

House Bill 5143

A bill to amend 1959 PA 228, entitled

"An act to promote the development of the Michigan fruit and vegetable industry; to define certain types and methods of fruit and vegetable storage; to prohibit the sale of fruits and vegetables misbranded as to type of storage; to provide for records; to provide for licensing of certain fruit and vegetable storage facilities; to provide for registration and permits for packers or repackers; to provide for revocation of licenses; to provide for the enforcement of this act; and to provide penalties for violation of this act,"

by amending sections 1, 2, 3, 4, 5, 6, and 9 (MCL 286.371, 286.372, 286.373, 286.374, 286.375, 286.376, and 286.379) and by adding sections 2a and 4a; and to repeal acts and parts of acts.

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

1       Sec. 1. ~~For the purpose of~~ AS USED IN this act: ~~—~~

2 ~~"controlled"~~

3       (A) "APPLES" MEANS ALL VARIETIES OF APPLES.

4       (B) "CONTROLLED atmosphere storage" ~~—, "modified atmosphere~~  
5 ~~storage" or similar terms referring to a method of storage for~~

1 ~~fruits or vegetables~~ means the storage of fruits or vegetables  
2 ~~that have been kept~~ in an approved sealed storage room or in an  
3 approved sealed storage building, or in a sealed storage space  
4 within the room or building, under controlled conditions of time  
5 in days, oxygen content, carbon dioxide content, and temperature  
6 as established by ~~regulation of the director of agriculture~~  
7 THIS ACT OR RULES ADOPTED UNDER THIS ACT. The term controlled  
8 atmosphere may be referred to by the initials "CA" or similar  
9 terms or abbreviations.

10 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE MICHIGAN DEPARTMENT  
11 OF AGRICULTURE OR HIS OR HER DESIGNATED AGENTS.

12 (D) "SEALED STORAGE ROOM", "SEALED STORAGE SPACE", OR  
13 "SEALED STORAGE BUILDING" MEANS SEALED STORAGE SPACES IN WHICH  
14 CONTROLLED ATMOSPHERE IS MAINTAINED, INFERRED, ADVERTISED, OR  
15 REPRESENTED AS HAVING A CONTROLLED ATMOSPHERE.

16 Sec. 2. ~~No~~ A person ~~, firm, association or corporation~~  
17 OR OTHER LEGAL ENTITY shall NOT sell, LABEL, DESCRIBE, ADVERTISE,  
18 OFFER, expose, ~~offer for sale,~~ exchange, or transport ~~any~~  
19 fruits or vegetables for sale represented as having been ~~exposed~~  
20 ~~to~~ HELD UNDER controlled atmosphere ~~or modified atmosphere~~  
21 STORAGE CONDITIONS AS SPECIFIED IN THIS ACT, alone or with other  
22 words, or use any such terms or form or words or symbols of simi-  
23 lar import on any container or lot of fruits or vegetables adver-  
24 tised, sold, offered for sale, or transported for sale within  
25 this state unless the fruits or vegetables have been stored in  
26 compliance with the provisions of this act ~~, and rules and~~  
27 ~~regulations~~ promulgated by the director. ~~of agriculture.~~

1        SEC. 2A. (1) EACH SEALED STORAGE ROOM, SEALED STORAGE  
2 SPACE, OR SEALED STORAGE BUILDING USED AS A CONTROLLED ATMOSPHERE  
3 STORAGE FACILITY FOR FRUITS [OR] VEGETABLES SHALL BE CONSTRUCTED  
4 OF MATERIALS THAT WILL ALLOW FOR THE ESTABLISHMENT AND MAINTENANCE  
5 OF THE REQUIRED LEVELS OF CARBON DIOXIDE, OXYGEN, AND TEMPERATURE  
6 AND THAT ARE ACCEPTABLE TO THE DIRECTOR.

