

HOUSE BILL NO. 4561

March 23, 2021, Introduced by Reps. Roth, Glenn, Fink, Wozniak, Marino, Wendzel, Berman and Meerman and referred to the Committee on Regulatory Reform.

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 2125, 3119, 4111, 4113, 4115, and 6137 (MCL 289.2125, 289.3119, 289.4111, 289.4113, 289.4115, and 289.6137), sections 2125 and 4113 as amended by 2015 PA 61, section 3119 as amended by 2018 PA 92, section 4111 as amended by 2016 PA 188, and section 6137 as amended by 2007 PA 114, and by adding section 4118.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2125. (1) The department shall charge the following fees

for the following services:

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

(b) A free-sale letter, \$60.00 per letter.

(c) An evaluation of a food establishment if the evaluation is a second reevaluation of a food establishment that has already been evaluated and found to have a priority item or priority foundation item violation or if the evaluation is performed at the request of the operator, \$60.00.

(d) A shellfish dealer's certificate, \$150.00 annually.

(e) A review and approval of training materials, \$60.00 per hour.

(f) A special transitory food unit plan review, \$197.00.

(g) A plan review as specified in section 8-201.11 of the food code, \$197.00.

(2) Fees collected under this section ~~shall~~**must** be deposited in the dairy and food safety fund created in section 4117 for **the administration and** enforcement of this act.

(3) The services referred to in subsection (1)(e) and (f) involve the formal review and approval procedure. The department may provide informal review or answer questions without charging a fee.

(4) The fees charged and paid under this section may be subject to a refund under section 4118.

Sec. 3119. (1) Until December 31, 2023, and except as otherwise provided for in subsection (2), ~~upon~~**on** submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

1	(a) Temporary food service establishment	\$ 4.00.
2	(b) Food service establishment	\$ 25.00.
3	(c) Mobile food establishment commissary	\$ 25.00.
4	(d) Special transitory food unit	\$ 39.00.

5 (2) When licensing a special transitory food unit, a local
6 health department shall impose a fee of \$150.00, which includes the
7 additional state license fee imposed under subsection (1) unless
8 exempted under subsection (4) or (5).

9 (3) The state license fee required under subsection (1) must
10 be collected by the local health department at the time the license
11 application is submitted. The state license fee is due and payable
12 by the local health department to the state within 60 days after
13 the fee is collected.

14 (4) A charitable, religious, fraternal, service, civic, or
15 other nonprofit organization that has tax-exempt status under
16 section 501(c)(3) of the internal revenue code **of 1986**, 26 USC 501,
17 is exempt from paying additional state license fees imposed under
18 this section. This subsection does not restrict the ability of the
19 governing board of a local health department ~~or authority~~ to fix,
20 revoke, or amend fees as further authorized and described under
21 section 2444 of the public health code, MCL 333.2444. An
22 organization seeking an exemption under this subsection shall
23 furnish to the department or a local health department evidence of
24 its tax-exempt status.

25 (5) A veteran who has a waiver of a license fee under the
26 circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is
27 exempt from paying the fees prescribed in this section.

28 (6) The local health department shall forward the license
29 applications to the department with appropriate recommendations.

1 **(7) The fees charged and paid under this section may be**
2 **subject to a refund under section 4118.**

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

5 (a) Retail grocery: \$106.00 for 2016, \$145.00 for 2017, and
6 \$183.00 for any subsequent year.

7 (b) Extended retail food establishment: \$271.00 for 2016,
8 \$370.00 for 2017, and \$468.00 for any subsequent year.

9 (c) Food processor: \$271.00 for 2016, \$370.00 for 2017, and
10 \$468.00 for any subsequent year.

11 (d) Limited food processor: \$106.00 for 2016, \$145.00 for
12 2017, and \$183.00 for any subsequent year.

13 (e) Mobile food establishment: \$183.00 for 2016, \$186.00 for
14 2017, and \$189.00 for any subsequent year.

15 (f) Temporary food establishment: \$40.00 for 2016, \$55.00 for
16 2017, and \$70.00 for any subsequent year.

17 (g) Special transitory food unit: \$150.00 for 2016, \$153.00
18 for 2017, and \$156.00 for any subsequent year.

19 (h) Mobile food establishment commissary: \$183.00 for 2016,
20 \$186.00 for 2017, and \$189.00 for any subsequent year.

21 (i) Food warehouse or vending company base location: \$106.00
22 for 2016, \$145.00 for 2017, and \$183.00 for any subsequent year. ~~In~~
23 ~~addition, the~~ **The** operator of the vending company base location
24 shall pay an additional fee based on the number of vending machine
25 locations in this state, as follows:

26 (i) 1 to 20 locations, \$500.00.

27 (ii) 21 to 50 locations, \$750.00.

28 (iii) 51 to 75 locations, \$2,000.00.

29 (iv) More than 75 locations, \$3,000.00.

1 If a person operates more than 1 vending company base location
2 in this state, all vending machine locations served by those
3 vending company base locations ~~shall~~**must** be aggregated on 1 of the
4 vending company base location licenses for the purpose of
5 determining the amount of the additional fee for vending machine
6 locations.

7 (j) Food service establishment: the amounts described in
8 subsection (2).

9 (2) If a local health department no longer conducts a food
10 service program, the department, in consultation with the
11 commission of agriculture and rural development, shall set the food
12 sanitation fees to be imposed for the conduct of the food service
13 program by the department. The fees imposed must equal, as nearly
14 as possible, 1/2 of the department's cost of providing the service.
15 The department may impose the service fees for up to 12 months
16 after the date of cessation by the local health department. After
17 the 12-month period, the department shall collect the fees only as
18 authorized pursuant to an appropriation.

