

SUBSTITUTE FOR
HOUSE BILL NO. 5280

A bill to amend 2000 PA 92, entitled
"Food law of 2000,"
by amending section 4101 (MCL 289.4101), as amended by 2007 PA 113,
and by adding section 4102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4101. (1) Except as provided in ~~section~~**SECTIONS 4102 AND**
2 4105, a person shall not operate a food establishment unless
3 licensed by the department as a food establishment.

4 (2) Separate areas for food service or preparation located in
5 1 building and actively operated under 1 management are considered
6 to be 1 food establishment and only 1 license is required. The
7 director may require separate licenses for these areas if managed
8 separately even though under the same owner.

1 (3) Except as otherwise provided in this act, a city, county,
2 or other local unit of government shall not adopt or enforce
3 licensing ordinances or regulations for persons regulated under
4 this act.

5 SEC. 4102. (1) A COTTAGE FOOD OPERATION IS EXEMPT FROM THE
6 LICENSING AND EVALUATION PROVISIONS OF THIS ACT. THIS EXEMPTION
7 DOES NOT INCLUDE AN EXEMPTION FROM THE ADULTERATION AND OTHER
8 STANDARDS IMPOSED IN THIS SECTION OR UNDER THIS ACT, OR BOTH, AND
9 DOES NOT LIMIT THE ABILITY OF THE DEPARTMENT TO TAKE APPROPRIATE
10 ENFORCEMENT ACTION FOR APPLICABLE VIOLATIONS AS DESCRIBED IN
11 SECTION 5101. THIS SUBSECTION DOES NOT REQUIRE A COTTAGE FOOD
12 OPERATION TO MEET THE STANDARDS CONTAINED IN 21 CFR 110 OR THE 2005
13 FEDERAL FOOD CODE, OR BOTH.

14 (2) COTTAGE FOOD PRODUCTS SHALL BE PREPACKAGED AND PROPERLY
15 LABELED PRIOR TO SALE.

16 (3) AT A MINIMUM, A COTTAGE FOOD OPERATION SHALL PLACE ON THE
17 LABEL OF ANY FOOD IT PRODUCES OR PACKAGES THE FOLLOWING
18 INFORMATION:

19 (A) THE NAME AND ADDRESS OF THE BUSINESS OF THE COTTAGE FOOD
20 OPERATION.

21 (B) THE NAME OF THE COTTAGE FOOD PRODUCT.

22 (C) THE INGREDIENTS OF THE COTTAGE FOOD PRODUCT, IN DESCENDING
23 ORDER OF PREDOMINANCE BY WEIGHT.

24 (D) THE NET WEIGHT OR NET VOLUME OF THE COTTAGE FOOD PRODUCT.

25 (E) ALLERGEN LABELING AS SPECIFIED BY FEDERAL LABELING
26 REQUIREMENTS.

27 (F) IF ANY NUTRITIONAL CLAIM IS MADE, APPROPRIATE LABELING AS

1 SPECIFIED BY FEDERAL LABELING REQUIREMENTS.

2 (G) THE FOLLOWING STATEMENT PRINTED IN AT LEAST THE EQUIVALENT
3 OF 11-POINT FONT SIZE IN A COLOR THAT PROVIDES A CLEAR CONTRAST TO
4 THE BACKGROUND: "MADE IN A HOME KITCHEN THAT HAS NOT BEEN INSPECTED
5 BY THE MICHIGAN DEPARTMENT OF AGRICULTURE."

6 (4) COTTAGE FOOD PRODUCTS MAY BE SOLD DIRECTLY FROM THE
7 COTTAGE FOOD OPERATION TO THE CONSUMER ONLY, AND NOT BY INTERNET OR
8 MAIL ORDER. SALES BY CONSIGNMENT OR AT WHOLESALE ARE PROHIBITED.

9 (5) THE GROSS SALES OF COTTAGE FOOD PRODUCTS SHALL NOT EXCEED
10 \$15,000.00 ANNUALLY. THE DETERMINATION OF THE \$15,000.00 ANNUAL
11 GROSS SALES SHALL BE COMPUTED ON THE BASIS OF THE AMOUNT OF GROSS
12 SALES WITHIN OR AT A PARTICULAR DOMESTIC RESIDENCE AND SHALL NOT BE
13 COMPUTED ON A PER-PERSON BASIS WITHIN OR AT THAT DOMESTIC
14 RESIDENCE. THE DEPARTMENT MAY REQUEST IN WRITING DOCUMENTATION TO
15 VERIFY THE ANNUAL GROSS SALES FIGURE.

16 (6) COTTAGE FOOD PRODUCTS SHALL BE STORED ONLY IN THE PRIMARY
17 DOMESTIC RESIDENCE.

18 (7) AN EXEMPTION UNDER THIS SECTION DOES NOT AFFECT THE
19 APPLICATION OF ANY OTHER STATE OR FEDERAL LAWS OR ANY APPLICABLE
20 ORDINANCES ENACTED BY ANY LOCAL UNIT OF GOVERNMENT.

21 Enacting section 1. This amendatory act does not take effect
22 unless House Bill No. 5837 of the 95th Legislature is enacted into
23 law.