



# SENATE BILL No. 1159

May 18, 1994, Introduced by Senator DI NELLO and  
referred to the Committee on Agriculture and  
Forestry

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 REQUIRE 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 1 3 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 (1) 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       (111) 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       (1v) 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 stabl-  
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 emulsi-  
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 (i) "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

12 SEC 4A A PERSON SHALL NOT SELL, OFFER TO SELL, EXPOSE FOR  
13 SALE, OR POSSESS WITH INTENT TO SELL A FROZEN DESSERT OR MIX  
14 PRODUCED FROM MILK OF A DAIRY COW TREATED WITH RBST UNLESS THE  
15 FROZEN DESSERT OR MIX IS LABELED WITH A CONSPICUOUS NOTICE THAT  
16 STATES THE FOLLOWING, IN SUBSTANTIALLY THE FOLLOWING FORM

17 "THIS PRODUCT WAS PRODUCED FROM THE MILK OF 1 OR MORE DAIRY  
18 COWS TREATED WITH RBST, A BOVINE GROWTH HORMONE USED WITH LACTAT-  
19 ING DAIRY COWS TO INCREASE MILK PRODUCTION "