

**SUBSTITUTE FOR  
HOUSE BILL NO. 5130**

A bill to amend 2000 PA 92, entitled  
"Food law of 2000,"  
by amending sections 1101, 1105, 1107, 1109, 1111, 1113, 2119,  
2125, 2127, 2129, 3103, 3105, 3125, 3127, 3133, 4102, 4103, 4105,  
4111, 4117, 4123, 4125, 4127, 4129, 5101, 5105, 6101, 6107, 6129,  
6135, 7101, 7113, 7133, 7137, and 8107 (MCL 289.1101, 289.1105,  
289.1107, 289.1109, 289.1111, 289.1113, 289.2119, 289.2125,  
289.2127, 289.2129, 289.3103, 289.3105, 289.3125, 289.3127,  
289.3133, 289.4102, 289.4103, 289.4105, 289.4111, 289.4117,  
289.4123, 289.4125, 289.4127, 289.4129, 289.5101, 289.5105,  
289.6101, 289.6107, 289.6129, 289.6135, 289.7101, 289.7113,  
289.7133, 289.7137, and 289.8107), section 1105 as amended by  
2010 PA 113, section 1107 as amended by 2008 PA 338, sections  
1109, 2119, 2125, 2129, 3103, 3125, 3127, and 4103 as amended by

2007 PA 113, section 4102 as added by 2010 PA 112, section 4105 as amended by 2010 PA 145, sections 4111, 4117, 4125, 5101, 5105, 6101, 6129, 7113, 7137, and 8107 as amended by 2007 PA 114, and section 7101 as amended by 2002 PA 487, and by adding sections 2132, 4114, 7104, 7112, and 7114; and to repeal acts and parts of acts.

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

1           Sec. 1101. This act shall be known and may be cited as the  
2 "food law". ~~of 2000~~.

3           Sec. 1105. (1) As used in this act:

4           (a) "Adulterated" means food to which any of the following  
5 apply:

6           (i) It bears or contains any poisonous or deleterious  
7 substance that may render it injurious to health ~~except that, if~~  
8 **UNLESS** the substance is not an added substance ~~, the food is not~~  
9 ~~considered adulterated if~~ **AND** the quantity of that substance in  
10 the food does not ordinarily render it injurious to health.

11           (ii) It bears or contains any added poisonous or added  
12 deleterious substance, other than a substance that is a pesticide  
13 chemical in or on a raw agricultural commodity; a food additive;  
14 or a color additive considered unsafe within the meaning of  
15 ~~subparagraph (v)~~. **SUBSECTION (2)**.

16           (iii) It is a raw agricultural commodity that bears or  
17 contains a pesticide chemical considered unsafe within the  
18 meaning of ~~subparagraph (v)~~. **SUBSECTION (2)**.

19           (iv) It bears or contains any food additive considered unsafe  
20 within the meaning of ~~subparagraph (v)~~ ~~provided that where~~

1 **SUBSECTION (2). HOWEVER, IF** a pesticide chemical has been used in  
2 or on a raw agricultural commodity in conformity with an  
3 exemption granted or ~~tolerance~~**LIMITATION** prescribed under  
4 ~~subparagraph (v)~~**SUBSECTION (2)** and the raw agricultural  
5 commodity has been subjected to processing, the residue of that  
6 pesticide chemical remaining in or on that processed food is,  
7 notwithstanding the provisions of ~~subparagraph (v)~~**SUBSECTION (2)**  
8 and this subdivision, not ~~be~~ considered unsafe if that residue in  
9 or on the raw agricultural commodity has been removed to the  
10 extent possible in good manufacturing practice and if the  
11 concentration of that residue in the processed food when ready to  
12 eat is not greater than the tolerance prescribed for the raw  
13 agricultural commodity.

14 ~~—— (v) Any added poisonous or deleterious substance, any food~~  
15 ~~additive, and pesticide chemical in or on a raw agricultural~~  
16 ~~commodity, or any color additive is considered unsafe for the~~  
17 ~~purpose of application of this definition, unless there is in~~  
18 ~~effect a federal regulation or exemption from regulation under~~  
19 ~~the federal act, meat inspection act, poultry product inspection~~  
20 ~~act, or other federal acts, or a rule adopted under this act~~  
21 ~~limiting the quantity of the substance, and the use or intended~~  
22 ~~use of the substance, and the use or intended use of the~~  
23 ~~substance conforms to the terms prescribed by the rule.~~

24 (v) ~~(vi)~~—It is or contains a new animal drug or conversion  
25 product of a new animal drug that is unsafe within the meaning of  
26 section 360b of the federal act, 21 USC 360b.

27 (vi) ~~(vii)~~—It consists in whole or in part of a diseased,

1 contaminated, filthy, putrid, or decomposed substance or it is  
2 otherwise unfit for food.

3 (vii) ~~(viii)~~—It has been produced, prepared, packed, or held  
4 under insanitary conditions in which it may have become  
5 contaminated with filth or in which it may have been rendered  
6 diseased, unwholesome, or injurious to health.

7 (viii) ~~(ix)~~—It is the product of a diseased animal or an animal  
8 that has died other than by slaughter or that has been fed  
9 uncooked garbage or uncooked offal from a slaughterhouse.

10 (ix) ~~(x)~~—Its container is composed, in whole or in part, of  
11 any poisonous or deleterious substance that may render the  
12 contents injurious to health.

13 (x) ~~(xi)~~—A valuable constituent has been in whole or in part  
14 omitted or abstracted from the food; a substance has been  
15 substituted wholly or in part for the food; damage or inferiority  
16 has been concealed in any manner; or a substance has been added  
17 to the food or mixed or packed with the food so as to increase  
18 its bulk or weight, reduce its quality or strength, or make it  
19 appear better or of greater value than it is.

20 (xi) ~~(xii)~~—It is confectionery and has partially or completely  
21 imbedded in it any nonnutritive object except ~~in the case of any~~  
22 ~~nonnutritive object~~ if, as provided by rules, the object is of  
23 practical functional value to the confectionery product and would  
24 not render the product injurious or hazardous to health; it **IS**  
25 **CONFECTIONERY AND** bears or contains any alcohol other than  
26 alcohol not in excess of 1/2 of 1% by volume derived solely from  
27 the use of flavoring extracts; or it **IS CONFECTIONERY AND** bears

1 or contains any nonnutritive substance except a nonnutritive  
2 substance such as harmless coloring, harmless flavoring, harmless  
3 resinous glaze not in excess of 4/10 of 1%, harmless natural wax  
4 not in excess of 4/10 of 1%, harmless natural gum and pectin or  
5 ~~to~~ any chewing gum by reason of its containing harmless  
6 nonnutritive masticatory substances which is in or on **THE**  
7 confectionery by reason of its use for some practical functional  
8 purpose in the manufacture, packaging, or storage of such  
9 confectionery if the use of the substance does not promote  
10 deception of the consumer or otherwise result in adulteration or  
11 misbranding in violation of ~~the provisions of~~ this act. For the  
12 purpose of avoiding or resolving uncertainty as to the  
13 application of this subdivision, the director may issue rules  
14 allowing or prohibiting the use of particular nonnutritive  
15 substances.

16 (xii) ~~(xiii)~~—It is or bears or contains any color additive that  
17 is unsafe within the meaning of ~~subparagraph (v)~~. **SUBSECTION (2)**.

18 (xiii) ~~(xiv)~~—It has been intentionally subjected to radiation,  
19 unless the use of the radiation was in conformity with a rule or  
20 exemption under this act or a regulation or exemption under the  
21 federal act.

22 (xiv) ~~(xv)~~—It is bottled water that contains a substance at a  
23 level higher than allowed under this act.

24 (b) "Advertisement" means a representation disseminated in  
25 any manner or by any means, other than by labeling, for the  
26 purpose of inducing, or which is likely to induce, directly or  
27 indirectly, the purchase of food.

1 (c) "Agricultural use operation" means a maple syrup  
2 production facility or similar food establishment that finishes a  
3 raw commodity and is integral to the agricultural production of,  
4 and is located at, a farm. An agricultural use operation is not  
5 considered a food ~~processing plant~~ **PROCESSOR** or retail processing  
6 operation for purposes of personal or real property but must meet  
7 those same standards and licensing requirements as prescribed in  
8 this act.

9 (d) "Bed and breakfast" means a private residence that  
10 offers sleeping accommodations to transient tenants in 14 or  
11 fewer rooms for rent, is the innkeeper's residence in which the  
12 innkeeper resides while renting the rooms to transient tenants,  
13 and serves breakfasts, or other meals in the case of a bed and  
14 breakfast described in section ~~1107(n)(ii)~~, **1107(T)(ii)**, at no  
15 extra cost to its transient tenants. A bed and breakfast is not  
16 ~~considered~~ a food service establishment if exempt under section  
17 ~~1107(n)(ii)~~ **1107(T)(ii)** or (iii).

18 (e) "Color additive" means a dye, pigment, or other  
19 substance **THAT IS** made by **A** process of synthesis or similar  
20 artifice or **IS** extracted, isolated, or otherwise derived, with or  
21 without intermediate or final change of identity from a  
22 vegetable, animal, mineral, or other source, or when added or  
23 applied to a food or any part of a food is capable alone or  
24 through reaction with other ~~substance~~ **SUBSTANCES** of imparting  
25 color to the food. Color additive does not include any material  
26 that is exempt or hereafter is exempted under the federal act.  
27 This subdivision does not apply to any pesticide chemical, soil

1 or plant nutrient, or other agricultural chemical solely because  
2 of its effect in aiding, retarding, or otherwise affecting,  
3 directly or indirectly, the growth of other natural physiological  
4 process of produce of the soil and thereby affecting its color,  
5 whether before or after harvest. Color includes black, white, and  
6 intermediate grays.

7 (F) "CONSUMER" MEANS AN INDIVIDUAL WHO IS A MEMBER OF THE  
8 PUBLIC, TAKES POSSESSION OF FOOD, IS NOT FUNCTIONING IN THE  
9 CAPACITY OF AN OPERATOR OF A FOOD ESTABLISHMENT OR FOOD  
10 PROCESSOR, AND DOES NOT OFFER THE FOOD FOR RESALE.

11 (G) ~~(f)~~—"Contaminated with filth" means ~~contamination~~  
12 ~~applicable to any food not~~ CONTAMINATED AS A RESULT OF NOT BEING  
13 securely protected from dust, dirt, and, as far as may be  
14 necessary by all reasonable means, from all foreign or injurious  
15 contaminations.

16 (H) ~~(g)~~—"Continental breakfast" means the serving of only  
17 non-potentially-hazardous food such as a roll, pastry or  
18 doughnut, fruit juice, or hot beverage, but may also include  
19 individual portions of milk and other items incidental to those  
20 foods.

21 (I) "CORE ITEM" MEANS A PROVISION IN THE FOOD CODE THAT IS  
22 NOT DESIGNATED AS A PRIORITY ITEM OR A PRIORITY FOUNDATION ITEM.  
23 CORE ITEM INCLUDES AN ITEM THAT USUALLY RELATES TO GENERAL  
24 SANITATION, OPERATIONAL CONTROLS, SANITATION STANDARD OPERATING  
25 PROCEDURES (SSOPS), FACILITIES OR STRUCTURES, EQUIPMENT DESIGN,  
26 OR GENERAL MAINTENANCE.

27 (J) ~~(h)~~—"Cottage food operation" means a person who produces

1 or packages cottage food products only in a kitchen of that  
2 person's primary domestic residence within this state.

3       **(K)** ~~(i)~~—"Cottage food product" means a food that is not  
4 potentially hazardous food as that term is defined in the food  
5 code. Examples of cottage food product include, but are not  
6 limited to, jams, jellies, dried fruit, candy, cereal, granola,  
7 dry mixes, vinegar, dried herbs, and baked goods that do not  
8 require temperature control for safety. Cottage food product does  
9 not include all ~~any~~ potentially hazardous food regulated under 21  
10 CFR **PARTS** 113 and 114, examples of which include, but are not  
11 limited to, meat and poultry products; salsa; milk products;  
12 bottled water and other beverages; and home-produced ice  
13 products. Cottage food product also does not include canned low-  
14 acid fruits or acidified vegetables and other canned foods except  
15 for jams, jellies, and preserves as defined in 21 CFR **PART** 150.

16 ~~—— (j) "Critical violation" or "critical item" means a~~  
17 ~~violation of the food code that the director determines is more~~  
18 ~~likely than other violations to contribute to food contamination,~~  
19 ~~illness to humans, or environmental health hazard.~~

20 ~~—— (k) "Domestic residence" means a single family dwelling or~~  
21 ~~an area within a rental unit where a single person or family~~  
22 ~~actually resides. Domestic residence does not include either of~~  
23 ~~the following:~~

24 ~~—— (i) A group or communal residential setting within any type~~  
25 ~~of structure.~~

26 ~~—— (ii) An outbuilding, shed, barn, or other similar structure.~~

27       **(2) ANY ADDED POISONOUS OR DELETERIOUS SUBSTANCE, FOOD**

1 ADDITIVE, PESTICIDE CHEMICAL IN OR ON A RAW AGRICULTURAL  
2 COMMODITY, OR COLOR ADDITIVE IS CONSIDERED UNSAFE FOR THE PURPOSE  
3 OF SUBSECTION (1) (A), UNLESS THERE IS IN EFFECT A FEDERAL  
4 REGULATION OR EXEMPTION FROM REGULATION UNDER THE FEDERAL ACT,  
5 THE FEDERAL MEAT INSPECTION ACT, 21 USC 601 TO 683, THE POULTRY  
6 PRODUCTS INSPECTION ACT, 21 USC 451 TO 472, OR ANOTHER FEDERAL  
7 STATUTE, OR A RULE LIMITING THE QUANTITY OF THE SUBSTANCE, AND  
8 THE USE OR INTENDED USE OF THE SUBSTANCE, AND THE USE OR INTENDED  
9 USE OF THE SUBSTANCE CONFORMS TO THE TERMS PRESCRIBED BY THE  
10 FEDERAL REGULATION OR EXEMPTION OR THE RULE.

