ice cream, ice, ice milk, sherbet fruit, puree or cakes,
21 confections or syrup of another color and shall contain not less
22 than 8% of milk fat and 16% total milk solids Products commonly
23 known as sodas and sundaes produced by mixture of ice cream with
24 ice cream, ice sherbet fruit, or syrup of another color shall
25 not be deemed to be variegated ice cream

26 (d) Ice milk shall conform to the definition and standard
27 set forth for ice cream except that

1 (i) Its content of milk fat is not less than 2% nor more
2 than 7% by weight

3 (ii) Its content of total milk solids is not less than 11%
4 by weight

5 (iii) The quantity of total food solids per gallon shall not
6 be less than 13 pounds

7 (iv) The provision for reduction in milk fat and total milk
8 solids from addition of bulky flavor ingredients in subdivision
9 (b) does not apply

10 Ice milk manufactured prepared or processed for consump-
11 tion by those who must restrict their sugar intake shall contain
12 only those ingredients prescribed by this section but may be
13 sweetened with an artificial sweetening agent and may contain
14 edible carbohydrates other than sugar The artificial sweetening
15 agent and the edible carbohydrates must be approved by the
16 department of agriculture and no sugars, other than those natu-
17 rally present in the milk solids or fruit agent shall be added

18 (e) 'Sherbet or fruit sherbet' shall conform to the defi-
19 nition and standard of identity prescribed for 'ice cream' in
20 subdivision (b) except that

21 (i) The titratable acidity of the finished sherbet or fruit
22 sherbet calculated as lactic acid shall not be less than 0.35% by
23 weight

24 (ii) The content of milk fat and nonfat milk solids shall be
25 such that the weight of milk fat is not less than 1% and not more
26 than 2% by weight and the weight of total milk solids is not less

1 than 2% and not more than 5% of the weight of the finished
2 sherbet or fruit sherbet

3 (iii) The quantity of the fruit ingredients used shall be
4 such that in relation to the weight of the finished sherbet the
5 weight of fruit or fruit juice including water necessary to
6 reconstitute partially or wholly dried fruits or fruit juices to
7 their original moisture content, shall not be less than 2% by
8 weight in the case of citrus sherbets 6% by weight in the case
9 of berry and cherry sherbets, and 10% by weight in the case of
10 sherbets prepared with other fruits

11 (iv) The provisions for the reduction in milk fat and total
12 milk solids from addition of chocolate cocoa, malted milk,
13 fruit nuts, properly prepared and cooked cereal, cakes or con-
14 fections in subdivision (b) shall not apply

15 (f) Ice means any frozen sweetened product which is
16 stirred during the process of freezing not conforming to the def-
17 initions and standards set forth in subdivisions (a) (b) (c)
18 (d) and (e) no matter under what coined or trade name it may be
19 sold or offered for sale Ice or water ice shall be made from a
20 combination of 1 or more of the following ingredients sugars,
21 flavoring with or without eggs coloring, water, fruit juices,
22 fruit, cocoa, chocolate, or nuts, and with or without wholesome
23 edible acid in such quantity as seasons the finished food and
24 with or without added stabilizer, each of which ingredients shall
25 be wholesome, edible material and other ingredients approved by
26 the department of agriculture It shall contain not more than
27 1/2 of 1% by weight of stabilizer and not more than 1/5 of 1% by

1 weight of emulsifier The titratable acidity of the finished ice
2 or water ice calculated as lactic acid shall be not less than
3 0.35% by weight The quantity of fruit ingredients used shall be
4 such that in relation to the weight of the finished ice or water
5 ice the weight of fruit or fruit juice including water neces-
6 sary to reconstitute partially or wholly dried fruits or fruit
7 juices to their original moisture content is not less than 2% by
8 weight in the case of citrus ices 6% by weight in the case of
9 berry and cherry ices, and 10% by weight in the case of ices pre-
10 pared with other fruits

