

Legislative Analysis



PROHIBIT CERTAIN INGREDIENTS IN FOODS SERVED IN SCHOOLS

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House Bill 4369 (H-3) as reported from committee
Sponsor: Rep. Brad Paquette
Committee: Education and Workforce
Complete to 7-1-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4369 would amend the Food Law to prohibit a *food establishment distributor* that distributes, sells, or otherwise provides food to a public or nonpublic school for use in a school breakfast or school lunch program from distributing, selling, or otherwise providing to anyone a food that contains any of the following:

- Brominated vegetable oil.
- Potassium bromate.
- Propylparaben.
- Any of the following dyes:
 - Red 40.
 - Green 3.
 - Blue 1.
 - Blue 2.
 - Yellow 6.

This prohibition would take effect July 1, 2028.

The term *food establishment distributor* is not defined in the Food Law or the bill.

A *food establishment* is presently defined in the Food Law as an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, vended, sold, or offered for sale. Food establishment includes food processors, food warehouses, food service establishments, vending machine locations, and retail groceries as those terms are defined in the Food Law. Food establishment does not include any of the following:

- A charitable, religious, fraternal, or other nonprofit organization operating a home-prepared baked goods sale or serving only home-prepared food in connection with its meetings or as part of a fund-raising event.
- An inpatient food operation located in a health facility or agency subject to licensure under Article 17 of the Public Health Code.
- A food operation located in a prison, jail, state mental health institute, boarding house, fraternity or sorority house, convent, or other facility where the facility is the primary residence for the occupants and the food operation is limited to serving meals to the occupants as part of their living arrangement.

Proposed MCL 289.7134

BACKGROUND:

Brominated vegetable oil is a food additive that had its U.S. Food and Drug Administration (FDA) approval revoked in July 2024, and beginning August 2, 2025, foods containing that additive may not be produced. Its purpose as an additive is to stabilize fruit flavoring in beverages so that citrus flavoring does not separate and rise to the top of the beverage.

While potassium bromate is allowed as a food additive in baked goods, it is not FDA-approved. Rather, it is classified as a prior sanctioned substance, meaning that it was approved by the FDA prior to 1985, and can be used with authorization in products.

Propylparaben is used in certain baked goods as a preservative, specifically to prevent mold. Its use in food is allowed, but it has been flagged for potential review by the FDA.

The dyes specified in the bill also have current FDA approval for use in food products, although the FDA announced in April that it was working with manufacturers in the food industry to phase out the use of these dyes, along with Yellow 5 (which the bill does not include).¹

FISCAL IMPACT:

The bill could create costs for the state and would have an indeterminate fiscal impact on local school districts, public school academies (PSAs), and intermediate school districts (ISDs).

Under section 2101 of the Food Law, the Michigan Department of Agriculture and Rural Development (MDARD) has authority for administration and enforcement of the Food Law. It is not clear at this time whether the additional food safety requirements under the bill would increase MDARD's food safety and quality assurance program activities to a material degree. As a result, it is not clear if the bill would increase MDARD program costs or if the added responsibilities could be assumed with current program staffing and funding levels.

Any fiscal impact on districts, PSAs, and ISD would be determined by whether the district, PSA, or ISD was providing students with foods that contained any of the restricted chemicals and whether there are alternatives that are of comparable cost.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹ <https://www.fda.gov/news-events/press-announcements/hhs-fda-phase-out-petroleum-based-synthetic-dyes-nations-food-supply>