

FOOD LAW (EXCERPT)
Act 92 of 2000

289.8107 Definitions; prepackaged perishable food; date; prohibited sales; advertisement of food sold after date; alteration of date prohibited; calculation of date; exceptions.

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

(a) "Date" means 1 of the following:

(i) For perishable food, the recommended last day of sale.

(ii) For nonperishable food, the recommended last day of sale or consumption, if any.

(b) "Prepackaged" means packaged prior to being displayed or offered for sale.

(2) A retail food establishment shall not sell or offer for sale a prepackaged perishable food unless the package bears a label with a date identified by month and day, except that bakery products with a shelf life of 7 days or less may be dated with a day of the week or an abbreviation. A retail food establishment may sell or offer for sale a prepackaged nonperishable food with or without a label that bears a date.

(3) The date for prepackaged perishable food may be displayed with or without explanatory terms. If explanatory terms are used, the terms shall be limited to 1 of the following: "Sell by _____", "Sell before _____", "Last date of sale _____", "Recommended last date of sale _____", or "Recommended sale date _____". Other meaningful terms may be used if specifically approved by the department.

(4) A retail food establishment shall not sell or offer for sale any of the following foods under the following circumstances:

(a) After the date, meat that has been removed from a federally inspected retail package.

(b) After the date, nonperishable food or prepackaged perishable food unless the food is wholesome and sound and is clearly identified as having passed the date.

(c) Nonperishable food that is no longer wholesome or sound.

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

(6) A person who prepackages nonperishable food and chooses to label the food with a date or who prepackages perishable food shall do all of the following:

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

(b) If the date is the recommended last day of sale, allow a reasonable period after the date for consumption of the food without physical spoilage.

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

(7) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food, determine, identify, and be responsible for the date that each package of such food bears on a label.

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

(9) If the date is the recommended last day of sale, the date shall be calculated to allow a reasonable period for the subsequent consumption of the food, but shall not allow for a period which would result in a health nuisance as described in section 2107.

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

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

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

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

(c) Smoked fish under the smoked fish rules.

History: 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012.

Compiler's note: Sec. 1117 of Act 92 of 2000 provides:

"Sec. 1117. (1) Subject to subsections (2) and (3), this act takes effect 6 months after the date of enactment.

"(2) Until 6 months after the effective date of this act, compliance with the standards of the design, construction, and equipment of a food service establishment approved under former sections 12901, 12902, 12903, 12904, 12905a, 12906, 12907, 12908, 12910, 12911, 12912, 12913, 12916, and 12921 of the public health code, MCL 333.12901, 333.12902, 333.12903, 333.12904, 333.12905a, 333.12906, 333.12907, 333.12908, 333.12910, 333.12911, 333.12912, 333.12913, 333.12916, and 333.12921, is considered compliance with this act.

"(3) Beginning 6 months after the effective date of this act, a food service establishment shall comply with the standards of design, construction, and equipment established under this act."