7        (2) EACH SEALED STORAGE ROOM, SEALED STORAGE SPACE, OR  
8 SEALED STORAGE BUILDING SHALL HAVE A FAHRENEHEIT THERMOMETER  
9 PROPERLY INSTALLED AND MAINTAINED. AN APPROVED GAS ANALYZER FOR  
10 THE MEASUREMENT OF CARBON DIOXIDE AND OXYGEN GASES SHALL BE  
11 READILY ACCESSIBLE TO ALL SEALED ROOMS OR UNITS.

12        Sec. 3. (1) A PERSON OR OTHER LEGAL ENTITY STORING FRUITS  
13 [OR VEGETABLES IN A SEALED STORAGE ROOM] SHALL KEEP A  
14 DAILY record ~~on a form approved by the director of agriculture~~  
15 ~~shall be kept~~ at a convenient location adjacent to the storage  
16 room, storage space, or storage building from the day of sealing  
17 the room, space, or building to the day of opening of the storage  
18 room, space, or building.

19        (2) THE DAILY RECORDS KEPT UNDER SUBSECTION (1) SHALL INDICATE  
20 THE ATMOSPHERIC CONDITIONS IN EACH SEALED STORAGE SPACE FROM  
21 THE DATE OF SEALING UNTIL THE DATE THE SPACE IS OPENED. THE  
22 DAILY RECORDS SHALL INDICATE THE DATE AND TIME OF RECORDING, THE  
23 TEMPERATURES IN DEGREES FAHRENHEIT, THE PERCENTAGES OF CARBON  
24 DIOXIDE, AND THE PERCENTAGE OF OXYGEN.

25        (3) The DAILY record shall be subject to review by the  
26 director ~~of agriculture or his authorized agents~~ at any time  
27 for a period of at least 1 year from date of sealing.

1        Sec. 4. The director ~~of agriculture shall make reasonable~~  
2 MAY PROMULGATE rules and regulations ~~in accordance with the pro-~~  
3 ~~visions of Act No. 88 of the Public Acts of 1943, as amended,~~  
4 ~~being sections 24.71 to 24.82 of the Compiled Laws of 1948, and~~  
5 ~~subject to Act No. 197 of the Public Acts of 1952, as amended,~~  
6 ~~being sections 24.101 to 24.110 of the Compiled Laws of 1948 in~~  
7 ~~the enforcement of the provisions of this act~~ REGARDING THE CON-  
8 TROLLED ATMOSPHERE STORAGE OF FRUIT [OR] VEGETABLES PURSUANT TO  
9 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL  
10 24.201 TO 24.328.

11        SEC. 4A. (1) A PERSON OR OTHER LEGAL ENTITY DESIRING TO  
12 MAINTAIN A LICENSED [SEALED STORAGE] ROOM SHALL NOTIFY THE  
13 DIRECTOR WITHIN 5 DAYS AFTER THE DATE OF SEALING. THE OXYGEN  
14 WITHIN THE SEALED STORAGE ROOM [MAINTAINED FOR APPLES] SHALL BE 5%  
OR LOWER WITHIN 14  
15 DAYS AFTER THE STORAGE ROOM IS SEALED BY THE OPERATOR. AN OPERA-  
16 TOR SHALL MAKE AVAILABLE FOR INSPECTION, UPON REQUEST OF THE  
17 DIRECTOR, THE DAILY RECORD FOR THE SEALED STORAGE ROOMS.

18        (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE  
19 APPLES SHALL BE STORED IN A CONTINUOUSLY SEALED STORAGE ROOM THAT  
20 DOES NOT HAVE MORE THAN 5% OXYGEN FOR A MINIMUM PERIOD OF 60  
21 DAYS, EXCEPT THAT GALA AND JONAGOLD VARIETIES MAY BE REMOVED FROM  
22 STORAGE IN NOT LESS THAN 45 DAYS.

