

## FOOD LAW (EXCERPT)

### Act 92 of 2000

#### CHAPTER IV

#### LICENSING

##### **289.4101 Food establishment license; scope.**

Sec. 4101. (1) Except as provided in sections 4102 and 4105, a person shall not operate a food establishment unless licensed by the department as a food establishment.

(2) Separate areas for food service or preparation located in 1 building and actively operated under 1 management are considered to be 1 food establishment and only 1 license is required. The director may require separate licenses for these areas if managed separately even though under the same owner.

(3) Except as otherwise provided in this act, a city, county, or other local unit of government shall not adopt or enforce licensing ordinances or regulations for persons regulated under this act.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008;—Am. 2010, Act 112, Imd. Eff. July 12, 2010.

**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."

##### **289.4102 Cottage food operation; exemption from licensing and evaluation provisions; requirements.**

Sec. 4102. (1) A cottage food operation is exempt from the licensing and evaluation provisions of this act. This exemption does not include an exemption from the adulteration and other standards imposed in this section or under this act, or both, and does not limit the ability of the department to take appropriate enforcement action for applicable violations as described in section 5101. This subsection does not require a cottage food operation to meet the standards contained in 21 CFR part 110 or the food code.

(2) Cottage food products shall be prepackaged and properly labeled prior to sale.

(3) At a minimum, a cottage food operation shall place on the label of any food it produces or packages the following information:

(a) The name and address of the business of the cottage food operation.

(b) The name of the cottage food product.

(c) The ingredients of the cottage food product, in descending order of predominance by weight.

(d) The net weight or net volume of the cottage food product.

(e) Allergen labeling as specified by federal labeling requirements.

(f) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements.

(g) The following statement printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been inspected by the Michigan department of agriculture and rural development."

(4) Cottage food products may be sold directly from the cottage food operation to the consumer only, and not by internet or mail order. Sales by consignment or at wholesale are prohibited.

(5) The gross sales of cottage food products by a cottage food operation shall not exceed \$20,000.00 annually until December 31, 2017. After December 31, 2017, the gross sales of cottage food products by a cottage food operation shall not exceed \$25,000.00 annually. For the purposes of this subsection, gross sales shall be computed on the basis of the amount of gross sales within or at a particular domestic residence and shall not be computed on a per-person basis within or at that domestic residence. The department may request in writing documentation to verify the annual gross sales figure.

(6) Cottage food products shall be stored only in the primary domestic residence.

(7) An exemption under this section does not affect the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

**History:** Add. 2010, Act 112, Imd. Eff. July 12, 2010;—Am. 2012, Act 178, Eff. Oct. 1, 2012.

##### **289.4103 Application for license; submission; forms; information; mobile food establishment license; commissary service; forwarding recommendations to department; temporary license.**

Sec. 4103. (1) An applicant shall submit an application for a food establishment license at least 30 calendar days before the date planned for its opening or the change of ownership. For temporary food establishments applying less than 4 days from opening, the director may charge twice the applicable license fee to perform the licensing evaluation.

(2) An application for a license under subsection (1) must be submitted on forms approved by the department and contain the reasonable information required by the department to process the application.

(3) An application for a mobile food establishment license must include the following information:

(a) The location and dates of the operation.

(b) The name and address of the commissary that will service the applicant.

(4) Within 10 days after a change in the servicing commissary, the mobile food establishment licensee shall submit an affidavit containing the name and address of the new commissary servicing the licensee.

(5) The local health department shall forward license recommendations to the department. Section 3119(5) does not apply.

(6) The director may issue a temporary food establishment license. The director, in accordance with uniformly applied department guidance, may decline to issue multiple temporary food establishment licenses for the same establishment within a given calendar year.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Jan. 1, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2018, Act 92, Imd. Eff. Mar. 26, 2018;—Am. 2023, Act 194, Imd. Eff. Nov. 7, 2023.

**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.”

## **289.4105 Person, establishment, or organization exempt from licensure.**

Sec. 4105. (1) A person, establishment, or organization that is 1 or more of the following is exempt from the licensure requirements under this act:

(a) Subject to subsection (2), an establishment licensed under 1 of the following acts while conducting activities within the scope of that act:

(i) Grain dealers act, 1939 PA 141, MCL 285.61 to 285.89.

(ii) 1959 PA 228, MCL 286.371 to 286.379.

(iii) 1964 PA 158, MCL 290.451 to 290.466.

(iv) Grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(v) Manufacturing milk law of 2001, 2001 PA 267, MCL 288.561 to 288.740.

(b) A person that is offering only whole uncut fresh fruits and vegetables directly to consumers.