11 Sec. 1107. As used in this act:

12 (a) "Department" means the ~~Michigan~~ department of  
13 agriculture AND RURAL DEVELOPMENT.

14 (b) "Director" means the director of the ~~Michigan~~ department  
15 of ~~agriculture~~ or his or her designee.

16 (c) "DOMESTIC RESIDENCE" MEANS A SINGLE-FAMILY DWELLING OR  
17 AN AREA WITHIN A RENTAL UNIT WHERE A SINGLE PERSON OR FAMILY  
18 ACTUALLY RESIDES. DOMESTIC RESIDENCE DOES NOT INCLUDE EITHER OF  
19 THE FOLLOWING:

20 (i) A GROUP OR COMMUNAL RESIDENTIAL SETTING WITHIN ANY TYPE  
21 OF STRUCTURE.

22 (ii) AN OUTBUILDING, SHED, BARN, OR OTHER SIMILAR STRUCTURE.

23 (d) "EGG" DOES NOT INCLUDE A BALUT, WHICH IS AN EMBRYO  
24 INSIDE A FERTILE EGG THAT HAS BEEN INCUBATED FOR A PERIOD  
25 SUFFICIENT FOR THE EMBRYO TO REACH A SPECIFIC STAGE OF  
26 DEVELOPMENT AFTER WHICH IT IS REMOVED FROM INCUBATION BEFORE  
27 HATCHING.

1           **(E)** ~~(e)~~—"Evaluation" means a food safety audit, inspection,  
 2 or food safety and sanitation assessment, whether announced or  
 3 unannounced, that identifies violations or verifies compliance  
 4 with this act and determines the degree of active control by food  
 5 establishment operators over foodborne illness risk factors.

6           **(F)** ~~(d)~~—"Extended retail food establishment" means a retail  
 7 grocery that does both of the following:

8           (i) Serves or provides an unpackaged food for immediate  
 9 consumption.

10          (ii) Provides customer seating in the food service area.

11          **(G) "FAIR" MEANS A FAIR OR EXHIBITION OPERATED AND MANAGED**  
 12 **UNDER 1929 PA 11, MCL 46.151 TO 46.153, OR HELD BY AN**  
 13 **AGRICULTURAL OR HORTICULTURAL SOCIETY UNDER 1855 PA 80, MCL**  
 14 **453.231 TO 453.240.**

15          **(H)** ~~(e)~~—"Fair concession" means a food concession, storage,  
 16 preparation, or dispensing operation at a state or county fair.

17          **(I) "FARMERS' MARKET" MEANS A PUBLIC AND RECURRING ASSEMBLY**  
 18 **OF FARMERS OR THEIR REPRESENTATIVES SELLING DIRECTLY TO CONSUMERS**  
 19 **FOOD AND PRODUCTS THAT THE FARMERS HAVE PRODUCED THEMSELVES. IN**  
 20 **ADDITION, THE MARKET MAY INCLUDE A VARIETY OF OTHER VENDORS AS**  
 21 **DETERMINED BY MARKET MANAGEMENT.**

22          **(J)** ~~(f)~~—"Federal act" means the federal food, drug, and  
 23 cosmetic act, **CHAPTER 675, 52 STAT. 1040, 21 USC 301 to 397-399D.**

24          **(K) "FESTIVAL" MEANS AN EVENT, STAGED BY A LOCAL COMMUNITY**  
 25 **OR LOCAL ORGANIZATION, THAT CENTERS ON AND CELEBRATES A CERTAIN**  
 26 **ASPECT OF THAT COMMUNITY OR ORGANIZATION. FESTIVAL INCLUDES, BUT**  
 27 **IS NOT LIMITED TO, A FAIR, ART SHOW, CHILI COOK-OFF, CAR SHOW,**

1 HOT AIR BALLOON FESTIVAL, RELIGIOUS FESTIVAL, DRAMA FESTIVAL, OR  
2 CULTURAL FESTIVAL.

3 (I) "FIRST RECEIVER" MEANS A PERSON WHO RECEIVES EGGS FROM A  
4 PRODUCER AT ANY PLACE OF BUSINESS AND CANDLES, GRADES, SORTS,  
5 PACKS, OR PACKAGES THE EGGS.

6 (M) ~~(g)~~—"Food" means articles used for food or drink for  
7 humans or other animals, chewing gum, and articles used for  
8 components of any such article.

9 (N) ~~(h)~~—"Food additive" means any substance, the intended  
10 use of which, directly or indirectly, results in or may be  
11 reasonably expected to result in its becoming a component or  
12 otherwise affecting the characteristics of any food if that  
13 substance is not generally recognized among experts as having  
14 been adequately shown through scientific procedures to be safe  
15 under the conditions of its intended use. Food additive includes  
16 any substance intended for use in producing, manufacturing,  
17 packing, processing, preparing, treating, packaging,  
18 transporting, or holding food and includes any source of  
19 radiation intended for any use. Food additive does not include  
20 any of the following:

21 (i) A pesticide chemical in or on a raw agricultural  
22 commodity.

23 (ii) A pesticide chemical to the extent that it is intended  
24 for use or is used in the production, storage, or transportation  
25 of any raw agricultural commodity.

26 (iii) A color additive.

27 (iv) Any substance used in accordance with a sanction or

1 approval granted before the enactment of the food additives  
 2 amendment of 1958, Public Law 85-929, pursuant to the federal  
 3 act, the poultry products inspection act, 21 USC 451 to ~~471-472~~,  
 4 or the **FEDERAL** meat inspection act, ~~of March 4, 1907, chapter~~  
 5 ~~2907, 34 Stat. 1258.~~ **21 USC 601 TO 683.**

6 (O) ~~(i)~~-"Food code" means food code, ~~2005-2009~~  
 7 recommendations of the food and drug administration of the United  
 8 States public health service that regulates the design,  
 9 construction, management, and operation of certain food  
 10 establishments.

11 (P) ~~(j)~~-"Food establishment" means an operation where food  
 12 is processed, packed, canned, preserved, frozen, fabricated,  
 13 stored, prepared, served, sold, or offered for sale. Food  
 14 establishment includes, **BUT IS NOT LIMITED TO**, a food ~~processing~~  
 15 ~~plant~~-**PROCESSOR, A FOOD WAREHOUSE**, a food service establishment,  
 16 and a retail grocery. Food establishment does not include any of  
 17 the following:

18 (i) A charitable, religious, fraternal, or other nonprofit  
 19 organization operating a home-prepared baked goods sale or  
 20 serving only home-prepared food in connection with its meetings  
 21 or as part of a fund-raising event.

22 (ii) An inpatient food operation located in a health facility  
 23 or agency subject to licensure under article 17 of the public  
 24 health code, MCL 333.20101 to 333.22260.

25 (iii) A food operation located in a prison, jail, state mental  
 26 health institute, boarding house, fraternity or sorority house,  
 27 convent, or other facility where the facility is the primary

1 residence for the occupants and the food operation is limited to  
2 serving meals to the occupants as part of their living  
3 arrangement.

4 (iv) A PRODUCER SELLING EGGS FROM FEWER THAN 3,000 HENS, IN  
5 CONTAINERS THAT EACH BEAR A LABEL STATING "PACKAGED IN A FACILITY  
6 THAT HAS NOT BEEN INSPECTED BY THE DEPARTMENT", DIRECTLY TO  
7 CONSUMERS OR TO A FIRST RECEIVER AND NOT BY INTERNET, MAIL ORDER,  
8 OR CONSIGNMENT.

9 (Q) ~~(k)~~—"Food processing plant-PROCESSOR" means a food  
10 establishment that processes, manufactures, **WHOLESALES**, packages,  
11 labels, or stores food. ~~and does not provide food directly to a~~  
12 ~~consumer.~~ Food processing plant-PROCESSOR does not include a  
13 maple syrup producer. **PROCESSING IS AN ACT, SUCH AS CANNING,**  
14 **FREEZING, DEHYDRATING, DRYING, DISTILLING, EXTRACTING,**  
15 **PRESERVING, GRINDING, CRUSHING, MILLING, WASHING, TRIMMING,**  
16 **PACKING, OR OTHERWISE PRESERVING OR CHANGING THE FORM OF A FOOD.**

17 (R) ~~(l)~~—"Food safety and sanitation assessment" means judging  
18 or assessing specific food handling activities, events,  
19 conditions, or management systems in an effort to determine their  
20 potential effectiveness in controlling risks for foodborne  
21 illness and required compliance with this act, accompanied by a  
22 report of findings.

23 (S) ~~(m)~~—"Food safety audit" means the methodical examination  
24 and review of records, food sources, food handling procedures,  
25 and facility cleaning and sanitation practices for compliance  
26 with this act, accompanied by a report of findings. Food safety  
27 audit includes checking or testing, or both, of observable

1 practices and procedures to determine compliance with standards  
 2 contained in or adopted by this act, accompanied by a report of  
 3 findings.

4 (T) ~~(n)~~—"Food service establishment" means a fixed or mobile  
 5 restaurant, coffee shop, cafeteria, short order cafe,  
 6 luncheonette, grill, tearoom, sandwich shop, soda fountain,  
 7 tavern, bar, cocktail lounge, nightclub, drive-in, industrial  
 8 feeding establishment, private organization serving the public,  
 9 rental hall, catering kitchen, delicatessen, theater, commissary,  
 10 food concession, or similar place in which food or drink is  
 11 prepared for direct consumption through service on the premises  
 12 or elsewhere, and any other eating or drinking establishment or  
 13 operation where food is served or provided for the public. Food  
 14 service establishment does not include any of the following:

15 (i) A motel that serves continental breakfasts only.

16 (ii) A bed and breakfast that has 10 or fewer sleeping rooms  
 17 ~~, including sleeping rooms occupied by the innkeeper, 1 or more~~  
 18 ~~of which are available for rent. to transient tenants.~~

19 (iii) A bed and breakfast that has ~~at least 11 but fewer than~~  
 20 ~~15~~ **MORE THAN 10 SLEEPING** rooms for rent, if the bed and breakfast  
 21 serves continental breakfasts only.

22 (iv) A child care organization regulated under 1973 PA 116,  
 23 MCL 722.111 to 722.128, unless the establishment is carrying out  
 24 an operation considered by the director to be a food service  
 25 establishment.

26 (U) ~~(e)~~—"Food warehouse" means a food establishment that  
 27 stores or distributes ~~prepackaged food for wholesaling.~~ **WHOLESALE.**

1           Sec. 1109. As used in this act:

2           (A) "GUIDE FOR THE CONTROL OF MOLLUSCAN SHELLFISH" MEANS  
3 SECTION II, MODEL ORDINANCE, NATIONAL SHELLFISH SANITATION  
4 PROGRAM GUIDE FOR THE CONTROL OF MOLLUSCAN SHELLFISH, 2009,  
5 RECOMMENDATIONS OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN  
6 SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION.

7           (B) "HACCP PLAN" MEANS A WRITTEN DOCUMENT THAT DELINEATES  
8 THE FORMAL PROCEDURES FOR FOLLOWING THE HAZARD ANALYSIS AND  
9 CRITICAL CONTROL POINT PRINCIPLES DEVELOPED BY THE NATIONAL  
10 ADVISORY COMMITTEE ON MICROBIOLOGICAL CRITERIA FOR FOODS.

11           (C) ~~(a)~~—"Imminent or substantial hazard" means a condition  
12 at a food establishment that the director determines requires  
13 immediate action to prevent endangering the health of people.

14           (D) ~~(b)~~—"Inspection" means the checking or testing of  
15 observable practices against standards established in or adopted  
16 by this act, accompanied by a report of findings.

17           (E) ~~(c)~~—"Juice" means the aqueous liquid expressed or  
18 extracted from 1 or more fruits or vegetables, purees of the  
19 edible portions of 1 or more fruits or vegetables, or any  
20 concentrates of such liquid or puree.

21           (F) ~~(d)~~—"Label" means a display of written, printed, or  
22 graphic matter upon the immediate container of any article and  
23 includes a requirement imposed under this act that any word,  
24 statement, or other information appearing on the display also  
25 appear on the outside container or wrapper of the retail package  
26 of the article or be easily legible through the outside container  
27 or wrapper.

1           (G) ~~(e)~~—"Labeling" means all labels and other written,  
2 printed, or graphic matter upon an article, any of its containers  
3 or wrappers, or accompanying the article.

4           (H) ~~(f)~~—"License limitation" means an action by which the  
5 director imposes restrictions or conditions, or both, on a  
6 license of a food establishment.

7           (I) ~~(g)~~—"License holder" means the ~~entity that~~ **PERSON WHO** is  
8 legally responsible for the operation of ~~the~~ **A** food establishment  
9 including the owner, the owner's agent, or other person operating  
10 under apparent authority of the owner ~~possessing~~ **AND WHO**  
11 **POSSESSES** a valid license to operate a food establishment.

12           (J) ~~(h)~~—"Limited ~~wholesale~~ food processor" means a ~~wholesale~~  
13 food processor that ~~has~~ **HAD IN THE PRECEDING LICENSING YEAR OR IS**  
14 **REASONABLY ANTICIPATED TO HAVE IN THE CURRENT LICENSING YEAR**  
15 \$25,000.00 or less in annual gross wholesale sales made or  
16 business done in wholesale sales. ~~in the preceding licensing~~  
17 ~~year, or \$25,000.00 or less of the food is reasonably anticipated~~  
18 ~~to be sold for the current licensing year.~~ Only the food sales  
19 from the ~~wholesale~~ food processor operation ~~are~~ **SHALL BE** used in  
20 computing the annual gross sales under this subdivision.

