



HOUSE BILL No. 4247

January 31, 1995, Introduced by Rep. Varga 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 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
6 ice cream, ice cream mix, ice milk mix, frozen custard, french
7 ice 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~~ THAT is stirred during the process of freezing and
26 includes every ~~such~~ frozen milk product ~~which~~ THAT contains
27 milk fat or milk solids not fat and ~~which~~ THAT in any manner

1 simulates the texture or characteristics of ice cream no matter
2 under what coined or trade name it ~~may be~~ IS sold. Ice cream
3 shall be made from a combination of 1 or more of the following
4 ingredients: ~~any~~ A clean, wholesome cream, milk and all forms
5 of milk fat, and any clean and wholesome form of milk solids not
6 fat with 1 or more of the following ingredients: ~~sugars~~ SUGAR
7 and flavoring, with or without eggs, coloring, water, fruit
8 juice, fruit, chocolate, cocoa, malted milk, nuts, properly pre-
9 pared and cooked cereal, ~~cakes, or confections, stabilizers and~~
10 ~~emulsifiers~~ CAKE, CONFECTION, STABILIZER, EMULSIFIER, and micro-
11 crystalline cellulose, each of which ~~ingredients shall be~~
12 INGREDIENT IS wholesome, edible material, and other ingredients
13 approved by the department of agriculture. The finished product
14 ~~may~~ SHALL contain not more than 1/2 of 1% by weight of a stabi-
15 lizer and may contain not more than 1/5 of 1% by weight of
16 emulsifier. Not ~~over~~ MORE THAN 1.5% of microcrystalline cellu-
17 lose may be used. The finished product shall contain not less
18 than 10% of milk fat by weight except when fruit, nuts, cocoa,
19 malted milk, chocolate, ~~cakes~~ CAKE, properly prepared and
20 cooked cereal, or ~~confections are~~ CONFECTION IS used for ~~the~~
21 ~~purpose of~~ flavoring, the weight of milk fat and total milk
22 solids shall not be less than 10% and 20% respectively of the
23 remainder obtained by subtracting the weight of such ingredients
24 from the weight of the finished ice cream, but in no case is the
25 weight of the milk fat or total milk solids to be less than 8%
26 and 16% respectively of the weight of the finished ice cream.
27 The finished ice cream shall contain not less than 1.6 pounds of

1 total food solids to the gallon and weigh not less than 4-1/2
 2 pounds to the gallon, exclusive of the weight of the optional
 3 ingredient microcrystalline cellulose. Ice cream manufactured,
 4 prepared, or processed for consumption by ~~those who must~~
 5 ~~restrict their~~ A PERSON WHO IS REQUIRED TO RESTRICT HIS OR HER
 6 sugar intake ~~—~~ shall contain only those ingredients prescribed
 7 by this section but shall be sweetened with an artificial sweet-
 8 ening agent and contain edible carbohydrates other than sugar.
 9 The artificial sweetening agent and ~~the~~ edible carbohydrates
 10 must be approved by the department of agriculture and no sugars,
 11 other than those naturally present in the milk solids or fruit
 12 agent, shall be added.

13 (b) "French ice cream", "french custard ice cream", and
 14 "frozen custard" shall conform to the definition and standards
 15 for "ice cream" no matter under what trade or coined name it ~~may~~
 16 ~~be~~ IS sold or offered for sale, except that it shall contain not
 17 less than 1.4% by weight of egg yolk solids. When chocolate,
 18 cocoa, malted milk, fruit, nuts, properly prepared and cooked
 19 cereal, ~~cakes, or confections are~~ CAKE, OR CONFECTION IS used,
 20 the content of egg yolk solids may be reduced in proportion to
 21 ~~such ingredient or~~ THE ingredients added under the conditions
 22 ~~prescribed~~ in subdivision (a) for reduction in milk fat and
 23 total milk solids.

24 (c) "Variegated ice cream" means ~~any~~ A mixture of ice
 25 cream with ice cream, ice, ice milk, sherbet, fruit, puree or
 26 ~~cakes, confections~~ CAKE, CONFECTION, or syrup of another color,
 27 and shall contain not less than 8% of milk fat and 16% total milk

1 solids. Products commonly known as ~~sodas and sundaes~~ SODA AND
2 SUNDAE produced by mixture of ice cream with ice cream, ice,
3 sherbet, fruit, or syrup of another color ~~shall not be deemed to~~
4 ~~be~~ ARE NOT variegated ice cream.

5 (d) "Ice milk" shall conform to the definition and standard
6 set forth for "ice cream", except that:

7 (i) Its content of milk fat ~~is not~~ SHALL NOT BE less than
8 2% nor more than 7% by weight.

9 (ii) Its content of total milk solids ~~is not~~ SHALL NOT BE
10 less than 11% by weight.

11 (iii) The quantity of total food solids per gallon shall not
12 be less than 1.3 pounds.

13 (iv) The provision for reduction ~~in~~ OF milk fat and total
14 milk solids ~~from addition of bulky flavor ingredients in~~ IF
15 ADDING A BULKY FLAVOR INGREDIENT UNDER subdivision (b) does not
16 apply.