(c) Consumers or nonprofit cooperatives of consumers in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, providing products from regulated sources only for their own use.

(d) Nonprofit cooperatives in compliance with the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that are growers selling unprocessed products of their own production or are producers selling unprocessed products of their own production from regulated sources.

(e) Retail outlets for the sale of prepackaged honey or maple syrup produced in this state if the outlet is operated by the producer and the processing facility is licensed under this act. Both retail outlets and processing facilities are exempt from licensure under this act for producers with gross sales of \$15,001.00 or less of honey or maple syrup. In such case, the honey and maple syrup shall have labeling substantially similar to that for cottage food products as described in section 4102(3).

(f) A temporary food establishment with no food preparation using only single-service articles and serving only non-potentially-hazardous food or beverage.

(g) A retail food establishment that does both of the following:

(i) Only sells prepackaged, non-potentially-hazardous foods.

(ii) Offers only an incidental amount of food, such as the sale of single-service packages.

(h) A mobile food establishment, such as an ice cream truck, that offers only prepackaged, single-serving frozen desserts.

(i) An event not open to the general public held by a nonprofit trade association representing food establishments, suppliers, or manufacturers where limited food preparation takes place for the purpose of advertising, displaying, promoting, and sampling prepared food.

(j) A commercial fishing guide service that serves lunch to a party of not more than 12 clients on or

adjacent to a body of water, river, or stream while pursuing, catching, killing, taking, or attempting to take fish. As used in this subparagraph, "commercial fishing guide service" means a service provided for a fee or other valuable consideration, regardless of whether the fee or other valuable consideration is paid directly or indirectly, to assist another person in pursuing, catching, killing, taking, or attempting to take fish.

(k) A person owning or operating a device that dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk gum, nuts, and panned candies.

(l) Feeding operations set up in response to an emergency or disaster.

(m) A person operating as a food warehouse or food processor, if the food warehouse or food processor contains or handles only uncut fruits or vegetables, or both, and meets all of the following criteria:

(i) The establishment is owned and operated by the person producing the fruits or vegetables, or both.

(ii) Activities at the establishment are limited to storing, grading, sorting, packing, washing, trimming, and refrigerating.

(iii) The fruits or vegetables, or both, are primarily from the person's own production, and the balance are products of the same genus or genera from other agricultural producers.

(iv) The food is not "potentially hazardous food (time/temperature control for safety food)" as defined in the food code.

(2) Notwithstanding subsection (1)(a), a person operating as or conducting activities the director considers to be a food establishment must be licensed in the appropriate category under this act.

(3) If food is prepared in a food service establishment licensed under this chapter and the food is transported from the food service establishment to a fixed temporary serving location, the serving location is not required to be separately licensed and is considered an extension of the food service establishment if no food preparation is conducted at the serving location and the food is transported and served by employees of the food service establishment.

(4) If prepackaged food is transported from a food establishment licensed under this chapter to a sales location at a farmers' market, fair, or festival, the sales location is not required to be separately licensed and is considered an extension of the food establishment if the food is transported and sold by employees of the food establishment.

(5) If prepackaged food is transported from a food establishment licensed under this chapter to 1 or more vending machine locations by employees of the food establishment and the vending machine or machines are maintained by employees of the food establishment, the vending machine locations are not required to be separately licensed and are considered to be an extension of the food establishment, which shall be separately licensed. However, if the food establishment from which the prepackaged food is transported is located in another state, both of the following apply:

(a) One of the vending machine locations in this state shall be separately licensed as a food establishment.

(b) The remaining vending machine locations in this state are not required to be separately licensed and are considered to be an extension of the food establishment under subdivision (a).

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008;—Am. 2010, Act 145, Imd. Eff. Aug. 4, 2010;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2016, Act 188, Eff. Sept. 19, 2016.

**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."

## **289.4107 Food establishment license; qualifications.**

Sec. 4107. To qualify for a food establishment license, an applicant shall do all of the following:

(a) Submit an application as required by section 4103.

(b) Be an owner of the food establishment or an officer of the legal entity owning the food establishment.

(c) Comply with the requirements of this act and rules promulgated under this act.

(d) Allow the director access to the proposed food establishment in order to determine compliance with the applicable requirements of this act and rules.

(e) Pay the applicable license fees at the time the application is submitted.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 113, Eff. Apr. 1, 2008.

**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.”

### **289.4109 Expiration of license; duration of temporary license.**

Sec. 4109. A license, other than a license for a temporary food service establishment, expires at midnight on April 30 each year. The department may issue a temporary food license for a period not to exceed 14 days.