11 (g) Quiescently frozen confection means a clean and whole-
12 some frozen sweetened flavored product in the manufacture of
13 which freezing has not been accompanied by stirring or agitation
14 generally known as quiescent freezing This confection may be
15 acidulated with harmless organic acid may contain milk solids
16 may be made with or without added harmless pure or imitation fla-
17 voring, with or without added harmless coloring The finished
18 product may contain not more than 1/2 of 1% by weight of stabi-
19 lizer composed of wholesome edible material The finished prod-
20 uct shall contain not less than 17% by weight of total food
21 solids This confection must be manufactured in the form of
22 servings individually packaged bagged or otherwise wrapped
23 properly labeled, and purveyed to the consumer in its original
24 factory-filled package In the production of these quiescently
25 frozen confections, no processing or mixing prior to quiescent
26 freezing shall be used that develops in the finished confection
27 mix any physical expansion in excess of 15% by volume

1 (h) Quiescently frozen dairy confection means a clean and
2 wholesome frozen product made from water milk products and
3 sugar with added harmless pure or imitation flavoring, with or
4 without added harmless coloring with or without added stabiliz-
5 er, and with or without added emulsifier and in the manufacture
6 of which freezing has not been accompanied by stirring or agita-
7 tion generally known as quiescent freezing Quiescently frozen
8 dairy confection contains not less than 13% by weight of total
9 milk solids, not less than 33% by weight of total food solids
10 not more than 1/2 of 1% by weight of stabilizer, and not more
11 than 1/5 of 1% by weight of emulsifier Stabilizer and emulsif-
12 fier must be composed of wholesome edible material This confec-
13 tion must be manufactured in the form of servings individually
14 packaged, bagged, or otherwise wrapped properly labeled, and
15 purveyed to the consumer in its original factory-filled package
16 In the production of these quiescently frozen dairy confections
17 no processing or mixing prior to quiescent freezing shall be used
18 that develops in the finished confection mix any physical expan-
19 sion in excess of 15% by volume

20 (1) Ice cream mix ice milk mix and sherbet mix are
21 unfrozen food products, made from wholesome ingredients as pro-
22 vided for use in the manufacturing or processing of ice cream
23 ice milk and sherbet, respectively and shall meet the same
24 requirements as the foods made from those mixes

25 (j) 'Frozen desserts means ice cream frozen custard
26 french custard ice cream, french ice cream, ice milk, sherbet,
27 fruit sherbet, ices, quiescently frozen confections quiescently

1 frozen dairy confections, and other new related products which
2 are defined in the future by rule

3 (K) 'FROZEN DESSERT OR MIX MEANS FROZEN DESSERT ICE CREAM
4 MIX, ICE MILK MIX, AND SHERBET MIX

5 (L) ~~(K)~~ 'Ice cream plant' means any place premises or
6 establishment where ice cream, frozen custard french ice cream,
7 french custard ice cream ice milk sherbet fruit sherbet, ice
8 a quiescently frozen confection, or a quiescently frozen dairy
9 confection is manufactured, prepared, processed, or frozen for
10 distribution or sale ,

11 (M) RBST MEANS RECOMBINANT BOVINE SOMATOTROPIN A RECOMBI-
12 NANT BOVINE GROWTH HORMONE USED WITH LACTATING DAIRY COWS TO
13 INCREASE MILK PRODUCTION

14 SEC 4A A PERSON WHO SELLS, OFFERS TO SELL EXPOSES FOR
15 SALE OR POSSESSES WITH INTENT TO SELL A FROZEN DESSERT OR MIX
16 CONTAINING MILK OR A MILK PRODUCT DERIVED FROM COWS NOT TREATED
17 WITH RBST MAY LABEL THAT FROZEN DESSERT OR MIX WITH A CONSPICUOUS
18 NOTICE THAT STATES THE FOLLOWING, IN SUBSTANTIALLY THE FOLLOWING
19 FORM

20 THIS PRODUCT CONTAINS MILK OR A MILK PRODUCT DERIVED FROM
21 COWS NOT TREATED WITH RBST RBST IS RECOMBINANT BOVINE SOMATO-
22 TROPIN, A RECOMBINANT BOVINE GROWTH HORMONE USED WITH LACTATING
23 DAIRY COWS TO INCREASE MILK PRODUCTION NO SIGNIFICANT DIFFER-
24 ENCE HAS BEEN SHOWN BETWEEN MILK DERIVED FROM RBST-TREATED AND
25 NON-RBST-TREATED COWS '