21           (K) ~~(i)~~ "Local health department" means that term as defined  
22 in section 1105 of the public health code, MCL 333.1105, and  
23 having those powers and duties as described in part 24 of the  
24 public health code, MCL 333.2401 to 333.2498.

25           (L) **"MICHIGAN BRIDGE CARD" MEANS THE CARD USED FOR THE**  
26 **ELECTRONIC BENEFIT TRANSFER SYSTEM FOR FOOD STAMP DISTRIBUTION**  
27 **REQUIRED UNDER SECTION 14H OF THE SOCIAL WELFARE ACT, 1939 PA**

1 280, MCL 400.14H.

2 (M) ~~(j)~~—"Milk product" means cream, light cream, light  
3 whipping cream, heavy cream, heavy whipping cream, whipped cream,  
4 whipped light cream, sour cream, acidified sour cream, cultured  
5 sour cream, half-and-half, sour half-and-half, acidified sour  
6 half-and-half, cultured sour half-and-half, reconstituted or  
7 recombined milk and milk products, concentrated milk,  
8 concentrated milk products, skim milk, lowfat milk, frozen milk  
9 concentrate, eggnog, buttermilk, cultured milk, cultured lowfat  
10 milk, cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt,  
11 acidified milk, acidified lowfat milk, acidified skim milk, low-  
12 sodium milk, low-sodium lowfat milk, low-sodium skim milk,  
13 lactose-reduced milk, lactose-reduced lowfat milk, lactose-  
14 reduced skim milk, aseptically processed and packaged milk, milk  
15 products with added safe and suitable microbial organisms, and  
16 any other milk product made by the addition or subtraction of  
17 milkfat or addition of safe and suitable optional ingredients for  
18 protein, vitamin, or mineral fortification. Milk product does  
19 include dietary dairy products, dairy-based infant formula, ice  
20 cream and other frozen desserts, cheese, butter, and any other  
21 product derived from milk.

22 (N) ~~(k)~~—"Misbranded" means food to which any of the  
23 following apply:

24 (i) Its labeling is false or misleading in any particular.

25 (ii) It is offered for sale under the name of another food.

26 (iii) It is an imitation of another food unless its label  
27 bears, in type of uniform size and prominence, the word

1 "imitation" and immediately thereafter the name of the food  
2 imitated.

3 (iv) Its container is so made, formed, or filled as to be  
4 misleading.

5 (v) It is in package form, unless it bears a label  
6 containing both the name and place of business of the  
7 manufacturer, packer, or distributor and an accurate statement of  
8 the quantity of the contents in terms of weight, measure, or  
9 numerical count subject to reasonable variations ~~as are permitted~~  
10 and exemptions ~~as to~~ **FOR** small packages ~~as are established by~~  
11 rules. ~~prescribed by the department.~~

12 (vi) Any word, statement, **DATE**, or other labeling required by  
13 this act is not prominently placed on the label or labeling  
14 conspicuously and in such terms as to render it likely to be read  
15 and understood by the ordinary individual under customary  
16 conditions of purchase and use.

17 (vii) It purports to be or is represented as a food for which  
18 a definition and standard of identity have been prescribed **BY**  
19 **REGULATIONS PROMULGATED UNDER THE FEDERAL ACT OR** by rules, ~~as~~  
20 ~~provided by this act or under the federal act,~~ unless it conforms  
21 to ~~such~~ **THE** definition and standard and its label bears the name  
22 of the food specified in the definition and standard, and,  
23 insofar as may be required by the **REGULATIONS OR** rules, the  
24 common names of optional ingredients, other than spices,  
25 flavoring, and coloring, present in ~~such~~ **THE** food.

26 (viii) It purports to be or is represented to be either of the  
27 following:

1 (A) A food for which a standard of quality has been  
2 prescribed by this act or rules ~~and~~ **IF** its quality falls below  
3 ~~such~~ **THE** standard unless its label bears, in such manner and form  
4 as such rules specify, a statement that it falls below such  
5 standard.

6 (B) A food for which a standard or standards of fill of  
7 container have been prescribed by this act or rules and ~~it~~ **THAT**  
8 falls below the standard of fill of container applicable, unless  
9 its label bears, in such manner and form as the rules specify, a  
10 statement that it falls below the standard.

11 (ix) It does not bear labeling clearly giving the common or  
12 usual name of the food, if one exists, and if fabricated from 2  
13 or more ingredients, the common or usual name of each ingredient  
14 except that spices, flavorings, and colorings, other than those  
15 sold as such, may be designated as spices, flavorings, and  
16 colorings, without naming each and **EXCEPT** under other  
17 circumstances as established by rules regarding exemptions based  
18 upon practicality, potential deception, or unfair competition.

19 (x) It bears or contains any artificial flavoring,  
20 artificial coloring, or chemical preservative unless the labeling  
21 states that fact and under other circumstances as established by  
22 rules regarding exemptions based upon practicality.

23 (xi) If a food intended for human consumption and offered for  
24 sale, its label and labeling do not bear the nutrition  
25 information required under section 403(q) of the federal act, 21  
26 USC 343.

27 (xii) It is a product intended as an ingredient of another

1 food and, when used according to the directions of the purveyor,  
 2 will result in the final food product being adulterated or  
 3 misbranded.

4 (xiii) It is a color additive whose packaging and labeling are  
 5 not in conformity with packaging and labeling requirements  
 6 applicable to such color additive prescribed under ~~the provisions~~  
 7 ~~of~~ the federal act.

8 (O) ~~(l)~~ "Mobile food establishment" means a food  
 9 establishment operating from a vehicle, ~~or~~ **INCLUDING A**  
 10 watercraft, that returns to a ~~licensed~~ **MOBILE FOOD ESTABLISHMENT**  
 11 commissary for servicing and maintenance at least once every 24  
 12 hours.

13 (P) ~~(m)~~ "Mobile food establishment commissary" means an  
 14 operation that is capable of servicing a mobile food  
 15 establishment.

16 (Q) **"NONPERISHABLE FOOD" MEANS FOOD THAT IS NOT PERISHABLE**  
 17 **FOOD.**

18 (R) **"PERISHABLE FOOD" MEANS ANY FOOD THAT THE MANUFACTURER,**  
 19 **PACKER, OR RETAILER, IN CONJUNCTION WITH THE DEPARTMENT,**  
 20 **DETERMINES TO HAVE A SIGNIFICANT RISK OF SPOILAGE, LOSS OF VALUE,**  
 21 **OR LOSS OF PALATABILITY WITHIN 90 DAYS OF THE DATE OF PACKAGING.**

22 (S) ~~(n)~~ "Person" means an individual, sole proprietorship,  
 23 partnership, corporation, association, or other legal entity.

24 (T) ~~(o)~~ "Pesticide chemical" means any substance that,  
 25 alone, in chemical combination, or in formulation with 1 or more  
 26 other substances, is a pesticide within the meaning of the  
 27 federal insecticide, fungicide, and rodenticide act, 7 USC 136 to

1 136y, and is used in the production, storage, or transportation  
2 of raw agricultural commodities.

3 (U) ~~(p)~~—"Principal display panel" means that part of a label  
4 that is most likely to be displayed, presented, shown, or  
5 examined under normal and customary conditions of display for  
6 retail sale.

7 (V) "PRIORITY FOUNDATION ITEM" MEANS A PROVISION IN THE FOOD  
8 CODE WHOSE APPLICATION SUPPORTS, FACILITATES, OR ENABLES 1 OR  
9 MORE PRIORITY ITEMS. PRIORITY FOUNDATION ITEM INCLUDES AN ITEM  
10 THAT REQUIRES THE PURPOSEFUL INCORPORATION OF SPECIFIC ACTIONS,  
11 EQUIPMENT, OR PROCEDURES BY INDUSTRY MANAGEMENT TO ATTAIN CONTROL  
12 OF RISK FACTORS THAT CONTRIBUTE TO FOODBORNE ILLNESS OR INJURY  
13 SUCH AS PERSONNEL TRAINING, INFRASTRUCTURE, OR NECESSARY  
14 EQUIPMENT, HACCP PLANS, DOCUMENTATION OR RECORD-KEEPING, AND  
15 LABELING. A PRIORITY FOUNDATION ITEM IS AN ITEM THAT IS DENOTED  
16 IN THE FOOD CODE WITH A SUPERSCRIPIT PF-<sup>PF</sup>.

17 (W) "PRIORITY ITEM" MEANS A PROVISION IN THE FOOD CODE WHOSE  
18 APPLICATION CONTRIBUTES DIRECTLY TO THE ELIMINATION, PREVENTION,  
19 OR REDUCTION TO AN ACCEPTABLE LEVEL OF HAZARDS ASSOCIATED WITH  
20 FOODBORNE ILLNESS OR INJURY IF THERE IS NO OTHER PROVISION THAT  
21 MORE DIRECTLY CONTROLS THE HAZARD. PRIORITY ITEM INCLUDES AN ITEM  
22 WITH A QUANTIFIABLE MEASURE TO SHOW CONTROL OF HAZARDS SUCH AS  
23 COOKING, REHEATING, COOLING, OR HAND WASHING. A PRIORITY ITEM IS  
24 AN ITEM THAT IS DENOTED IN THE FOOD CODE WITH A SUPERSCRIPIT P-<sup>P</sup>.

25 (X) ~~(q)~~—"Public health code" means 1978 PA 368, MCL 333.1101  
26 to 333.25211.

27 Sec. 1111. As used in this act:

1 (a) "Raw agricultural commodity" means any food in its raw  
2 or natural state including fruits that are washed, colored, or  
3 otherwise treated in their unpeeled natural form before  
4 marketing.

5 (b) "Regulatory authority" means the department, the local  
6 health department, or the authorized representative having  
7 jurisdiction over the **FOOD** establishment.

8 (c) "Retail food establishment" means an operation that  
9 sells or offers to sell food directly to a consumer. Retail food  
10 establishment includes both a retail grocery and a food service  
11 establishment, but does not include a food ~~processing~~  
12 ~~plant~~. **PROCESSOR**.

13 (d) "Retail grocery" means an operation that sells or offers  
14 to sell food to ~~the~~ consumers for off-premises consumption. ~~Off-~~  
15 ~~premises~~ **FOOD FOR OFF-PREMISES** consumption does not include take-  
16 out food intended for immediate consumption.

17 (e) "Rules" means administrative rules promulgated under  
18 this act pursuant to the administrative procedures act of 1969,  
19 1969 PA 306, MCL 24.201 to 24.328.

20 **(F) "SHELLFISH DEALER" MEANS AN INTERSTATE WHOLESALER**  
21 **HANDLING SHELLFISH.**

22 **(G) "SHELLFISH DEALER CERTIFICATION" MEANS THE ISSUANCE OF A**  
23 **NUMBERED CERTIFICATE TO A PERSON INDICATING THAT THE PERSON IS IN**  
24 **COMPLIANCE WITH THE REQUIREMENTS OF THE GUIDE FOR THE CONTROL OF**  
25 **MOLLUSCAN SHELLFISH AND THAT THE PERSON HAS PERMISSION FROM THE**  
26 **DEPARTMENT TO CONDUCT 1 OR MORE OF THE FOLLOWING SHELLFISH**  
27 **ACTIVITIES, AS DEFINED IN THE GUIDE FOR THE CONTROL OF MOLLUSCAN**

## 1 SHELLFISH:

2 (i) SHELLSTOCK SHIPPER.

3 (ii) SHUCKER PACKER.

4 (iii) REPACKER OR RESHIPPER.

5 (H) ~~(f)~~-"Smoked fish rules" means ~~regulation no. 285.569-R~~  
 6 285.569.1 TO 285.569.19 of the Michigan administrative code. ~~7~~  
 7 promulgated under former 1968 PA 39.

8 (I) ~~(g)~~-"Special transitory food unit" means a temporary  
 9 food establishment that is licensed to operate throughout the  
 10 state without the 14-day limits or a mobile food establishment  
 11 that is not required to return to a commissary.

12 (J) "STAPLE FOODS" DOES NOT INCLUDE ACCESSORY FOODS SUCH AS  
 13 COFFEE, TEA, COCOA, SODA, NONCARBONATED DRINKS SUCH AS SPORTS  
 14 DRINKS, PUNCHES, AND FLAVORED WATERS, CANDY, CONDIMENTS, SPICES,  
 15 HOT FOODS, OR FOODS READY TO GO OR MADE TO TAKE OUT, SUCH AS  
 16 PREPARED SANDWICHES OR SALADS.

17 (K) ~~(h)~~-"Sulfiting agents" means any of the following:

18 (i) Sulfur dioxide.

19 (ii) Sodium sulfite.

20 (iii) Sodium bisulfite.

21 (iv) Potassium bisulfite.

22 (v) Sodium metabisulfite.

23 (vi) Potassium metabisulfite.

24 (L) ~~(i)~~-"Temporary food establishment" means a food  
 25 establishment which operates at a fixed location for a temporary  
 26 period not to exceed 14 consecutive days.

27 (M) ~~(j)~~-"Temporary license" means a written authorization

1 issued by the director to operate for a specified limited time  
2 period.

3 (N) ~~(k)~~—"Transient tenant" means a person who rents a room  
4 in a bed and breakfast for fewer than 30 consecutive days.

5 (O) "TRIMMING" IS AN ACT OF REMOVING LEAVES, ROOTS, AND  
6 OTHER EXTRANEIOUS MATERIALS IN PREPARATION FOR GRADING, SORTING,  
7 AND SALE AS A WHOLE FRUIT OR VEGETABLE. TRIMMING DOES NOT REMOVE  
8 THE PEEL OR CORE AND DOES NOT FURTHER CUT THE WHOLE FRUIT OR  
9 VEGETABLE.

10 (P) "U.S. STANDARDS FOR SHELL EGGS" MEANS UNITED STATES  
11 STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS, AMS 56  
12 (JULY 20, 2000), UNITED STATES DEPARTMENT OF AGRICULTURE.