17 Ice milk manufactured, prepared, or processed for consump-
18 tion by ~~those who must restrict their~~ A PERSON WHO IS REQUIRED
19 TO RESTRICT HIS OR HER sugar intake shall contain only those
20 ingredients prescribed by this section but ~~may~~ SHALL be sweet-
21 ened with an artificial sweetening agent and ~~may~~ contain

2 ~~edible carbohydrates~~ AN EDIBLE CARBOHYDRATE other than sugar.
23 The artificial sweetening agent and ~~the~~ edible ~~carbohydrates~~
24 ~~must~~ CARBOHYDRATE SHALL be approved by the department of agri-
25 culture and ~~no sugars, other than those~~ SHALL NOT CONTAIN A
26 SUGAR OTHER THAN THE SUGAR naturally present in the milk solids
27 or fruit agent. ~~shall be added.~~

1 (e) "Sherbet" or "fruit sherbet" shall conform to the
2 definition and standard of identity prescribed for "ice cream" in
3 subdivision (b) except that:

4 (i) The titratable acidity of the finished sherbet or fruit
5 sherbet calculated as lactic acid shall not be less than 0.35% by
6 weight.

7 (ii) The content of milk fat and nonfat milk solids ~~shall~~
8 ~~be such that the weight of milk fat is~~ TOGETHER SHALL WEIGH not
9 less than 1% and not more than 2% by weight and the weight of
10 total milk solids is not less than 2% and not more than 5% of the
11 weight of the finished sherbet or fruit sherbet.

12 (iii) ~~The quantity of the fruit ingredients used shall be~~
13 ~~such that in relation to the weight of the finished sherbet the~~
14 ~~weight~~ THE QUANTITY of fruit or fruit juice USED, including
15 water necessary to reconstitute partially or wholly dried ~~fruits~~
16 ~~or fruit juices to their~~ FRUIT OR FRUIT JUICE TO ITS original
17 moisture content, shall not be less than 2% by weight ~~in the~~
18 ~~case of citrus sherbets,~~ OF THE FINISHED SHERBET IN CITRUS
19 SHERBET, 6% by weight in ~~the case of~~ berry and cherry
20 ~~sherbets,~~ SHERBET, and 10% by weight in ~~the case of sherbets~~
21 SHERBET prepared with other ~~fruits~~ FRUIT.

22 (iv) The provisions for the reduction in milk fat and total
23 milk solids ~~from addition of~~ IF ADDING chocolate, cocoa, malted
24 milk, fruit, nuts, properly prepared and cooked cereal, ~~cakes,~~
25 ~~or confections~~ CAKE, OR CONFECTION in subdivision (b) ~~shall~~
26 DOES not apply.

1 (f) "Ice" OR "WATER ICE" means ~~any~~ A frozen, sweetened
 2 product ~~which~~ THAT is stirred during the process of freezing
 3 ~~not conforming~~ AND DOES NOT CONFORM to the definitions and
 4 standards set forth in subdivisions (a), (b), (c), (d), and (e),
 5 no matter under what coined or trade name it ~~may be~~ IS sold or
 6 offered for sale. Ice or water ice ~~shall be made from a combi-~~
 7 ~~nation of~~ IS MADE BY COMBINING 1 or more of the following:
 8 ~~ingredients: sugars,~~ SUGAR, flavoring with or without eggs,
 9 coloring, water, fruit ~~juices~~ JUICE, fruit, cocoa, chocolate,
 10 or nuts, and with or without wholesome edible acid in ~~such quan-~~
 11 ~~tity as~~ A QUANTITY THAT seasons the finished food and with or
 12 without added stabilizer, each of which ~~ingredients~~ INGREDIENT
 13 shall be wholesome, edible material, and other ingredients
 14 approved by the department of agriculture. ICE OR WATER ICE
 15 SHALL CONFORM TO ALL OF THE FOLLOWING:

16 (i) It shall contain not more than 1/2 of 1% by weight of
 17 stabilizer and not more than 1/5 of 1% by weight of emulsifier.

18 (ii) The titratable acidity of the finished ice or water ice
 19 calculated as lactic acid shall ~~be not~~ NOT BE less than 0.35%
 20 by weight.

21 (iii) The quantity of ~~fruit ingredients used shall be such~~
 22 ~~that in relation to the weight of the finished ice or water ice,~~
 23 ~~the weight of~~ fruit or fruit juice USED, including water neces-
 24 sary to reconstitute partially or wholly dried ~~fruits or fruit~~
 25 ~~juices to their~~ FRUIT OR FRUIT JUICE TO ITS original moisture
 26 content, is not less than 2% by weight ~~in the case of citrus~~
 27 ~~ices~~ OF THE FINISHED PRODUCT IN CITRUS ICE, 6% by weight in ~~the~~

1 ~~case of~~ berry and cherry ~~ices~~ ICE, and 10% by weight in ~~the~~
2 ~~case of ices~~ AN ICE prepared with other ~~fruits~~ FRUIT.