**History:** 2000, Act 92, Eff. Nov. 8, 2000.

**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.”

### **289.4111 License fees; food sanitation fees; initial application fee as nonrefundable; convenience fee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Any license fee paid on an initial application is nonrefundable.

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

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Jan. 1, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2015, Act 61, Eff. Oct. 1, 2015;—Am. 2016, Act 188, Eff. Sept. 19, 2016.

**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.”

#### **289.4113 Late fee; imposition; waiver; retention; use.**

Sec. 4113. (1) The department shall impose, for a renewal application postmarked or delivered in person on or after May 1 of each year, a late fee of an additional \$150.00. The late fee for a new application submitted after the establishment has opened for business is an additional \$150.00.

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

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

(4) A late fee shall be retained by any certified health department or, in an area where there is no certified health department, by the department.

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

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2007, Act 114, Eff. Apr. 1, 2008;—Am. 2015, Act 61, Eff. Oct. 1, 2015.

**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.

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“(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.”

#### **289.4114 Shellfish dealer; certification required.**

Sec. 4114. (1) A person shall not act as a shellfish dealer unless the person has been certified as a shellfish dealer by the department. An application for shellfish dealer certification shall be submitted to the department on the forms approved by the department and shall contain the reasonable information required by the department to process the application. The applicant shall meet all of the following requirements:

(a) Be the owner of the shellfish dealer or an officer of the legal entity owning the shellfish dealer.

(b) Comply with the requirements of this act and rules.

(c) Allow the director access to the shellfish dealer and records as required to determine compliance with the applicable requirements of this act and rules.

(2) A shellfish dealer certification is valid from May 1 to April 30 of each year.

(3) Each shellfish dealer shall have and implement a HACCP plan and have a program of sanitation monitoring and record keeping in compliance with the guide for the control of molluscan shellfish.

**History:** Add. 2012, Act 178, Eff. Oct. 1, 2012.

#### **289.4115 Bottled water; registration of brand; expiration; late fee.**

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

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

(b) For each year or portion of a year, a registration fee of \$25.00 for each brand of water with a unique declaration of identity and \$25.00 for each water dispensing machine.

(2) The registration required by subsection (1) expires annually on April 30 and shall be renewed 30 calendar days before expiration of the current registration.

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

**History:** 2000, Act 92, Eff. Nov. 8, 2000.

**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.

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“(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.”

**289.4116 Receipt of completed application; issuance of license within certain time period; "completed application" defined.**

Sec. 4116. (1) Beginning July 23, 2004, and notwithstanding any other provision of this act, the department shall issue an initial license not later than 90 days after the applicant files a completed application and shall issue a renewal license not later than 120 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by an agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The period regarding license issuance and renewal is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license.

(2) If the department fails to issue or deny a license within the time required by this section to an establishment that is otherwise ready to operate and is prevented from operating, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, must be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(3) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. In the case of an initial application, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory evaluation.

**History:** Add. 2004, Act 267, Imd. Eff. July 23, 2004;—Am. 2007, Act 114, Eff. Apr. 1, 2008;—Am. 2018, Act 293, Eff. Sept. 27, 2018.

**289.4117 Dairy and food safety fund; credit of money collected; creation; investment; lapse; administration; consumer food safety education fund; industry food-safety education fund; creation; use and carrying forward of funds; "fee-exempt food establishment" defined.**

Sec. 4117. (1) Except as provided in subsections (2) and (3), money collected under this chapter by the department must be credited to the dairy and food safety fund that is created as a restricted fund within the state treasury. The state treasurer may receive money or other assets, from appropriations or from any other source, for deposit into the fund. The state treasurer shall direct the investment of the fund. The money in the fund does not lapse to the general fund at the end of the fiscal year and carries over to the following fiscal years. The state treasurer shall credit to the fund interest and earnings from fund investments. The department shall administer the fund and shall expend money from the fund for the purpose of administering this act and enforcing the provisions of this act, the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540, and the manufacturing milk law of 2001, 2001 PA 267, MCL 288.561 to 288.740. The department shall be the administrator of the fund for auditing purposes.

(2) A consumer food safety education fund is created as a revolving fund in the department of treasury. The consumer food safety education fund must be administered by the department and funded by adding \$3.00 to the fee for each food establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund must be used to provide statewide training and education to consumers on food safety. Money remaining in the fund at the end of the fiscal year carries forward into the next fiscal year.

(3) An industry food-safety education fund is created as a revolving fund in the department of treasury. The industry food-safety education fund must be administered by the department and funded by adding \$2.00 to the fee for each food service establishment license in all categories except vending machines and in cases

of fee-exempt food establishments. The money in the fund must be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. Money remaining in the fund at the end of the fiscal year carries forward into the next fiscal year.