13 (Q) ~~(l)~~—"Vending machine" means a self-service device offered  
14 for public use that, upon activation by a coin, token, card, key,  
15 or paper currency, dispenses unit servings of food or beverages  
16 without the necessity of replenishing the device between each  
17 vending operation. Vending machine does not include any of the  
18 following:

19 (i) A device that dispenses only bottled or canned soft  
20 drinks; other packaged nonperishable foods or beverages; or bulk  
21 ball gum, nuts, and panned candies.

22 (ii) A water-dispensing machine that is registered under  
23 chapter IV.

24 (R) ~~(m)~~—"Vending machine location" means the room,  
25 enclosure, space, or area in which 1 or more vending machines are  
26 installed and operated.

27 (S) ~~(n)~~—"Wholesale" means selling ~~to retailers or jobbers~~

1 ~~rather~~ **OTHER** than directly to consumers.

2 ~~—— (o) "Wholesale food processor" means an operation that~~  
 3 ~~processes, manufactures, packages, or labels food for~~  
 4 ~~wholesaling.~~

5 **(T)** ~~(p)~~ "Wild game" means animals from their natural state  
 6 and not cultivated, domesticated, or tamed.

7 Sec. 1113. **(1)** A term defined in the food code has the same  
 8 meaning when used in this act, except as specifically defined in  
 9 this act.

10 **(2) THE TERMS "CRITICAL VIOLATION" AND "NONCRITICAL**  
 11 **VIOLATION" SHALL NOT BE USED BY A REGULATORY AUTHORITY TO**  
 12 **CLASSIFY VIOLATIONS OF THE FOOD CODE.**

13 Sec. 2119. **(1)** Notwithstanding section 12909(1) of the  
 14 public health code, MCL 333.12909, the department may promulgate  
 15 rules to prescribe criteria for food service ~~sanitation~~ programs  
 16 by local health departments. The department in promulgating these  
 17 rules shall seek the advice and counsel of local health  
 18 departments and the food service industry.

19 **(2) THE DEPARTMENT SHALL PROVIDE EVALUATION, CONSULTATION,**  
 20 **AND TRAINING SUPPORT TO LOCAL HEALTH DEPARTMENTS DELEGATED**  
 21 **AUTHORITY AND RESPONSIBILITY TO PERFORM FOOD SERVICE PROGRAM**  
 22 **ACTIVITIES UNDER SECTION 3105.**

23 **(3)** ~~(2)~~ The department shall periodically conduct  
 24 comprehensive reviews of each local health department's food  
 25 service ~~sanitation~~ program. The reviews shall be based on  
 26 criteria developed by the department with input from local health  
 27 departments and ~~shall~~ **MAY** include a review of ~~both~~ **1 OR MORE**

1 **ELEMENTS** of the following:

2 (a) ~~The adequacy of sanitary conditions in~~ **COMPLIANCE WITH**  
3 **THIS ACT BY** the food service establishments within the local  
4 health department jurisdiction.

5 (b) The competency and training of the food service  
6 ~~inspection~~ **EVALUATION** personnel.

7 (C) **COMPLIANCE WITH THE DELEGATED PROGRAM ACTIVITIES AND**  
8 **ESTABLISHED PROGRAM REVIEW CRITERIA, INCLUDING IMPLEMENTATION OF**  
9 **RISK-BASED STRATEGIES.**

10 Sec. 2125. (1) The department shall charge the following  
11 fees for the following services:

12 (a) A reissuance of a duplicate license, \$15.00.

13 (b) A free-sale letter, \$25.00 per letter in an order and  
14 \$5.00 per duplicate letter in the same order.

15 (c) An evaluation of a food establishment ~~when~~ **IF** the  
16 evaluation is a second reevaluation of a food establishment that  
17 has already been evaluated and found to ~~contain a critical~~ **HAVE A**  
18 **PRIORITY ITEM OR PRIORITY FOUNDATION ITEM** violation or **IF** the  
19 evaluation is performed at the request of the operator, \$60.00.

20 (D) **A SHELLFISH DEALER'S CERTIFICATE, \$150.00 ANNUALLY.**

21 (E) ~~(d)~~—A review and approval of training materials, \$60.00  
22 per hour.

23 (F) ~~(e)~~—A special transitory food unit plan review, \$197.00.

24 (G) ~~(f)~~—A plan review as specified in section 8-201.11 of  
25 the food code, \$197.00.

26 (2) Fees collected under this section shall be deposited in  
27 the dairy and food safety fund **CREATED IN SECTION 4117** for

1 enforcement of this act.

2 (3) The services referred to in subsection ~~(1)(d) and (e)~~  
 3 **(1)(E) AND (F)** involve the formal review and approval procedure.  
 4 The department may provide informal review or answer questions  
 5 without charging a fee.

6 Sec. 2127. After a conference with the owner of a retail  
 7 food establishment for a repeated failure to correct a ~~critical~~  
 8 **PRIORITY ITEM OR PRIORITY FOUNDATION ITEM** violation, the director  
 9 may require certain individuals to complete manager food safety  
 10 training for that food establishment.

11 Sec. 2129. (1) ~~Beginning June 30, 2009, ALL OF~~ the following  
 12 food establishments shall employ a minimum of 1 managerial  
 13 employee who is currently certified under a personnel  
 14 certification program accredited by the American national  
 15 standards institute, utilizing the conference for food protection  
 16 standards:

17 (a) A food service establishment that is not any of the  
 18 following:

19 ~~— (i) A mobile food establishment.~~

20 **(i)** ~~(ii)~~ Operating under a temporary food service  
 21 establishment license.

22 ~~— (iii) A special transitory food unit.~~

23 **(ii)** ~~(iv)~~ A vending machine location.

24 (b) An extended retail food establishment.

25 ~~(c) The operation of a food service establishment OPERATED~~  
 26 within a retail grocery.

27 (2) An individual certified under subsection (1) shall be

1 recognized with full faith and credit by the state and all local  
2 units of government throughout the state.

3 (3) The department may promulgate rules to do all of the  
4 following:

5 (a) ~~By January 1, 2009, develop~~ **DEVELOP** requirements for  
6 retail food establishments to follow when employing certified  
7 food safety managers or personnel.

8 (b) Set a reasonable date for compliance with the  
9 requirements **UNDER SUBDIVISION (A)** taking into consideration  
10 existing local personnel certification requirements.

11 (c) Establish certification fees necessary to implement,  
12 maintain, and track certified individuals directly or by  
13 contract. The department may annually adjust the schedule of fees  
14 to provide that the fee charged is sufficient to cover the cost  
15 of the certification tracking program.

16 (d) Implement and enforce the requirements described in  
17 subdivision (a).

18 (4) ~~(e)~~—The certification program developed by the American  
19 national standards institute, as it exists on ~~the effective date~~  
20 ~~of the amendatory act that added this section~~ **APRIL 1, 2008**, is  
21 incorporated by reference. The department may adopt updates to  
22 the certification program accreditation standards in subsection  
23 (1) by rule.

24 (5) ~~(4)~~—This section does not prohibit any local legislative  
25 body from implementing a food handler program, an employee health  
26 certification program, or a manager certification program,  
27 ~~provided~~ **IF** it is not in conflict with this section.

1           SEC. 2132. THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH  
2 OTHER STATES AND THE FEDERAL GOVERNMENT TO PROVIDE AND ACCEPT  
3 FOOD SAFETY ASSISTANCE, INCLUDING THE TRAINING OF PERSONNEL. ANY  
4 EMPLOYEE OF THE DEPARTMENT ASSIGNED TO FOOD SAFETY DUTIES OR  
5 TRAINING PROGRAMS OUTSIDE THIS STATE SHALL BE CONSIDERED TO BE  
6 WORKING INSIDE THIS STATE FOR PURPOSES OF COMPENSATION AND ANY  
7 OTHER EMPLOYEE BENEFITS.

8           Sec. 3103. As used in this chapter:

9           (a) "Certified health department" means a county, district,  
10 or city health department that meets the criteria for  
11 certification of health departments established by this act and  
12 that is authorized by the director to enforce this act for retail  
13 groceries, food ~~processing plants~~ **PROCESSORS**, or fair  
14 concessions.

15           (b) "Foodborne illness outbreak" means an incident where any  
16 of the following occur:

17           (i) Two or more persons, not of the same household, have  
18 ingested a common food and have a similar disease ~~—OR~~ similar  
19 symptoms ~~—or~~ excrete the same pathogens, and there is a time,  
20 place, or person association between these persons.

21           (ii) There is a single case of suspected botulism, mushroom  
22 poisoning, paralytic shellfish poisoning, or other rare disease.

23           (iii) There is a case of a disease or poisoning that can be  
24 definitely related to ingestion of a food.

25           (c) "Food service ~~sanitation~~ program" means the systematic  
26 activity of the department and a local health department for  
27 effective administration and enforcement of the food code and

1 this act, including all of the following:

2 (i) Periodic evaluations of food service establishments,  
3 temporary food service establishments, vending machines, and  
4 vending machine locations for compliance with law.

5 (ii) Support of recommendations for licensure with  
6 appropriate records.

7 (iii) Review of plans and specifications for new and  
8 extensively remodeled establishments.

9 (iv) Educational activities.

10 (v) Investigation of reports of foodborne illnesses.

11 (vi) Other activities which may be necessary to ~~assure~~**ENSURE**  
12 proper implementation of this act.

13 Sec. 3105. (1) The department shall delegate the authority  
14 and responsibility for the enforcement of the requirements  
15 pertaining to food service establishments contained in this act  
16 and ~~the rules promulgated under this act~~ to local health  
17 departments meeting the program criteria provided for in this act  
18 and rules. ~~promulgated under this act.~~ The local health  
19 departments shall enforce this act and ~~the rules promulgated~~  
20 ~~under this act~~ and may delegate enforcement authority under ~~an~~**A**  
21 **PLAN OF** organization approved pursuant to section 2431 of the  
22 public health code, MCL 333.2431. If a food service ~~sanitation~~  
23 program is discontinued or is revoked for failure to meet the  
24 program criteria, redelegation to a local health department by  
25 the director of the program ~~under this section~~ is not required.  
26 Local health departments delegated authority under this chapter  
27 shall enforce this act and rules ~~promulgated under this act~~ in

1 the manner provided for in part 24 of the public health code, MCL  
2 333.2401 to 333.2498, except that late fees under section 4113,  
3 administrative fines under section 5105, and ~~felony penalties~~  
4 **CRIMINAL FINES** under section 5107 are specifically not delegated  
5 to the local health departments.

6 (2) ~~When~~**IF** a food service establishment is a part of a  
7 retail grocery or food ~~processing plant~~**PROCESSOR** and the retail  
8 grocery and food ~~processing plant~~**PROCESSOR** are the predominant  
9 part of the food business as determined by the department,  
10 authority and responsibility pertaining to that establishment are  
11 not delegated under ~~this section~~**SUBSECTION (1)**.

12 (3) ~~When~~**IF** a retail grocery or food ~~processing plant~~  
13 **PROCESSOR** is a part of a food service establishment but the food  
14 service establishment is the predominant part of the food  
15 business as determined by the department, the authority and  
16 responsibility for the entire establishment are delegated under  
17 subsection (1).

18 (4) Mobile and temporary food establishments **AND SPECIAL**  
19 **TRANSITORY FOOD UNITS** that are predominantly food service  
20 establishments as determined by the department are delegated to  
21 the local health departments under ~~this section~~**SUBSECTION (1)**.  
22 Mobile and temporary food establishments **AND SPECIAL TRANSITORY**  
23 **FOOD UNITS** that are predominantly retail groceries **OR FOOD**  
24 **PROCESSORS** are not delegated under subsection (1).

25 Sec. 3125. (1) Subject to subsection (3), a local health  
26 department, with the approval of the director and based on  
27 criteria developed by the department in consultation with local

House Bill No. 5130 (H-1) as amended February 15, 2012

1 health departments, may reduce the frequency of evaluations of  
 2 individual food service establishments if the local health  
 3 department determines that a reduced evaluation frequency will  
 4 not adversely affect food ~~service sanitation~~ **SAFETY** practices  
 5 within the food service establishment.

6 (2) A food service establishment which, upon investigation,  
 7 is implicated in a foodborne illness outbreak or chemical  
 8 intoxication shall be evaluated by the director [~~in compliance~~  
 9 ~~with section 3123 for not less than~~ **FOR COMPLIANCE WITHIN**] the  
 next 12 months.

10 (3) A local health department shall not reduce the minimum  
 11 frequency of evaluations of any food service establishment to  
 12 less than that described in section 3123 unless approved by the  
 13 department.

14 Sec. 3127. (1) The findings of an evaluation of a food  
 15 service establishment shall be recorded on an evaluation report  
 16 form approved by the department. ~~The form shall identify these~~  
 17 ~~items considered to be critical from a public health standpoint. A~~  
 18 **VIOLATION OF A PRIORITY ITEM OR PRIORITY FOUNDATION ITEM SHALL BE**  
 19 **DESIGNATED AS SUCH ON THE FORM. A VIOLATION BY A FOOD**  
 20 **ESTABLISHMENT OF SECTION 12603 OR 12905 OF THE PUBLIC HEALTH**  
 21 **CODE, MCL 333.12603 AND 333.12905, IS NOT A VIOLATION OF A**  
 22 **PRIORITY ITEM OR PRIORITY FOUNDATION ITEM OF THIS ACT OR THE FOOD**  
 23 **CODE.**

24 (2) The evaluation report shall summarize findings relative  
 25 to compliance with the requirements of this act. The report form  
 26 shall be signed and dated by the ~~local health department~~  
 27 ~~representative.~~ **DIRECTOR.**

1           (3) Upon completion of the evaluation, a copy of the  
2 completed evaluation report form shall be furnished to the person  
3 in charge of the food service establishment. ~~The~~**IF THE** person in  
4 charge ~~shall~~**DOES NOT** sign the report form acknowledging receipt,  
5 **DELIVERY OF THE REPORT FORM TO THE PERSON IN CHARGE SHALL BE**  
6 **OTHERWISE DOCUMENTED BY THE DIRECTOR.**

7           Sec. 3133. Laboratories capable of providing the necessary  
8 analyses of food samples shall be utilized by a local health  
9 department to assist in the conduct of a food service ~~sanitation~~  
10 program.

