

# SENATE BILL No. 939

May 14, 2014, Introduced by Senators NOFS and MOOLENAAR and referred to the Committee on Appropriations.

A bill to amend 2000 PA 92, entitled  
"Food law,"  
by amending section 1107 (MCL 289.1107), as amended by 2012 PA 178.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1107. As used in this act:

2       (a) "Department" means the department of agriculture and rural  
3       development.

4       (b) "Director" means the director of the department or his or  
5       her designee.

6       (c) "Domestic residence" means a single-family dwelling or an  
7       area within a rental unit where a single person or family actually  
8       resides. Domestic residence does not include either of the

1 following:

2 (i) A group or communal residential setting within any type of  
3 structure.

4 (ii) An outbuilding, shed, barn, or other similar structure.

5 (d) "Egg" does not include a balut, which is an embryo inside  
6 a fertile egg that has been incubated for a period sufficient for  
7 the embryo to reach a specific stage of development after which it  
8 is removed from incubation before hatching.

9 (e) "Evaluation" means a food safety audit, inspection, or  
10 food safety and sanitation assessment, whether announced or  
11 unannounced, that identifies violations or verifies compliance with  
12 this act and determines the degree of active control by food  
13 establishment operators over foodborne illness risk factors.

14 (f) "Extended retail food establishment" means a retail  
15 grocery that does both of the following:

16 (i) Serves or provides an unpackaged food for immediate  
17 consumption.

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

19 (g) "Fair" means a fair or exhibition operated and managed  
20 under 1929 PA 11, MCL 46.151 to 46.153, or held by an agricultural  
21 or horticultural society under 1855 PA 80, MCL 453.231 to 453.240.

22 (h) "Fair concession" means a food concession, storage,  
23 preparation, or dispensing operation at a state or county fair.

24 (i) "Farmers' market" means a public and recurring assembly of  
25 farmers or their representatives selling directly to consumers food  
26 and products that the farmers have produced themselves. In  
27 addition, the market may include a variety of other vendors as

1 determined by market management.

2 (j) "Federal act" means the federal food, drug, and cosmetic  
3 act, chapter 675, 52 Stat. 1040, 21 USC 301 to 399d.

4 (k) "Festival" means an event, staged by a local community or  
5 local organization, that centers on and celebrates a certain aspect  
6 of that community or organization. Festival includes, but is not  
7 limited to, a fair, art show, chili cook-off, car show, hot air  
8 balloon festival, religious festival, drama festival, or cultural  
9 festival.

10 (l) "First receiver" means a person who receives eggs from a  
11 producer at any place of business and candles, grades, sorts,  
12 packs, or packages the eggs.

13 (m) "Food" means articles used for food or drink for humans or  
14 other animals, chewing gum, and articles used for components of any  
15 such article.

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

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

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

4           (iii) A color additive.

5           (iv) Any substance used in accordance with a sanction or  
6 approval granted before the enactment of the food additives  
7 amendment of 1958, Public Law 85-929, pursuant to the federal act,  
8 the poultry products inspection act, 21 USC 451 to 472, or the  
9 federal meat inspection act, 21 USC 601 to 683.

10          (o) "Food code" means food code, 2009 recommendations of the  
11 food and drug administration of the United States public health  
12 service that regulates the design, construction, management, and  
13 operation of certain food establishments.

14          (p) "Food establishment" means an operation where food is  
15 processed, packed, canned, preserved, frozen, fabricated, stored,  
16 prepared, served, sold, or offered for sale. Food establishment  
17 includes, but is not limited to, a food processor, a food  
18 warehouse, a food service establishment, and a retail grocery. Food  
19 establishment does not include any of the following:

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

24           (ii) An inpatient food operation located in a health facility  
25 or agency subject to licensure under article 17 of the public  
26 health code, MCL 333.20101 to 333.22260. **THIS SUBPARAGRAPH DOES NOT**  
27 **APPLY TO A HOME FOR THE AGED OR A NURSING HOME AS DEFINED,**

1   **RESPECTIVELY, IN SECTIONS 20106 AND 20109 OF THE PUBLIC HEALTH**  
2   **CODE, 1978 PA 368, MCL 333.20106 AND 333.20109.**

3       (iii) A food operation located in a prison, jail, state mental  
4   health institute, boarding house, fraternity or sorority house,  
5   convent, or other facility where the facility is the primary  
6   residence for the occupants and the food operation is limited to  
7   serving meals to the occupants as part of their living arrangement.  
8   **THIS SUBPARAGRAPH DOES NOT APPLY TO AN ADULT FOSTER CARE FACILITY**  
9   **AS DEFINED IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING**  
10   **ACT, 1979 PA 218, MCL 400.703.**

11       (q) "Food processor" means a food establishment that  
12   processes, manufactures, wholesales, packages, labels, or stores  
13   food. Food processor does not include a maple syrup producer.  
14   Processing is an act, such as canning, freezing, dehydrating,  
15   drying, distilling, extracting, preserving, grinding, crushing,  
16   milling, washing, trimming, packing, or otherwise preserving or  
17   changing the form of a food.

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

24       (s) "Food safety audit" means the methodical examination and  
25   review of records, food sources, food handling procedures, and  
26   facility cleaning and sanitation practices for compliance with this  
27   act, accompanied by a report of findings. Food safety audit

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

4 (t) "Food service establishment" means a fixed or mobile  
5 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,  
6 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail  
7 lounge, nightclub, drive-in, industrial feeding establishment,  
8 private organization serving the public, rental hall, catering  
9 kitchen, delicatessen, theater, commissary, food concession, or  
10 similar place in which food or drink is prepared for direct  
11 consumption through service on the premises or elsewhere, and any  
12 other eating or drinking establishment or operation where food is  
13 served or provided for the public. Food service establishment does  
14 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 for rent.

18 (iii) A bed and breakfast that has more than 10 sleeping rooms  
19 for rent, if the bed and breakfast serves continental breakfasts  
20 only.

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

25 (u) "Food warehouse" means a food establishment that stores or  
26 distributes food for wholesale.

27 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 97th Legislature are  
2 enacted into law:

3 (a) Senate Bill No. 886.

4 (b) Senate Bill No. 887.

5 (c) Senate Bill No. 888.