(4) As used in this section, "fee-exempt food establishment" means a food establishment exempt from all state and local food establishment license fees under section 3119(3) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—Am. 2002, Act 487, Imd. Eff. June 27, 2002;—Am. 2007, Act 114, Eff. Apr. 1, 2008;—Am. 2012, Act 178, Eff. Oct. 1, 2012;—Am. 2023, Act 194, Imd. Eff. Nov. 7, 2023.

**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.

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"(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."

### **289.4119 Posting and display of license; "conspicuous place" explained.**

Sec. 4119. (1) Except as otherwise provided in subsection (2), a person licensed as a food establishment under this chapter shall keep a copy of the current license or temporary license furnished by the department posted and exposed in a conspicuous place for public inspection. A conspicuous place is the principal place where food business is transacted.

(2) In the case of vending machines, the name and address and telephone number of the current vending machine location operator shall be conspicuously displayed on each vending machine.

**History:** 2000, Act 92, Eff. Nov. 8, 2000.

**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."

### **289.4121 Changes proposed by food establishment; notice.**

Sec. 4121. Thirty days before a food establishment proposes either of the following changes, a licensee shall notify the regulatory authority having jurisdiction of that proposed change:

(a) A change in the type of license even if the change would not result in the change of the regulatory authority having jurisdiction over the activity.

(b) A change in the type of license that would result in the change of the regulatory authority having jurisdiction over the activity.

**History:** 2000, Act 92, Eff. Nov. 8, 2000.

**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."

### **289.4123 Transfer of license; limitation.**

Sec. 4123. (1) A food establishment license is not transferable as to the holder or the location.

(2) A shellfish dealer certificate is not transferable as to the holder or to the location.

(3) A bottled water registration is not transferable as to the holder or the location.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—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.”

**289.4125 Issuance of license; requirements; hearing; revocation or suspension of license; period of refusal to issue or reissue license; summary suspension.**

Sec. 4125. (1) Before a food establishment license, bottled water registration, or shellfish dealer certificate is issued, the director shall determine if the applicant meets the minimum requirements of this act and rules.

(2) After an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a food establishment license, a registration for bottled water, or a shellfish dealer certificate issued under this act for failure to comply with requirements of this act or a rule. A person whose food establishment license, registration for bottled water, or shellfish dealer certificate is revoked or suspended shall discontinue the sale and offering for sale of food, the bottled water, or shellfish, respectively, until he or she complies with this act and the director issues a new registration or removes the suspension.

(3) If a person's food establishment license is revoked for egregious violations under section 5101(a), (b), (c), or (k), the director may refuse to issue or reissue a license to any establishment in which that person has ownership or management interest for a period of 2 years after the revocation.

(4) Based upon facts submitted by a person familiar with those facts or upon information and belief alleging that an imminent threat to the public health, safety, or welfare exists, the director may summarily suspend a license, registration, or certificate issued under this act. A person whose license, registration, or certificate has been summarily suspended under this section may petition the director to dissolve the order. Upon receipt of such a petition, the director shall immediately schedule a hearing to decide whether to grant or deny the petition to dissolve. The presiding officer shall grant the requested relief dissolving the summary suspension order unless sufficient evidence is presented that an imminent threat to the public health, safety, or welfare exists requiring emergency action and continuation of the director's summary suspension order.

**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.”

**289.4127 Summary suspension of license; petition for hearing; commencement of proceedings; reinstatement.**

Sec. 4127. (1) After the regulatory authority receives a petition for a hearing from a license, registration, or certificate holder whose license, registration, or certificate is summarily suspended under section 4125, the proceedings shall be promptly commenced and determined as required by section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

(2) This section does not prevent the regulatory authority's immediate reinstatement of a license, registration, or certificate when the regulatory authority determines the public health hazard or nuisance no longer exists.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—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.”

**289.4129 Denial of license or registration; hearing; commencement; conduct.**

Sec. 4129. (1) A license, registration, or certificate applicant may request a hearing regarding the regulatory authority's denial of a new or renewal license, registration, or certificate. A person desiring a hearing in response to a denial of a license, registration, or certificate shall submit a hearing request to the regulatory authority within 30 calendar days after the date of the denial.

(2) The regulatory authority shall afford a hearing within 30 days after receiving a written request for a hearing as specified in this section when the request demonstrates that there is a genuine and material issue of fact that justifies that a hearing be held.



(3) Hearings shall be conducted in an expeditious and impartial manner.

**History:** 2000, Act 92, Eff. Nov. 8, 2000;—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.”