11           Sec. 4102. (1) A cottage food operation is exempt from the  
12 licensing and evaluation provisions of this act. This exemption  
13 does not include an exemption from the adulteration and other  
14 standards imposed in this section or under this act, or both, and  
15 does not limit the ability of the department to take appropriate  
16 enforcement action for applicable violations as described in  
17 section 5101. This subsection does not require a cottage food  
18 operation to meet the standards contained in 21 CFR **PART** 110 or  
19 the ~~2005 federal~~ food code. ~~, or both.~~

20           (2) Cottage food products shall be prepackaged and properly  
21 labeled prior to sale.

22           (3) At a minimum, a cottage food operation shall place on  
23 the label of any food it produces or packages the following  
24 information:

25           (a) The name and address of the business of the cottage food  
26 operation.

27           (b) The name of the cottage food product.

1 (c) The ingredients of the cottage food product, in  
2 descending order of predominance by weight.

3 (d) The net weight or net volume of the cottage food  
4 product.

5 (e) Allergen labeling as specified by federal labeling  
6 requirements.

7 (f) If any nutritional claim is made, appropriate labeling  
8 as specified by federal labeling requirements.

9 (g) The following statement printed in at least the  
10 equivalent of 11-point font size in a color that provides a clear  
11 contrast to the background: "Made in a home kitchen that has not  
12 been inspected by the Michigan department of agriculture **AND**  
13 **RURAL DEVELOPMENT.**".

14 (4) Cottage food products may be sold directly from the  
15 cottage food operation to the consumer only, and not by internet  
16 or mail order. Sales by consignment or at wholesale are  
17 prohibited.

18 (5) The gross sales of cottage food products **BY A COTTAGE**  
19 **FOOD OPERATION** shall not exceed \$15,000.00 annually. ~~The~~  
20 ~~determination of the \$15,000.00 annual~~ **FOR THE PURPOSES OF THIS**  
21 **SUBSECTION**, gross sales shall be computed on the basis of the  
22 amount of gross sales within or at a particular domestic  
23 residence and shall not be computed on a per-person basis within  
24 or at that domestic residence. The department may request in  
25 writing documentation to verify the annual gross sales figure.

26 (6) Cottage food products shall be stored only in the  
27 primary domestic residence.

1 (7) An exemption under this section does not affect the  
2 application of any other state or federal laws or any applicable  
3 ordinances enacted by any local unit of government.

4 Sec. 4103. (1) An applicant shall submit an application for  
5 a food establishment license at least 30 calendar days before the  
6 date planned for its opening or the change of ownership. For  
7 temporary food establishments applying less than 4 days from  
8 opening, the director may charge twice the applicable license fee  
9 to perform the licensing evaluation.

10 (2) Application for the license under subsection (1) shall  
11 be submitted upon the forms approved by the department and shall  
12 contain the reasonable information required by the department to  
13 process the application.

14 (3) An application for a mobile food establishment license  
15 shall include all of the following information:

16 (a) The location and dates of the operation.

17 (b) The name and address of the commissary that will service  
18 the applicant.

19 (4) Within 10 days after a change in the servicing  
20 commissary, the mobile food establishment licensee shall submit  
21 an affidavit containing the name and address of the new  
22 commissary servicing the licensee.

23 (5) **THE LOCAL HEALTH DEPARTMENT SHALL FORWARD LICENSE**  
24 **RECOMMENDATIONS TO THE DEPARTMENT. SECTION 3119(7) DOES NOT**  
25 **APPLY.**

26 (6) ~~(5)~~—The director may issue a temporary food  
27 establishment license. **THE DIRECTOR, PURSUANT TO UNIFORMLY**

1 APPLIED DEPARTMENT GUIDANCE, MAY DECLINE TO ISSUE MULTIPLE  
 2 TEMPORARY FOOD ESTABLISHMENT LICENSES FOR THE SAME ESTABLISHMENT  
 3 WITHIN A GIVEN CALENDAR YEAR.

4 Sec. 4105. (1) Except as otherwise provided for in  
 5 subsection (2), a person, establishment, or organization that is  
 6 1 or more of the following is exempt from the licensure  
 7 requirements under this act:

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

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

17 (i) GRAIN DEALERS ACT, 1939 PA 141, MCL 285.61 TO 285.88.

18 (ii) 1959 PA 228, MCL 286.371 TO 286.379.

19 (iii) 1964 PA 158, MCL 290.451 TO 290.466.

20 (iv) GRADE A MILK LAW OF 2001, 2001 PA 266, MCL 288.471 TO  
 21 288.540.

22 (v) MANUFACTURING MILK LAW OF 2001, 2001 PA 267, MCL 288.561  
 23 TO 288.740.

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

26 (c) Consumers or nonprofit cooperatives of consumers in

1 compliance with the nonprofit corporation act, 1982 PA 162, MCL  
2 450.2101 to 450.3192, providing products from regulated sources  
3 only for their own use.

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

9 (e) Retail outlets for the sale of prepackaged honey or  
10 maple syrup produced in Michigan if the outlet is operated by the  
11 producer and the processing facility is licensed under this act.  
12 Both retail outlets and processing facilities are exempt from  
13 licensure under this act for producers with gross sales of  
14 \$15,000.00 or less of honey or maple syrup. In such case, the  
15 honey and maple syrup shall have labeling substantially similar  
16 to that for cottage food products as described in section  
17 4102(3).

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

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

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

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

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

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

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

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

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

20 **(M) A PERSON OPERATING AS A FOOD WAREHOUSE OR FOOD**  
21 **PROCESSOR, IF THE FOOD WAREHOUSE OR FOOD PROCESSOR CONTAINS OR**  
22 **HANDLES ONLY UN CUT FRUITS OR VEGETABLES, OR BOTH, AND MEETS ALL**  
23 **OF THE FOLLOWING CRITERIA:**

24 **(i) THE ESTABLISHMENT IS OWNED AND OPERATED BY THE PERSON**  
25 **PRODUCING THE FRUITS OR VEGETABLES, OR BOTH.**

26 **(ii) ACTIVITIES AT THE ESTABLISHMENT ARE LIMITED TO STORING,**  
27 **GRADING, SORTING, PACKING, WASHING, TRIMMING, AND REFRIGERATING.**

1           (iii) THE FRUITS OR VEGETABLES, OR BOTH, ARE PRIMARILY FROM  
2 THE PERSON'S OWN PRODUCTION, AND THE BALANCE ARE PRODUCTS OF THE  
3 SAME GENUS OR GENERA FROM OTHER AGRICULTURAL PRODUCERS.

4           (iv) THE FOOD IS NOT "POTENTIALLY HAZARDOUS FOOD  
5 (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)" AS DEFINED IN THE  
6 FOOD CODE.

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

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

19           (4) IF PREPACKAGED FOOD IS TRANSPORTED FROM A FOOD  
20 ESTABLISHMENT LICENSED UNDER THIS CHAPTER, TO A SALES LOCATION AT  
21 A FARMERS' MARKET, FAIR, OR FESTIVAL, THE SALES LOCATION IS NOT  
22 REQUIRED TO BE SEPARATELY LICENSED AND IS CONSIDERED AN EXTENSION  
23 OF THE FOOD ESTABLISHMENT, IF THE FOOD IS TRANSPORTED AND SOLD BY  
24 EMPLOYEES OF THE FOOD ESTABLISHMENT.

25           Sec. 4111. (1) The department shall impose the following  
26 license fees for each year or portion of a year:

27           (a) Retail food establishment: \$67.00.

- 1 (b) Extended retail food establishment: \$172.00.  
2 (c) ~~Wholesale food~~ **FOOD** processor: \$172.00.  
3 (d) Limited ~~wholesale~~ food processor: \$67.00.  
4 (e) Mobile food establishment: \$172.00.  
5 (f) Temporary food establishment: \$25.00.  
6 (g) Special transitory food unit: \$135.00.  
7 (h) Mobile food establishment commissary: \$172.00.  
8 (i) Food warehouse: \$67.00.  
9 (j) Food service establishment: the amounts described in  
10 subsection (2).

11 (2) If a local health department no longer conducts a food  
12 service ~~sanitation~~ program, the department, in consultation with  
13 the commission of agriculture **AND RURAL DEVELOPMENT**, shall set  
14 the food sanitation fees to be imposed for the department's  
15 services performed under subsection (1)(j). The fees imposed  
16 shall equal, as nearly as possible, 1/2 of the department's cost  
17 of providing the service. ~~The conduct of the services resulting~~  
18 ~~from a cessation of a food service sanitation program is~~  
19 ~~considered an imminent or substantial hazard that allows the~~  
20 department ~~to~~ **MAY** impose the service fees for up to 12 months  
21 after the date of cessation by the local health department. After  
22 the 12-month period, the department shall collect the fees only  
23 in the amount provided by amendment of this act or as authorized  
24 pursuant to **AN** appropriation.

25 (3) Any license fee paid on an initial application is  
26 nonrefundable.

27 (4) The department may charge a convenience fee and collect

1 from the applicant any additional costs associated with the  
2 method of fee payment for the license or permit fees described in  
3 this chapter, not to exceed the costs to the department.

4       **SEC. 4114. (1) A PERSON SHALL NOT ACT AS A SHELLFISH DEALER**  
5 **UNLESS THE PERSON HAS BEEN CERTIFIED AS A SHELLFISH DEALER BY THE**  
6 **DEPARTMENT. AN APPLICATION FOR SHELLFISH DEALER CERTIFICATION**  
7 **SHALL BE SUBMITTED TO THE DEPARTMENT ON THE FORMS APPROVED BY THE**  
8 **DEPARTMENT AND SHALL CONTAIN THE REASONABLE INFORMATION REQUIRED**  
9 **BY THE DEPARTMENT TO PROCESS THE APPLICATION. THE APPLICANT SHALL**  
10 **MEET ALL OF THE FOLLOWING REQUIREMENTS:**

11       **(A) BE THE OWNER OF THE SHELLFISH DEALER OR AN OFFICER OF**  
12 **THE LEGAL ENTITY OWNING THE SHELLFISH DEALER.**

13       **(B) COMPLY WITH THE REQUIREMENTS OF THIS ACT AND RULES.**

14       **(C) ALLOW THE DIRECTOR ACCESS TO THE SHELLFISH DEALER AND**  
15 **RECORDS AS REQUIRED TO DETERMINE COMPLIANCE WITH THE APPLICABLE**  
16 **REQUIREMENTS OF THIS ACT AND RULES.**

17       **(2) A SHELLFISH DEALER CERTIFICATION IS VALID FROM MAY 1 TO**  
18 **APRIL 30 OF EACH YEAR.**

19       **(3) EACH SHELLFISH DEALER SHALL HAVE AND IMPLEMENT A HACCP**  
20 **PLAN AND HAVE A PROGRAM OF SANITATION MONITORING AND RECORD**  
21 **KEEPING IN COMPLIANCE WITH THE GUIDE FOR THE CONTROL OF MOLLUSCAN**  
22 **SHELLFISH.**

23       Sec. 4117. (1) Except as provided in subsections (2) and  
24 (3), money collected under this chapter by the department shall  
25 be credited to the dairy and food safety fund that is created as  
26 a restricted fund within the state treasury. The state treasurer  
27 may receive money or other assets, from appropriations or from

1 any other source, for deposit into the fund. The state treasurer  
2 shall direct the investment of the fund. The money in the fund  
3 shall not lapse to the general fund at the end of the fiscal year  
4 and shall carry over to the following fiscal years. The state  
5 treasurer shall credit to the fund interest and earnings from  
6 fund investments. The department shall administer the fund and  
7 shall expend money from the fund for the purpose of administering  
8 this act and enforcing the provisions of this act, the grade A  
9 milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540, and the  
10 manufacturing milk law of 2001, 2001 PA 267, MCL 288.561 to  
11 288.740. The department shall be the administrator of the fund  
12 for auditing purposes.

13 (2) A consumer food safety education fund is created as a  
14 revolving fund in the department of treasury. The consumer food  
15 safety education fund shall be administered by the department and  
16 funded by adding \$3.00 to the fee for each food establishment  
17 license in all categories except vending machines and in cases of  
18 fee-exempt food establishments. The money in the fund shall be  
19 used to provide statewide training and education to consumers on  
20 food safety. ~~An advisory committee consisting of at least 9~~  
21 ~~people representing consumers, industry, government, and academia~~  
22 ~~shall advise the department on the use of the funds.~~ Money  
23 remaining in the fund at the end of the fiscal year shall be  
24 carried forward into the next fiscal year.

25 (3) An industry food-safety education fund is created as a  
26 revolving fund in the department of treasury. The industry food-  
27 safety education fund shall be administered by the department and

1 funded by adding \$2.00 to the fee for each food service  
2 establishment license in all categories except vending machines  
3 and in cases of fee-exempt food establishments. The money in the  
4 fund shall be used to provide food safety training and education  
5 to food service establishment employees and agents of the  
6 director who enforce this act. ~~The advisory committee created in~~  
7 ~~subsection (2) shall advise the department on the use of the~~  
8 ~~funds.~~ Money remaining in the fund at the end of the fiscal year  
9 shall be carried forward into the next fiscal year.

10 (4) As used in this section, "fee-exempt food establishment"  
11 means a food establishment exempt from all state and local food  
12 establishment license fees under section 3119(4) combined with an  
13 exemption from the local health department sanitation service fee  
14 under section 2444 of the public health code, MCL 333.2444.