23        (3) THE OXYGEN LEVEL IN ANY SEALED [STORAGE ROOM MAINTAINED FOR  
APPLES] MAY BE  
24 MORE THAN 5% FOR AN ACCUMULATED TIME NOT TO EXCEED 10 DAYS (240  
25 HOURS) DURING THE STORAGE PERIOD. IF THE ATMOSPHERIC CONDITIONS  
26 HAVE BEEN INTERRUPTED, THE MINIMUM STORAGE PERIOD SHALL BE

1 INCREASED TO 70 DAYS FOR ALL FRUIT EXCEPT FOR GALA AND JONAGOLD,  
2 WHICH SHALL HAVE A MINIMUM STORAGE PERIOD OF 55 DAYS.

3 (4) ALL [SEALED STORAGE ROOMS MAINTAINED FOR APPLES] SHALL BE  
SEALED  
4 BY THE OPERATOR. TO QUALIFY FOR "CA" STORAGE, THE ROOM MUST BE  
5 SEALED ON OR BEFORE NOVEMBER 15 OF THE STORAGE YEAR. AT THE TIME  
6 OF INSPECTION BY A DEPARTMENT REPRESENTATIVE, THE REPRESENTATIVE  
7 MUST PLACE AN OFFICIAL SEAL ON THE DOOR. AN OPERATOR SHALL NOT  
8 BREAK THE SEAL AND SHALL NOT ENTER THE STORAGE ROOM DURING THE  
9 DAYS REQUIRED FOR THE SEALED STORAGE PERIOD, EXCEPT AS PROVIDED  
10 IN SUBSECTION (3). IF INTERRUPTIONS IN ATMOSPHERIC CONDITIONS  
11 OCCUR, THE OPERATOR SHALL NOTIFY THE DEPARTMENT WITHIN 48 HOURS  
12 AFTER THE ATMOSPHERIC CONDITIONS IN THE [SEALED] STORAGE ROOM ARE  
13 INTERRUPTED. [SEALED] STORAGE ROOMS WHOSE ATMOSPHERIC CONDITIONS  
WERE  
14 INTERRUPTED MAY BE RESEALED BY AN AUTHORIZED REPRESENTATIVE OF  
15 THE DEPARTMENT.

16 (5) THE AIR TEMPERATURE OF ANY [SEALED STORAGE ROOM MAINTAINED  
FOR APPLES] SHALL NOT EXCEED  
17 35 DEGREES FAHRENHEIT FOR JONATHAN, ROME BEAUTY, DELICIOUS (ALL),  
18 AND STAYMAN VARIETIES AND THE TEMPERATURE SHALL NOT EXCEED 41  
19 DEGREES FAHRENHEIT FOR ALL OTHER VARIETIES DURING THE INTERRUPTED  
20 PERIOD.

21 Sec. 5. (1) ~~No~~ A person ~~, firm, association or~~  
22 ~~corporation~~ OR OTHER LEGAL ENTITY shall NOT operate any sealed  
23 type storage [ROOM] for fruits or vegetables where controlled  
atmosphere  
24 is used without first obtaining a license from the director ~~of~~  
25 ~~agriculture~~ FOR EACH SEALED STORAGE [ROOM]. ~~A license shall be~~  
26 ~~applied for and obtained for each sealed storage unit where~~  
27 ~~fruits or vegetables are stored under controlled atmosphere~~

1 conditions. ~~Application~~ AN APPLICATION for license shall be  
2 made on forms furnished by the director. ~~of agriculture.~~

3 (2) A fee of ~~-\$25.00~~ \$35.00 per room shall accompany each  
4 application. ~~No~~ THE DIRECTOR SHALL NOT ISSUE A license ~~shall~~  
5 ~~be issued~~ under ~~the provisions of~~ this act unless the director  
6 ~~of agriculture~~ or his OR HER authorized agent has inspected the  
7 storage facilities and found ~~them~~ THOSE FACILITIES to be in  
8 compliance with this act and ~~regulations~~ RULES promulgated  
9 under this act.