19 (3) ~~Any~~**Except as provided in section 4118**, a license fee paid
20 on an initial application is nonrefundable.

21 (4) The department may charge a convenience fee and collect
22 from the applicant any additional costs associated with the method
23 of fee payment for the license or permit fees described in this
24 chapter, not to exceed the costs to the department.

25 **(5) The fees charged and paid under this section may be**
26 **subject to a refund under section 4118.**

27 Sec. 4113. (1) The department shall impose, for a renewal
28 application postmarked or delivered in person on or after May 1 of
29 each year, a late fee of an additional \$150.00. The late fee for a

1 new application submitted after the establishment has opened for
2 business is an additional \$150.00.

3 (2) The department shall not issue or renew a license until
4 the **licensing** fee and any late fee, reinspection fees, and fines
5 have been paid. A hearing regarding the department's refusal to
6 issue or renew a license under this section is not required except
7 as provided under the administrative procedures act of 1969, 1969
8 PA 306, MCL 24.201 to 24.328.

9 (3) The department may waive the late fee for producers of
10 maple syrup, honey, and other seasonal agricultural products if the
11 license application is submitted not less than 30 days before the
12 applicant engages in processing, packing, freezing, storing, or
13 selling or offering for sale the product.

14 (4) A late fee ~~shall~~**must** be retained by ~~any~~**a** certified
15 health department or, in an area where there is no certified health
16 department, by the department.

17 (5) The department shall use a late fee retained by the
18 department under subsection (4) for the administration and
19 enforcement of this act.

20 **(6) The fees charged and paid under this section may be**
21 **subject to a refund under section 4118.**

22 Sec. 4115. (1) A water bottler or water dispensing machine
23 owner shall register with the department each brand of bottled
24 water with a unique declaration of identity before the sale or
25 offering for sale of the water. The application for registration
26 ~~shall~~**must** be made on a form prescribed by the department and ~~shall~~
27 include both of the following:

28 (a) The proposed label or placard for the water.

29 (b) For each year or portion of a year, a registration fee of

1 \$25.00 for each brand of water with a unique declaration of
2 identity and \$25.00 for each water dispensing machine.

3 (2) The registration required by subsection (1) expires
4 annually on April 30 and ~~shall~~**must** be renewed 30 ~~calendar~~-days
5 before expiration of the current registration.

6 (3) The department shall assess a late fee of \$25.00 for
7 bottled water or water from a water dispensing machine that is sold
8 or offered for sale without registration. A registration is not
9 effective until the late fee is paid.

10 (4) The fees charged and paid under this section may be
11 subject to a refund under section 4118.

12 Sec. 4118. (1) Subject to the limitation under subsection (3),
13 the department shall refund a fee charged during the preceding
14 licensing year under section 2125, 3119, 4111, 4113, 4115, or 6137,
15 if both of the following conditions are met:

16 (a) During the preceding licensing year a food establishment,
17 shellfish dealer, water bottler, or water dispensing machine owner
18 was subject to a qualified order.

19 (b) As a result of the qualified order, the food
20 establishment, shellfish dealer, water bottler, or water dispensing
21 machine owner experienced a 25% or more reduction in revenue during
22 any quarter of the preceding licensing year.

23 (2) The department shall prescribe the form and manner in
24 which a refund may be claimed under this section.

25 (3) This section applies only to fees retained by the
26 department. Any fee or portion of a fee charged or retained by or
27 remitted to a local health department in accordance with this act
28 is not eligible to be refunded under this section.

29 (4) As used in this section:

1 (a) "Licensing year" means the annual duration of validity of
2 a food establishment license under this chapter, a shellfish dealer
3 certificate under section 4114, and a water bottler or water
4 dispensing machine owner registration under section 4115.

5 (b) "Qualified order" means either of the following:

6 (i) An emergency order issued by the director of the department
7 of health and human services under section 2253 of the public
8 health code, MCL 333.2253.

9 (ii) A state of disaster or state of emergency declared under
10 the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

11 Sec. 6137. (1) To qualify for a special transitory food unit
12 license, an applicant shall allow a review and receive approval of
13 plans and specifications as specified ~~in~~**under this** chapter. ~~VI.~~
14 This review and approval must include the menu and standard
15 operating procedures for the unit.

16 (2) A special transitory food unit license holder shall do all
17 of the following:

18 (a) Keep a copy of the approved standard operating procedures
19 in the unit and available for review upon evaluation by the
20 director.

21 (b) Operate in compliance with standard operation procedures
22 approved by the director.

23 (c) Before serving food within the jurisdiction of a local
24 health department, notify the local health department in writing of
25 each location in the jurisdiction at which food will be served and
26 the dates and hours of service. The license holder shall mail the
27 notice by first-class mail or deliver the notice not less than 4
28 business days before any food is served or prepared for serving
29 within the jurisdiction of the local health department.

1 (d) While in operation, request and receive 2 evaluations per
2 licensing year spaced generally over the span of the operating
3 season. ~~A~~**The** local health department and the department shall
4 charge a fee of \$90.00 for ~~such an~~ evaluation **under this**
5 **subdivision.**

6 (e) Send a copy of all evaluation reports to the regulatory
7 authority that approved the license within 30 days after receipt.

8 (3) If a license holder fails to comply with any of the
9 requirements of this section or the food code, the food
10 establishment is ineligible ~~for licensure~~**to be licensed** as a
11 special transitory temporary food establishment for the following
12 licensing year and must apply for temporary or other type of food
13 establishment licenses.

14 (4) **The fees charged and paid under this section may be**
15 **subject to a refund under section 4118.**