15 Sec. 4123. (1) A food establishment license is not  
16 transferable as to the holder or the location.

17 (2) **A SHELLFISH DEALER CERTIFICATE IS NOT TRANSFERABLE AS TO**  
18 **THE HOLDER OR TO THE LOCATION.**

19 (3) **A BOTTLED WATER REGISTRATION IS NOT TRANSFERABLE AS TO**  
20 **THE HOLDER OR THE LOCATION.**

21 Sec. 4125. (1) Before a food establishment license, **BOTTLED**  
22 **WATER REGISTRATION, OR SHELLFISH DEALER CERTIFICATE** is issued,  
23 the director shall determine if the applicant meets the minimum  
24 requirements of this act and rules. ~~promulgated under this act.~~

25 (2) After an opportunity for a hearing pursuant to the  
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
27 24.328, the director may revoke or suspend a food establishment

1 license, ~~or~~ a registration for bottled water, **OR A SHELLFISH**  
 2 **DEALER CERTIFICATE** issued under this act for failure to comply  
 3 with requirements of this act or a rule. ~~promulgated under this~~  
 4 ~~act.~~ A person whose **FOOD ESTABLISHMENT LICENSE**, registration for  
 5 bottled water, **OR SHELLFISH DEALER CERTIFICATE** is revoked or  
 6 suspended shall discontinue the sale and offering for sale of  
 7 **FOOD**, the bottled water, **OR SHELLFISH, RESPECTIVELY**, until he or  
 8 she complies with this act and the director issues a new  
 9 registration or removes the suspension.

10 (3) ~~For a person whose~~ **IF A PERSON'S** food establishment  
 11 license ~~has been~~ **IS** revoked for egregious violations under  
 12 section 5101(a), (b), (c), or (k), the director may refuse to  
 13 issue or reissue a license to any establishment in which that  
 14 person has ownership or management interest for a period of 2  
 15 years **AFTER THE REVOCATION**.

16 (4) Based upon facts submitted by a person familiar with  
 17 those facts or upon information and belief alleging that an  
 18 imminent threat to the public health, safety, or welfare exists,  
 19 the director may summarily suspend a license, ~~or~~ registration, **OR**  
 20 **CERTIFICATE** issued under this act. A person whose license, ~~or~~  
 21 registration, **OR CERTIFICATE** has been summarily suspended under  
 22 this section may petition the director to dissolve the order.  
 23 Upon receipt of such a petition, the director shall immediately  
 24 schedule a hearing to decide whether to grant or deny the  
 25 petition to dissolve. The presiding officer shall grant the  
 26 requested relief dissolving the summary suspension order unless  
 27 sufficient evidence is presented that an imminent threat to the

1 public health, safety, or welfare exists requiring emergency  
2 action and continuation of the director's summary suspension  
3 order.

4       Sec. 4127. (1) After the regulatory authority receives a  
5 petition for a hearing from a license, **REGISTRATION, OR**  
6 **CERTIFICATE** holder whose license, **REGISTRATION, OR CERTIFICATE** is  
7 summarily suspended under section 4125, the proceedings shall be  
8 promptly commenced and determined as required by section 92 of  
9 the administrative procedures act of 1969, 1969 PA 306, MCL  
10 24.292.

11       (2) This section does not prevent the regulatory authority's  
12 immediate reinstatement of a license, **REGISTRATION, OR**  
13 **CERTIFICATE** when the regulatory authority determines the public  
14 health hazard or nuisance no longer exists.

15       Sec. 4129. (1) A license, ~~or~~ registration, **OR CERTIFICATE**  
16 applicant ~~or holder~~ may request a hearing regarding the  
17 regulatory authority's denial of a **NEW OR RENEWAL** license, ~~or~~  
18 registration, **OR CERTIFICATE**. A person desiring a hearing in  
19 response to a denial of a license, ~~or~~ registration, **OR**  
20 **CERTIFICATE** shall submit a hearing request to the regulatory  
21 authority within 30 calendar days after the date of the denial.

22       (2) The regulatory authority shall afford a hearing within  
23 30 days after receiving a written request for a hearing as  
24 specified in this section when the request demonstrates that  
25 there is a genuine and material issue of fact that justifies that  
26 a hearing be held.

27       (3) Hearings shall be conducted in an expeditious and

1 impartial manner.

2           Sec. 5101. (1) A person shall not do or cause to be done any  
3 of the following:

4           (a) Manufacture, sell, deliver, hold, or offer for sale  
5 adulterated or misbranded food.

6           (b) Adulterate or misbrand food.

7           (c) Receive in commerce food that is adulterated or  
8 misbranded and deliver or proffer the delivery of that food for  
9 pay or otherwise.

10           (d) Sell, deliver for sale, hold for sale, or offer for sale  
11 food unless that person holds a license issued under chapter IV.

12           (e) Disseminate a false advertisement **CONCERNING FOOD OR A**  
13 **FOOD ESTABLISHMENT.**

14           (f) Refuse to permit entry or evaluation, or to permit the  
15 taking of a sample, as authorized by section 2111.

16           (g) Give a false guaranty or undertaking **CONCERNING FOOD,**  
17 ~~except by a person who relied~~ **UNLESS IN GOOD-FAITH RELIANCE** on a  
18 guaranty or undertaking to the same effect signed by and  
19 containing the name and address of the person from whom ~~he or she~~  
20 ~~received the food in good faith.~~ **WAS RECEIVED.**

21           (h) Remove or dispose of seized or embargoed food in  
22 violation of section 2105.

23           (i) Alter, mutilate, destroy, obliterate, or remove all or  
24 part of the label or do any other act with respect to a food  
25 while the food is held for sale resulting in the food being  
26 adulterated or misbranded.

27           (j) Forge, counterfeit, simulate, or falsely represent, or

1 without proper authority use any mark, stamp, tag, label, or  
2 other identification device authorized or required by this act or  
3 rules. ~~promulgated under this act.~~

4 (k) Permit filthy or insanitary conditions to exist in a  
5 food establishment in which food intended for human consumption  
6 is manufactured, received, kept, stored, served, sold, or offered  
7 for sale.

8 (l) Falsely identify a country, state, or other place of  
9 origin of food on a label, tag, or other document with intent to  
10 deceive or defraud.

11 (m) Fail to establish or maintain any record or make any  
12 report required under this act or the federal act, or refuse to  
13 permit access to or verification or copying of any such required  
14 record.

15 (n) Interfere with the director in the conduct of his or her  
16 responsibilities under this act.

17 (o) Make a false statement, representation, or certification  
18 in any application, report, plan, or other document that is  
19 required to be maintained under this act or rules. ~~promulgated~~  
20 ~~under this act.~~

21 (p) Remove a tag, seal, or mark placed by the director.

22 (q) Operate without a license, registration, permit, or  
23 endorsement.

24 (r) Violate a provision of this act or a rule. ~~promulgated~~  
25 ~~under this act.~~

26 **(S) OPERATE AS A SHELLFISH DEALER WITHOUT A SHELLFISH DEALER**  
27 **CERTIFICATE.**

1 (T) IF THE PERSON IS A FOOD ESTABLISHMENT, PERMIT MICHIGAN  
2 BRIDGE CARD ACCESS TO FOOD ASSISTANCE PROGRAM BENEFITS UNLESS THE  
3 FOOD ESTABLISHMENT'S INVENTORY RECORDS MATCH REDEMPTION FILES FOR  
4 MICHIGAN BRIDGE CARD USAGE FOR FOOD ASSISTANCE PROGRAM BENEFITS  
5 AND 1 OR MORE OF THE FOLLOWING APPLY:

6 (i) THE FOOD FOR SALE INCLUDES, ON A CONTINUOUS BASIS, AT  
7 LEAST 3 VARIETIES OF FOODS IN EACH OF THE FOLLOWING 4 STAPLE FOOD  
8 GROUPS AND PERISHABLE FOODS IN AT LEAST 2 OF THE GROUPS:

9 (A) MEAT, POULTRY, OR FISH.

10 (B) BREAD OR CEREAL.

11 (C) VEGETABLES OR FRUITS.

12 (D) DAIRY PRODUCTS.

13 (ii) AT LEAST 50% OF THE TOTAL DOLLAR AMOUNT OF ALL RETAIL  
14 SALES, INCLUDING FOOD AND NONFOOD ITEMS, FUEL, AND SERVICES AT  
15 THE FOOD ESTABLISHMENT IS FROM THE SALE OF FOOD IN ANY OF THE 4  
16 STAPLE FOOD GROUPS.

17 (2) Each day a violation of this section occurs is a  
18 separate violation of this section.

19 Sec. 5105. (1) Upon finding that a person violated a  
20 provision of this act or **A** rule promulgated under this act, the  
21 department may impose an administrative fine of not more than  
22 \$500.00 for the first offense and not more than \$1,000.00 for a  
23 second or subsequent offense and the actual costs of the  
24 investigation of the violation. Each day of ~~any~~**A** continuing  
25 violation is not considered a separate violation of this act or **A**  
26 rule promulgated under this act. ~~Under no circumstances shall the~~  
27 **THE** department **SHALL NOT** impose upon any licensee or registrant

1 administrative fines in the aggregate amount of more than  
 2 \$4,000.00 per location for a firm with annual gross receipts of  
 3 \$500,000.00 or less and \$8,000.00 per location for a firm with  
 4 annual gross receipts of over \$500,000.00 during any 12-month  
 5 period.

6 (2) ~~Any administrative~~ **ADMINISTRATIVE** fines and costs  
 7 collected under this section shall be deposited into the dairy  
 8 and food safety fund.

9 (3) This section does not require the department to issue an  
 10 administrative fine for minor violations of this act ~~whenever~~ **IF**  
 11 the department believes that the public interest will be  
 12 adequately served under the circumstances by a suitable written  
 13 notice or warning.

14 (4) The ~~conditions warranting administrative fines to~~  
 15 ~~achieve compliance with the provisions of the food code are~~  
 16 ~~limited to critical~~ **DEPARTMENT SHALL NOT IMPOSE ADMINISTRATIVE**  
 17 **FINES FOR VIOLATIONS OF THE FOOD CODE OTHER THAN PRIORITY ITEMS,**  
 18 **PRIORITY FOUNDATION ITEMS,** or repeated violations that remain  
 19 uncorrected beyond the time frame for correction ~~approved,~~  
 20 ~~directed, or ordered~~ **SPECIFIED UNDER OR AGREED TO, SPECIFIED, OR**  
 21 **APPROVED** by the director under ~~food code~~ section 8-405.11(A) and  
 22 **OR (B) and section OR 8-406.11(A) and OR (B) OF THE FOOD CODE.**  
 23 The department shall not impose an administrative fine for a  
 24 ~~noncritical~~ **CORE ITEM** violation of the food code unless at least  
 25 **THE VIOLATION IS NOT CORRECTED WITHIN 30** calendar days ~~have been~~  
 26 ~~allowed for correction~~ after the evaluation.

27 Sec. 6101. (1) Chapters 1 through 8 of the food code are

1 incorporated by reference except as amended and modified as  
2 follows:

3 (a) Where provisions of this act and rules promulgated under  
4 this act specify different requirements.

5 (b) Section ~~3-501.16(A)(2)~~ is modified so that "subparagraph  
6 ~~3-501.16(A)(2)(b)~~" is stricken. **3-401.14 IS MODIFIED TO READ AS  
7 FOLLOWS:**

8 **"3-401.14 NON-CONTINUOUS COOKING OF RAW ANIMAL FOODS.**

9 **RAW ANIMAL FOODS THAT ARE COOKED USING A NON-CONTINUOUS COOKING  
10 PROCESS SHALL BE:**

11 (A) SUBJECT TO AN INITIAL HEATING PROCESS THAT IS NO LONGER  
12 THAN 60 MINUTES IN DURATION;<sup>P</sup>

13 (B) IMMEDIATELY AFTER INITIAL HEATING, COOLED ACCORDING TO  
14 THE TIME AND TEMPERATURE PARAMETERS SPECIFIED FOR COOKED  
15 POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY  
16 FOOD) UNDER PARAGRAPH 3-501.14(A);<sup>P</sup>

17 (C) AFTER COOLING, HELD FROZEN OR COLD, AS SPECIFIED FOR  
18 POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY  
19 FOOD) UNDER PARAGRAPH 3-501.16(A)(2);<sup>P</sup>

20 (D) PRIOR TO SALE OR SERVICE, COOKED USING A PROCESS THAT  
21 HEATS ALL PARTS OF THE FOOD TO A TIME/TEMPERATURE SPECIFIED IN  
22 PARAGRAPH 3-401.11(A);<sup>P</sup>

23 (E) COOLED ACCORDING TO THE TIME AND TEMPERATURE PARAMETERS  
24 SPECIFIED FOR COOKED POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE  
25 CONTROL FOR SAFETY FOOD) UNDER PARAGRAPH 3-501.14(A) IF NOT  
26 EITHER HOT HELD AS SPECIFIED UNDER PARAGRAPH 3-501.16(A), SERVED  
27 IMMEDIATELY, OR HELD USING TIME AS A PUBLIC HEALTH CONTROL AS

1 SPECIFIED UNDER SECTION 3-501.19 AFTER COMPLETE COOKING;<sup>P</sup> AND

2 (F) STORED AS FOLLOWS:

3 (1) AFTER INITIAL HEATING BUT PRIOR TO COOKING AS SPECIFIED  
4 UNDER PARAGRAPH (D) OF THIS SECTION, SEPARATE FROM READY-TO-EAT  
5 FOODS AS SPECIFIED UNDER PARAGRAPH 3-302.11;<sup>PF</sup> AND

6 (2) AFTER INITIAL HEATING, BUT PRIOR TO COMPLETE COOKING,  
7 MARKED OR OTHERWISE IDENTIFIED AS FOODS THAT MUST BE COOKED AS  
8 SPECIFIED UNDER PARAGRAPH (D) OF THIS SECTION PRIOR TO BEING  
9 OFFERED FOR SALE OR SERVICE.<sup>PF</sup> THE FOOD MAY BE IDENTIFIED IN ANY  
10 EFFECTIVE MANNER PROVIDED THAT THE MARKING SYSTEM IS DISCLOSED TO  
11 THE REGULATORY AUTHORITY UPON REQUEST."