10 (3) All licenses ~~shall~~ expire on November ~~1~~ 15 of the  
11 year after issue ~~,~~ and ~~shall~~ MAY be renewed annually  
12 ~~thereafter,~~ unless the license is revoked or suspended. ~~When~~  
13 ~~fruits~~

14 (4) FRUITS [and OR] vegetables ~~are~~ not represented as con-  
15 trolled atmosphere ~~or modified atmosphere~~ storage ~~it shall~~  
16 ARE not ~~be necessary to comply~~ REQUIRED TO BE IN COMPLIANCE  
17 with the requirements of this act.

18 Sec. 6. (1) ~~The~~ IN ADDITION TO ANY OTHER PENALTIES OR  
19 SANCTIONS PROVIDED FOR BY LAW, THE director ~~of agriculture~~  
20 AFTER NOTICE AND OPPORTUNITY FOR A HEARING UNDER THE ADMINISTRA-  
21 TIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328,  
22 may ~~withhold and refuse to issue~~ DENY, SUSPEND, OR REVOKE a  
23 license for any [~~controlled atmosphere~~ SEALED] storage room, space,  
or  
24 building that had not been operated, or is not prepared to be  
25 operated, in ~~accordance with the requirements of~~ COMPLIANCE  
26 WITH this act or any rules ~~and regulations~~ issued ~~hereunder~~  
27 UNDER THIS ACT. ~~The director of agriculture may bring an action~~

1 ~~for the revocation of any license issued under the authority of~~  
2 ~~this act in the circuit court of the county where the license was~~  
3 ~~issued.~~

4 (2) THE DIRECTOR, UPON FINDING AFTER NOTICE AND OPPORTUNITY  
5 FOR A HEARING THAT A PERSON HAS VIOLATED ANY PROVISION OF THIS  
6 ACT, MAY IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN \$1,000.00  
7 FOR EACH VIOLATION.

8 (3) IF THE DIRECTOR FINDS THAT A PERSON OR FIRM HAS VIOLATED  
9 PROVISIONS OF THE ACT DESPITE THE EXERCISE OF DUE CARE, THE  
10 DIRECTOR MAY ISSUE A WARNING INSTEAD OF IMPOSING AN ADMINISTRA-  
11 TIVE FINE.

12 (4) THE DIRECTOR SHALL ADVISE THE ATTORNEY GENERAL OF THE  
13 FAILURE OF A PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER  
14 THIS SECTION. THE ATTORNEY GENERAL SHALL BRING AN ACTION IN A  
15 COURT OF COMPETENT JURISDICTION TO RECOVER THE FINE.

16 (5) THE DIRECTOR MAY BRING AN ACTION TO ENJOIN THE VIOLATION  
17 OR THREATENED VIOLATION OF THIS ACT OR A RULE PROMULGATED PURSU-  
18 ANT TO THIS ACT IN A COURT OF COMPETENT JURISDICTION OF THE  
19 COUNTY IN WHICH THE VIOLATION OCCURS OR IS ABOUT TO OCCUR.

20 (6) ANY CIVIL PENALTIES OR RECOVERY OF ANY ECONOMIC BENEFITS  
21 ASSOCIATED WITH A VIOLATION OF THIS ACT AND COLLECTED UNDER THIS  
22 SECTION SHALL BE PAID TO THE STATE TREASURY AND CREDITED TO THE  
23 DEPARTMENT FOR THE ENFORCEMENT OF THIS ACT.

24 Sec. 9. Any person ~~, firm, association or corporation~~ OR  
25 OTHER LEGAL ENTITY who violates any of the provisions of this act  
26 is guilty of a misdemeanor PUNISHABLE BY A FINE OF NOT LESS THAN

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1 \$200.00 OR MORE THAN \$5,000.00 OR BY IMPRISONMENT FOR NOT MORE  
2 THAN 90 DAYS.

3 Enacting section 1. Sections 7 and 8 of 1959 PA 228, MCL  
4 286.377 and 286.378, are repealed.