

Act No. 145
Public Acts of 2010
Approved by the Governor
August 3, 2010
Filed with the Secretary of State
August 4, 2010
EFFECTIVE DATE: August 4, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Barnett, Byrnes, Donigan, Valentine, Proos, Tyler, Hansen, Huckleberry, Meadows and Haase

ENROLLED HOUSE BILL No. 5843

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending section 4105 (MCL 289.4105), as amended by 2007 PA 113.

The People of the State of Michigan enact:

Sec. 4105. (1) Except as otherwise provided for in subsection (2), a person, establishment, or organization that is 1 or more of the following is exempt from the licensure requirements under this act:

(a) Subject to subsection (2), an establishment licensed under 1 of the following acts while conducting activities within the scope of that act:

<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Law Sections</u>
141	1939	285.61 to 285.88
228	1959	286.371 to 286.379
158	1964	290.451 to 290.466
266	2001	288.471 to 288.540
267	2001	288.561 to 288.740

(b) A person that is offering only whole uncut fresh fruits and vegetables directly to consumers.

(c) Consumers or nonprofit cooperatives of consumers in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, providing products from regulated sources only for their own use.

(d) Nonprofit cooperatives in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, who are growers selling unprocessed products of their own production or are producers selling unprocessed products of their own production from regulated sources.

(e) Retail outlets for the sale of prepackaged honey or maple syrup produced in Michigan if the outlet is operated by the producer and the processing facility is licensed under this act. Both retail outlets and processing facilities are exempt from licensure under this act for producers with gross sales of \$15,000.00 or less of honey or maple syrup. In

such case, the honey and maple syrup shall have labeling substantially similar to that for cottage food products as described in section 4102(3).

(f) A temporary food establishment with no food preparation using only single-service articles and serving only non-potentially-hazardous food or beverage.

(g) A retail food establishment that does both of the following:

(i) Only sells prepackaged, non-potentially-hazardous foods.

(ii) Offers only an incidental amount of food, such as the sale of single-service packages.

(h) A mobile food establishment, such as an ice cream truck, that offers only prepackaged, single-serving frozen desserts.

(i) An event not open to the general public held by a nonprofit trade association representing food establishments, suppliers, or manufacturers where limited food preparation takes place for the purpose of advertising, displaying, promoting, and sampling prepared food.

(j) A commercial fishing guide service that serves lunch to a party of not more than 12 clients on or adjacent to a body of water, river, or stream while pursuing, capturing, catching, killing, taking, or attempting to take fish. As used in this subparagraph, "commercial fishing guide service" means a service provided for a fee or other valuable consideration, regardless of whether the fee or other valuable consideration is paid directly or indirectly, to assist another person in pursuing, capturing, catching, killing, taking, or attempting to take fish.

(k) A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

(l) Feeding operations set up in response to an emergency or disaster.

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

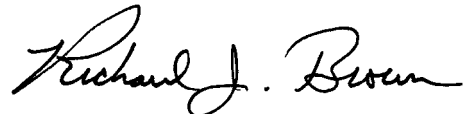
(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

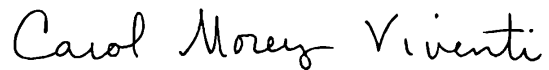
(a) House Bill No. 5280.

(b) House Bill No. 5837.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor

Compiler's note: House Bill No. 5280, referred to in enacting section 1, was filed with the Secretary of State July 12, 2010, and became 2010 PA 112, Imd. Eff. July 12, 2010.

House Bill No. 5837, also referred to in enacting section 1, was filed with the Secretary of State July 12, 2010, and became 2010 PA 113, Imd. Eff. July 12, 2010.