12 (C) SECTION 2-103.11(L) IS MODIFIED TO READ AS FOLLOWS:

13 "EMPLOYEES ARE PROPERLY TRAINED IN FOOD SAFETY AS IT RELATES  
14 TO THEIR ASSIGNED DUTIES;<sup>PF</sup> AND".

15 (2) The director, by ~~promulgation of a rule~~, may adopt any  
16 changes or updates to the food code.

17 (3) The annexes of the food code are considered persuasive  
18 authority for interpretation of the food code.

19 Sec. 6107. (1) ~~Upon receipt of plans and specifications, the~~  
20 **THE** director shall review ~~the~~ plans and specifications **RECEIVED**  
21 **UNDER SECTION 6105** as soon as practicable **AFTER RECEIPT** to  
22 determine their completeness and adequacy. If a submission of  
23 complete plans and specifications is not reviewed within 30  
24 business days of receipt, the plans and specifications ~~will~~ **SHALL**  
25 be considered **TO HAVE BEEN DETERMINED TO BE** complete and  
26 adequate. Thereafter, construction may proceed without the  
27 director's authorization. Approval of the plans and

1 specifications by operation of law does not relieve the license  
2 applicant or license holder from compliance with other provisions  
3 of this act.

4 (2) If the director determines that plans and specifications  
5 are incomplete or inadequate, or both, he or she shall notify the  
6 license applicant or license holder in writing and shall request  
7 the submission of revised plans and specifications with  
8 appropriate corrections or additions. The director shall not  
9 approve the plans and specifications until he or she determines  
10 that the plans and specifications are complete and adequate and  
11 that the food establishment is designed in accordance with the  
12 food code and this act.

13 (3) Upon a determination ~~by the director~~ that the plans and  
14 specifications are complete and adequate, the director shall mark  
15 the plans and specifications showing approval and the date of  
16 approval, shall notify the license applicant or license holder in  
17 writing of the approval, and shall authorize construction,  
18 conversion, alteration, or remodeling of the food establishment.

19 (4) Approval of plans and specifications by the director and  
20 authorization for construction pursuant to the food code, this  
21 act, and rules ~~promulgated under this act~~ expire if construction,  
22 conversion, alteration, or remodeling has not commenced within 1  
23 year from the date of approval or has been interrupted for 1 year  
24 or more since the date of approval. A license applicant or  
25 license holder may apply in writing to the director for an  
26 extension of the approval and construction authorization before  
27 the approval expires. The request for extension shall identify

1 the project for which the approval and construction authorization  
2 were originally granted and the reason for requesting the  
3 extension. The director may require modification of the plans and  
4 specifications to incorporate updated food ~~sanitation~~**SAFETY**  
5 practices or requirements, where applicable, unless the license  
6 applicant or license holder has entered into binding agreements  
7 or contractual obligations which cannot be canceled or modified  
8 without substantial loss to the license applicant or license  
9 holder as determined by the director.

10 (5) The approved plans and specifications shall be ~~located~~  
11 **KEPT** on-site during construction and shall be available for  
12 inspection by the director.

13 Sec. 6129. (1) The director shall consider the risk-based  
14 evaluation methodology as described in food code annex 5, section  
15 4 A-H for conducting evaluations of food establishments.

16 (2) The completed evaluation report shall specify a period  
17 of time for correction of noted violations. The license holder  
18 shall correct the violations within the time specified in the  
19 report.

20 (3) All violations which are marked as ~~critical~~**PRIORITY**  
21 **ITEMS OR PRIORITY FOUNDATION ITEMS** on the ~~inspection~~**EVALUATION**  
22 report form shall be corrected immediately unless otherwise  
23 specified. The director shall confirm corrections within 30 days  
24 after the report is issued. **HOWEVER, IF NOT MORE THAN 2 PRIORITY**  
25 **FOUNDATION ITEM VIOLATIONS ARE NOTED AND THE DIRECTOR DETERMINES**  
26 **THAT THE VIOLATIONS ARE NOT A RISK TO FOOD SAFETY, THE DIRECTOR**  
27 **MAY CONFIRM CORRECTION OF THE PRIORITY FOUNDATION ITEM VIOLATIONS**

1 **AT THE NEXT ROUTINE EVALUATION.**

2           Sec. 6135. (1) The name and address of the business  
3 operating a mobile food establishment shall be affixed to each  
4 side of the exterior of the vehicle in letters not less than 3  
5 inches high and 3/8 of an inch wide and shall be in contrast to  
6 the vehicle background color. When more than 1 mobile food  
7 service establishment is operated by the same person, the  
8 director shall assign a number to each establishment.

9           (2) A copy of limitations attached to the license of a  
10 mobile food service establishment shall be carried on the mobile  
11 food service establishment at all times.

12           (3) If a mobile food establishment is operating on a  
13 regularly scheduled route, the ~~local health department having~~  
14 ~~jurisdiction~~**DIRECTOR** may require the license holder to provide a  
15 copy of the route schedule ~~at the time~~**WHEN** the license is  
16 approved and every time the route schedule is changed.

17           (4) ~~A representative of the local health department~~**THE**  
18 **DIRECTOR** or the operator in the presence of the ~~representative of~~  
19 ~~the local health department~~**DIRECTOR** shall affix 2 decals  
20 provided by the department on the mobile food establishment at  
21 the time the license is issued. The decals shall be conspicuously  
22 displayed on each side of the mobile food establishment so as to  
23 be visible when in transit and while serving the public.

24           Sec. 7101. Subject to section 1119(2), a food ~~processing~~  
25 ~~plant~~**PROCESSOR AND A FOOD WAREHOUSE** shall comply with ~~the~~  
26 ~~regulations of the food and drug administration in 21 C.F.R.~~**CFR**  
27 part 110, except that refrigerated potentially hazardous food

1 shall be stored at 4.4 degrees centigrade (40 degrees Fahrenheit)  
2 or below.

3 SEC. 7104. (1) @.02 OF CHAPTER I AND CHAPTERS II, VII, IX TO  
4 XIV, AND XVI OF THE GUIDE FOR CONTROL OF MOLLUSCAN SHELLFISH ARE  
5 INCORPORATED BY REFERENCE EXCEPT TO THE EXTENT PROVISIONS OF THIS  
6 ACT AND RULES SPECIFY DIFFERENT REQUIREMENTS.

7 (2) THE DIRECTOR BY RULE MAY ADOPT ANY CHANGES OR UPDATES TO  
8 THE GUIDE FOR CONTROL OF MOLLUSCAN SHELLFISH.

9 (3) THE ANNEXES OF THE GUIDE FOR THE CONTROL OF MOLLUSCAN  
10 SHELLFISH ARE CONSIDERED PERSUASIVE AUTHORITY FOR INTERPRETATION  
11 OF THE GUIDE FOR THE CONTROL OF MOLLUSCAN SHELLFISH.

12 SEC. 7112. (1) 21 CFR PARTS 1, 70, 73, 74, 81, 82, AND 100  
13 TO 199, AS SET FORTH ON THE EFFECTIVE DATE OF THE AMENDATORY ACT  
14 THAT ADDED THIS SECTION, ARE ADOPTED BY REFERENCE, EXCEPT TO THE  
15 EXTENT THAT PROVISIONS OF THIS ACT AND RULES PROMULGATED UNDER  
16 THIS ACT SPECIFY DIFFERENT REQUIREMENTS.

17 (2) THE DIRECTOR, BY PROMULGATION OF A RULE, MAY ADOPT ANY  
18 CHANGES OR UPDATES TO 21 CFR PARTS 1, 70, 73, 74, 81, 82, AND 100  
19 TO 199.

20 Sec. 7113. As used in this chapter:

21 (a) "Added fat" means the addition of fat tissue originating  
22 from portions consisting of less than 12% muscle tissue in each  
23 portion.

24 (b) "Added water" means greater moisture content than  
25 normally found in meat and, except for poultry, is determined by  
26 total moisture minus 4 times the percentage of protein. Added  
27 water may be in the form of water or ice.

1 (c) "Artificial coloring" means coloring containing any dye  
2 or pigment which was manufactured by a process of synthesis or  
3 other similar artifice or by extraction of a natural dye or  
4 pigment from a plant or other material from which the dye or  
5 pigment was formed.

6 (d) "Artificial flavoring" means any flavoring containing  
7 any sapid or aromatic constituent manufactured by synthesis or  
8 similar process.

9 (e) "Binders" means food and nonfood substances used as an  
10 ingredient in comminuted meats for binding, stabilizing,  
11 thickening, or maintaining viscosity of the product.

12 (f) "By-products or variety meats" means hearts, livers,  
13 brains, tongues, tripe, stomach, lungs, melts, eyes, weasand  
14 meats, head meat, cheek meat, salivary glands, udder, lips, ears,  
15 snouts, skin, feet, spleens, slaughterhouse by-products, spinal  
16 cords, cracklings or crackling meal, packinghouse by-products,  
17 ~~processing plant~~ **FOOD PROCESSOR** by-products, partially defatted  
18 fatty tissues, and partially defatted chopped meat.

19 **(G) "CANDLING" MEANS THE EXAMINATION, IN A PARTIALLY**  
20 **DARKENED ROOM OR PLACE, OF THE INTERIOR OF AN EGG BY TWIRLING THE**  
21 **EGG BEFORE A BRIGHT LIGHT PASSING THROUGH AN APERTURE IN AN**  
22 **OPAQUE SHIELD OR BY ANOTHER APPROVED METHOD.**

23 **(H) ~~(g)~~** "Comminuted" means chopped, diced, flaked, ground,  
24 or otherwise reduced to minute particles.

25 **(I) ~~(h)~~** "Extenders" means food substances used as an  
26 ingredient in comminuted meats primarily for replacement of meat  
27 ingredients.

1           (J) ~~(i)~~—"Fat" means the quantity of adipose tissue  
2 determined by chemical analysis.

3           (K) ~~(j)~~—"Fresh meat" means meat that has undergone no  
4 cooking, heating, or other processing except boning, cutting,  
5 comminuting, or freezing.

6           (L) ~~(k)~~—"Lamb" means meat derived from sheep less than 1 year  
7 of age.

8           (M) ~~(l)~~—"Meat" means the edible part of clean, sound striated  
9 muscle of cattle, swine, sheep, deer and other cervids, goat,  
10 turkey, duck, ratite, or chicken slaughtered in compliance with  
11 all applicable laws, with or without the accompanying and  
12 overlying fat, and sinew, nerve, gland, and blood vessels which  
13 normally accompany the muscle tissues and which are not separated  
14 from it in the process of dressing. Meat does not include  
15 specified risk materials.

16           (N) "PRODUCER" MEANS A PERSON DIRECTLY RESPONSIBLE FOR THE  
17 PRODUCTION OF EGGS.

18           (O) "SHELLFISH" MEANS ALL SPECIES OF ANY OF THE FOLLOWING:

19           (i) OYSTER, CLAMS, OR MUSSELS WHETHER SHUCKED OR IN THE  
20 SHELL, RAW, INCLUDING POSTHARVEST PROCESSED, FROZEN OR UNFROZEN,  
21 OR WHOLE OR IN PARTS.

22           (ii) SCALLOPS IN ANY FORM, EXCEPT WHEN THE FINAL PRODUCT FORM  
23 IS THE ADDUCTOR MUSCLE ONLY.

24           (P) ~~(m)~~—"Skeletal meat" means the meat that is attached to a  
25 part of the skeleton, including head and cheek meat.

26           (Q) ~~(n)~~—"Specified risk materials" means items, associated  
27 with the nervous system of beef cattle, that are prohibited from

1 human food as defined in 9 CFR 310.22.

2 (R) ~~(e)~~—"Veal" means meat derived from a calf not more than  
3 1 year of age.

4 SEC. 7114. (1) U.S. STANDARDS FOR SHELL EGGS ARE ADOPTED BY  
5 REFERENCE.

6 (2) EGGS DESCRIBED BY UNITED STATES DEPARTMENT OF  
7 AGRICULTURE AS BLACK ROTS, WHITE ROTS, MIXED ROTS (ADDLED EGGS),  
8 SOUR EGGS, EGGS WITH GREEN WHITES, STUCK YOLKS, BLOOD RINGS OR  
9 EMBRYOS BEYOND BLOOD RING STAGE, MOLDY EGGS, MUSTY EGGS, BLOODY  
10 WHITES, CRUSTED YOLKS, EGGS WITH ABNORMAL ODORS, AND ANY EGGS  
11 WHICH CONTAIN WHOLLY OR IN PART A TAINTE, DISEASE, FILTHY,  
12 DECOMPOSED, OR PUTRID SUBSTANCE ARE EGGS UNFIT FOR HUMAN FOOD.

13 (3) A PERSON SHALL NOT SELL, OFFER, OR EXPOSE FOR SALE TO  
14 THE CONSUMER OR TO THE RETAIL TRADE, OR HAVE IN HIS OR HER  
15 POSSESSION WITH INTENT TO SELL TO THE CONSUMER, OR TO THE RETAIL  
16 TRADE, ANY EGG UNFIT FOR HUMAN FOOD. SUCH AN EGG SHALL BE BROKEN  
17 OUT OF THE SHELL AND DENATURED OR DESTROYED BY METHODS APPROVED  
18 BY THE DIRECTOR SO THAT IT CANNOT BE USED FOR HUMAN FOOD.

