

SENATE BILL No. 441

September 9, 2015, Introduced by Senator CASPERSON and referred to the Committee on Government Operations.

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
9 following:

10 (i) A group or communal residential setting within any type of

1 structure.

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

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

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

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

14 (i) Serves or provides an unpackaged food for immediate
15 consumption.

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

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

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

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

27 (j) "Federal act" means the federal food, drug, and cosmetic

1 act, ~~chapter 675, 52 Stat. 1040,~~ 21 USC 301 to ~~399d-399f~~**F**.

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

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

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

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

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

27 (ii) A pesticide chemical to the extent that it is intended

1 for use or is used in the production, storage, or transportation of
2 any raw agricultural commodity.

3 (iii) A color additive.

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

9 (o) "Food code" means food code, 2009 recommendations of the
10 ~~food and drug administration~~ **FOOD AND DRUG ADMINISTRATION** of the
11 United States ~~public health service~~ **PUBLIC HEALTH SERVICE** that
12 regulates the design, construction, management, and operation of
13 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.

27 (iii) ~~A~~ **SUBJECT TO SECTION 80 OF THE CORRECTIONS CODE OF 1953,**

1 1953 PA 232, MCL 791.280, A food operation located in a prison,
2 jail, state mental health institute, boarding house, fraternity or
3 sorority house, convent, or other facility where the facility is
4 the primary residence for the occupants and the food operation is
5 limited to serving meals to the occupants as part of their living
6 arrangement.

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

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

20 (s) "Food safety audit" means the methodical examination and
21 review of records, food sources, food handling procedures, and
22 facility cleaning and sanitation practices for compliance with this
23 act, accompanied by a report of findings. Food safety audit
24 includes checking or testing, or both, of observable practices and
25 procedures to determine compliance with standards contained in or
26 adopted by this act, accompanied by a report of findings.

27 (t) "Food service establishment" means a fixed or mobile

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

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

12 (ii) A bed and breakfast that has 10 or fewer sleeping rooms
13 for rent.

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

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

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

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.

25 Enacting section 2. This amendatory act does not take effect
26 unless Senate Bill No. 440

27 of the 98th Legislature is enacted into law.