3 (g) "Quiescently frozen confection" means a clean and whole-
4 some frozen, sweetened, flavored product in the manufacture of
5 which freezing has not been accompanied by stirring or agitation,
6 generally known as quiescent freezing. This confection may be
7 acidulated with harmless organic acid, may contain milk solids,
8 may be made with or without added harmless pure or imitation fla-
9 voring, with or without added harmless coloring. The finished
10 product ~~may contain not~~ SHALL NOT CONTAIN more than 1/2 of 1%
11 by weight of stabilizer composed of wholesome edible material.
12 The finished product shall contain not less than 17% by weight of
13 total food solids. This confection ~~must~~ SHALL be manufactured
14 in the form of servings individually packaged, bagged, or other-
15 wise wrapped, properly labeled, and purveyed to the consumer in
16 its original factory-filled package. In the production of
17 ~~these~~ A quiescently frozen ~~confections~~ CONFECTION, no pro-
18 cessing or mixing prior to quiescent freezing shall be used that
19 develops in the finished confection mix any physical expansion in
20 excess of 15% by volume.

21 (h) "Quiescently frozen dairy confection" means a clean and
22 wholesome frozen product made from water, milk products, and
23 sugar, with added harmless pure or imitation flavoring, with or
24 without added harmless coloring, with or without added stabiliz-
25 er, and with or without added emulsifier, and in the manufacture
26 of which freezing has not been accompanied by stirring or
27 agitation, generally known as quiescent freezing. Quiescently

1 frozen dairy confection contains not less than 13% by weight of
 2 total milk solids, not less than 33% by weight of total food
 3 solids, not more than 1/2 of 1% by weight of stabilizer, and not
 4 more than 1/5 of 1% by weight of emulsifier. ~~Stabilizer~~ THE
 5 STABILIZER and emulsifier ~~must~~ SHALL be composed of wholesome
 6 edible material. This confection ~~must~~ SHALL be manufactured in
 7 the form of servings individually packaged, bagged, or otherwise
 8 wrapped, properly labeled, and purveyed to the consumer in its
 9 original factory-filled package. In the production of ~~these~~
 10 THIS quiescently frozen dairy ~~confections~~ CONFECTION, no pro-
 11 cessing or mixing prior to quiescent freezing shall be used that
 12 develops in the finished confection mix any physical expansion in
 13 excess of 15% by volume.

14 (i) "Ice cream mix", "ice milk mix", and "sherbet mix" are
 15 unfrozen food products ~~—~~ made from wholesome ingredients as
 16 provided for use in the manufacturing or processing of ice cream,
 17 ice milk, and sherbet, respectively, and shall meet the same
 18 requirements ~~as the foods~~ IN THIS ACT AS THE FOOD made from
 19 those mixes.

20 (j) "Frozen desserts" means ice cream, frozen custard,
 21 french custard ice cream, french ice cream, ice milk, sherbet,
 22 fruit sherbet, ~~ices~~ ICE, quiescently frozen ~~confections~~
 23 CONFECTION, quiescently frozen dairy ~~confections~~ CONFECTION,
 24 and other new related products which are defined in the future by
 25 rule.

26 (K) "FROZEN DESSERT OR MIX" MEANS FROZEN DESSERT, ICE CREAM
 27 MIX, ICE MILK MIX, AND SHERBET MIX.

1 (1) ~~(*)~~ "Ice cream plant" means any place, premises, or
2 establishment where ice cream, frozen custard, french ice cream,
3 french custard ice cream, ice milk, sherbet, fruit sherbet, ice,
4 a quiescently frozen confection, or a quiescently frozen dairy
5 confection is manufactured, prepared, processed, or frozen for
6 distribution or sale.

7 (M) "RBST" MEANS RECOMBINANT BOVINE SOMATOTROPIN, A RECOMBI-
8 NANT BOVINE GROWTH HORMONE USED WITH A LACTATING DAIRY COW TO
9 INCREASE MILK PRODUCTION.

10 SEC. 4A. A PERSON WHO SELLS, OFFERS TO SELL, EXPOSES FOR
11 SALE, OR POSSESSES WITH INTENT TO SELL A FROZEN DESSERT OR MIX
12 CONTAINING MILK OR A MILK PRODUCT DERIVED FROM A COW NOT TREATED
13 WITH RBST MAY LABEL THAT FROZEN DESSERT OR MIX WITH A CONSPICUOUS
14 NOTICE IN SUBSTANTIALLY THE FOLLOWING FORM:

15 "THIS PRODUCT CONTAINS MILK OR A MILK PRODUCT DERIVED FROM
16 COWS NOT TREATED WITH RBST. RBST IS RECOMBINANT BOVINE SOMATO-
17 TROPIN, A RECOMBINANT BOVINE GROWTH HORMONE USED WITH LACTATING
18 DAIRY COWS TO INCREASE MILK PRODUCTION. NO SIGNIFICANT DIFFER-
19 ENCE HAS BEEN SHOWN BETWEEN MILK DERIVED FROM RBST-TREATED AND
20 NON-RBST-TREATED COWS."