19 (4) THE FINAL DETERMINATION OF ALL GRADE AND QUALITY FACTORS  
20 OF AN OFFICIAL SAMPLE OF SHELL EGGS FROM DOMESTICATED CHICKENS  
21 SHALL BE MADE BY VISUAL EXAMINATION OF THE EGG TO DETERMINE  
22 CLEANLINESS, SOUNDNESS OF SHELL, AND EXTERIOR QUALITY, AND BY  
23 CANDLING OR BREAKING TO DETERMINE INTERIOR QUALITY. THE  
24 EXAMINATION SHALL BE MADE BY A COMPETENT REPRESENTATIVE  
25 AUTHORIZED BY THE DIRECTOR. THE REPRESENTATIVE SHALL CERTIFY THE  
26 RESULTS OF THE EXAMINATION AND HIS OR HER CERTIFICATE SHALL BE  
27 PRIMA FACIE EVIDENCE OF THE FACTS CERTIFIED TO IN ANY COURT WHERE

1 THE CERTIFICATE IS OFFERED IN EVIDENCE.

2 (5) ALL EGGS FROM DOMESTICATED CHICKENS SOLD, OFFERED, OR  
3 EXPOSED FOR SALE, OR ADVERTISED FOR SALE BY A RETAILER OR  
4 WHOLESALE SHALL BE MARKED AS FOLLOWS TO CONFORM TO THE FOLLOWING  
5 APPLICABLE SIZE REQUIREMENT:

6 (A) "JUMBO", IF THE EGGS WEIGH AT THE RATE OF NOT LESS THAN  
7 30 OUNCES PER DOZEN, WITH NO EGGS BELOW THE RATE OF 29 OUNCES PER  
8 DOZEN.

9 (B) "EXTRA LARGE", IF THE EGGS WEIGH AT THE RATE OF NOT LESS  
10 THAN 27 OUNCES PER DOZEN, WITH NO EGGS BELOW THE RATE OF 26  
11 OUNCES PER DOZEN.

12 (C) "LARGE", IF THE EGGS WEIGH AT THE RATE OF NOT LESS THAN  
13 24 OUNCES PER DOZEN, WITH NO EGGS BELOW THE RATE OF 23 OUNCES PER  
14 DOZEN.

15 (D) "MEDIUM", IF THE EGGS WEIGH AT THE RATE OF NOT LESS THAN  
16 21 OUNCES PER DOZEN, WITH NO EGGS BELOW THE RATE OF 20 OUNCES PER  
17 DOZEN.

18 (E) "SMALL", IF THE EGGS WEIGH AT THE RATE OF NOT LESS THAN  
19 18 OUNCES PER DOZEN, WITH NO EGGS BELOW THE RATE OF 17 OUNCES PER  
20 DOZEN.

21 (F) "PEEWEE", IF THE EGGS WEIGH AT THE RATE OF NOT LESS THAN  
22 15 OUNCES PER DOZEN.

23 (6) ALL ADVERTISING OF EGGS SHALL INCLUDE THE CORRECT  
24 UNABBREVIATED SIZE DESIGNATION IN DESCRIBING EGGS. THE CORRECT  
25 UNABBREVIATED SIZE DESIGNATION SHALL ALSO APPEAR ON THE EXTERIOR  
26 OF ANY CONTAINER, OPEN OR CLOSED, IN WHICH EGGS ARE OFFERED FOR  
27 SALE TO THE RETAILER OR THE CONSUMER.

1           (7) A PERSON SHALL NOT BY HIMSELF OR HERSELF OR HIS OR HER  
2 AGENTS SELL, OFFER, OR EXPOSE FOR SALE, ADVERTISE, OR IN ANY  
3 MANNER REPRESENT FOR SALE AS STRICTLY FRESH, HENNERY, NEW LAID,  
4 BEST, GRADE A, NUMBER 1, FANCY, SPECIAL, EXTRA, SELECTED, DIRECT  
5 FROM THE FARM, OR UNDER ANY WORD, FIGURES, SYMBOLS, OR  
6 DESCRIPTION OF SIMILAR IMPORT, ANY EGGS WHICH ARE NOT FRESH. AN  
7 EGG IS NOT CONSIDERED FRESH UNLESS IT MEETS THE STANDARDS OF  
8 QUALITY SPECIFIED FOR THE U.S. AA OR A QUALITY, OR THE  
9 EQUIVALENT, AS DESIGNATED IN U.S. STANDARDS FOR SHELL EGGS FOR  
10 INDIVIDUAL EGGS OR IN STANDARDS PRESCRIBED BY THE DIRECTOR BY  
11 RULE.

12           (8) ALL EGGS FROM DOMESTICATED CHICKENS SOLD, OFFERED OR  
13 EXPOSED FOR SALE, OR ADVERTISED FOR SALE BY A RETAILER OR  
14 WHOLESALER SHALL BE LABELED OR MARKED TO CONFORM TO ONE OF THE  
15 FOLLOWING GRADE REQUIREMENTS:

16           (A) EGGS THAT FULLY MEET THE SPECIFICATIONS OF U.S. AA  
17 QUALITY OR FRESH FANCY QUALITY, OR THE EQUIVALENT THEREOF, AS  
18 DESCRIBED IN U.S. STANDARDS FOR SHELL EGGS, SHALL BE LABELED AND  
19 ADVERTISED AS GRADE AA OR FRESH FANCY EGGS, MICHIGAN SEAL OF  
20 QUALITY EGGS, GRADE A OR GRADE B EGGS.

21           (B) EGGS THAT FULLY MEET THE SPECIFICATIONS OF THE U.S. A  
22 QUALITY, OR THE EQUIVALENT THEREOF, AS DESCRIBED IN U.S.  
23 STANDARDS FOR SHELL EGGS, SHALL BE LABELED AND ADVERTISED AS  
24 GRADE A OR GRADE B EGGS.

25           (C) EGGS THAT FULLY MEET THE SPECIFICATIONS OF A U.S. B  
26 QUALITY, OR THE EQUIVALENT THEREOF, AS DESCRIBED IN U.S.  
27 STANDARDS FOR SHELL EGGS, SHALL BE LABELED AND ADVERTISED AS

1 GRADE B EGGS.

2 (D) EGGS THAT DO NOT MEET THE GRADE REQUIREMENTS OF  
3 SUBDIVISION (A), (B), OR (C) SHALL NOT BE OFFERED FOR SALE OR  
4 SOLD IN THE SHELL. THOSE EGGS MAY BE BROKEN OUT OF THE SHELL AT  
5 THE GRADING PLANT OR GRADING STATION OR MAY BE OFFERED FOR SALE  
6 OR SOLD TO AN EGG BREAKING PLANT.

7 (9) EGGS SHALL BE HELD AND TRANSPORTED AT OR BELOW 45  
8 DEGREES FAHRENHEIT AMBIENT TEMPERATURE BEGINNING 36 HOURS AFTER  
9 TIME OF LAY. IF THE EGGS ARE TO BE PROCESSED AS TABLE EGGS AND  
10 ARE NOT PROCESSED FOR THE ULTIMATE CONSUMER WITHIN 36 HOURS FROM  
11 THE TIME OF LAY AND, THEREFORE, ARE HELD AND TRANSPORTED AS  
12 REQUIRED AT OR BELOW 45 DEGREES FAHRENHEIT AMBIENT TEMPERATURE,  
13 THEN THE EGGS MAY BE HELD AT ROOM TEMPERATURE FOR NO MORE THAN 36  
14 HOURS JUST PRIOR TO PROCESSING TO ALLOW AN EQUILIBRATION STEP TO  
15 TEMPER THE EGGS.

16 Sec. 7133. (1) All products manufactured under terms of this  
17 chapter may be sold in colored artificial casings or container  
18 only if ~~they~~**THE PRODUCTS** are in complete compliance with all  
19 applicable regulations of the United States department of  
20 agriculture. These products shall not be sold in colored natural  
21 casings.

22 (2) In addition to the requirements of section ~~1105(a)~~  
23 **1105(1)(A)**, any product ~~within the purview of this section shall~~  
24 ~~be considered~~**MANUFACTURED UNDER THE TERMS OF THIS CHAPTER IS**  
25 adulterated if it is the product of an animal which has died  
26 otherwise than by slaughter.

27 Sec. 7137. Food ~~may~~**SHALL** not contain unapproved food

1 additives or additives that exceed amounts specified in 21 CFR  
 2 parts 170 to 180 relating to food additives, generally recognized  
 3 as safe or prior sanctioned substances that exceed amounts  
 4 specified in 21 CFR parts 181 to 186, substances that exceed  
 5 amounts established under applicable regulations of the United  
 6 States department of agriculture food safety inspection service,  
 7 or pesticide residues that exceed provisions specified in 40 CFR  
 8 part ~~185-180~~.

9 Sec. 8107. (1) As used in this section:

10 (a) "Date" means **1 OF THE FOLLOWING:**

11 (i) **FOR PERISHABLE FOOD**, the recommended last day of sale.

12 (ii) **FOR NONPERISHABLE FOOD, THE RECOMMENDED LAST DAY OF SALE**  
 13 **OR CONSUMPTION, IF ANY.**

14 ~~—— (b) "Perishable food" means any food in package form which~~  
 15 ~~the manufacturer, packer, or retailer, in conjunction with the~~  
 16 ~~department, determines as having a significant risk of spoilage,~~  
 17 ~~loss of value, or loss of palatability within 90 days of the date~~  
 18 ~~of packaging.~~

19 (B) ~~(e)~~ "Prepackaged" means packaged prior to being  
 20 displayed or offered for sale.

21 (2) A retail food establishment shall not sell or offer for  
 22 sale a prepackaged perishable food unless ~~there is clearly and~~  
 23 ~~conspicuously stamped upon or attached to the package~~ **BEARS A**  
 24 **LABEL WITH** a date identified by month and day, except that bakery  
 25 products with a shelf life of 7 days or less may be dated with a  
 26 day of the week or an abbreviation. **A RETAIL FOOD ESTABLISHMENT**  
 27 **MAY SELL OR OFFER FOR SALE A PREPACKAGED NONPERISHABLE FOOD WITH**

1 OR WITHOUT A LABEL THAT BEARS A DATE.

2 (3) The date **FOR PREPACKAGED PERISHABLE FOOD** may be  
3 displayed with or without explanatory terms. If explanatory terms  
4 are used, ~~such~~**THE** terms shall be limited to 1 of the following:  
5 "Sell by \_\_\_\_\_", "Sell before \_\_\_\_\_", "Last date of sale \_\_\_\_\_",  
6 "Recommended last date of sale \_\_\_\_\_", or "Recommended sale date  
7 \_\_\_\_\_". Other meaningful terms may be used if specifically  
8 approved by the department.

9 (4) ~~Except for~~**A RETAIL FOOD ESTABLISHMENT SHALL NOT SELL OR**  
10 **OFFER FOR SALE ANY OF THE FOLLOWING FOODS UNDER THE FOLLOWING**  
11 **CIRCUMSTANCES:**

12 (A) **AFTER THE DATE**, meat that has been removed from **A**  
13 federally inspected retail packages, ~~this section does not~~  
14 ~~prohibit the sale of food after~~ **PACKAGE**.

15 (B) **AFTER** the date, ~~if the product~~**NONPERISHABLE FOOD OR**  
16 **PREPACKAGED PERISHABLE FOOD UNLESS THE FOOD** is wholesome and  
17 sound and is clearly identified as having passed the date.

18 (C) **NONPERISHABLE FOOD THAT IS NO LONGER WHOLESOME OR SOUND.**

19 (5) The retail or final seller is responsible for the proper  
20 advertisement of ~~perishable~~ food sold after the date.

21 (6) A person who **PREPACKAGES NONPERISHABLE FOOD AND CHOOSES**  
22 **TO LABEL THE FOOD WITH A DATE OR WHO** prepackages perishable food  
23 shall do all of the following:

24 (a) Establish a meaningful date that takes into  
25 consideration the food quality and characteristics of the food,  
26 its packaging, and customary conditions encountered in commercial  
27 channels.

1           (b) ~~Allow~~ **IF THE DATE IS THE RECOMMENDED LAST DAY OF SALE,**  
2 **ALLOW** a reasonable period after the date for consumption of the  
3 food without physical spoilage.

4           (c) Keep a record of the method of determination of the  
5 date.

6           (7) A retailer who purchases prepackaged perishable food  
7 may, upon written agreement with the person prepackaging such  
8 food, determine, identify, and be responsible for the date ~~placed~~  
9 ~~on, or attached to,~~ **THAT** each package of such food **BEARS ON A**  
10 **LABEL.**

11           (8) The date shall not be altered. A person shall not rewrap  
12 or repackage a ~~perishable~~ food, in its original form and texture,  
13 with a date on the package different from the original.

14           (9) ~~The~~ **IF THE DATE IS THE RECOMMENDED LAST DAY OF SALE, THE**  
15 date shall be calculated to allow a reasonable period for the  
16 subsequent consumption of the food, but shall not allow for a  
17 period which would result in a health nuisance as described in  
18 section 2107.

19           (10) This section does not apply to fresh fruits and  
20 vegetables, ~~canned food,~~ and frozen food and does not apply to  
21 milk and milk products dated in accordance with the grade A milk  
22 law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

23           (11) The requirements of this section do not apply to any of  
24 the following:

25           (a) An individually packaged food item that is a component  
26 of a larger food item if the larger food item is identified with  
27 a date the same as or earlier than the date of that component.

1 (b) Perishable foods packaged under, and in compliance with,  
2 federal laws and regulations, if providing information equal to  
3 or greater than the information required by this section.

4 (c) Smoked fish under the smoked fish rules.

5 Enacting section 1. All of the following are repealed:

6 (a) Section 2103 of the food law of 2000, 2000 PA 92, MCL  
7 289.2103.

8 (b) 1963 PA 244, MCL 289.321 to 289.336.