

HOUSE BILL No. 5371

December 13, 1989, Introduced by Reps. Johnson and Hickner and referred to the Committee on Agriculture.

A bill to require definitions, standards of identity, and standards of enrichment for certain products; to provide for labeling requirements; to prescribe the powers and duties of the department of agriculture; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Department" means the department of agriculture.

3 (b) "Director" means the director of the department of agri-
4 culture or his or her authorized representative.

5 (c) "Flour" means the foods commonly known in the milling
6 and baking industries as bromated flour; self-rising flour, also
7 known as self-rising white flour or self-rising wheat flour; and
8 white flour, also known as wheat flour or plain flour. Flour
9 does not include whole wheat flour, or special flours that are
10 not used in bread, rolls, buns, bagels, pita bread, soft

1 biscuits, macaroni, or noodle products but are found in specialty
2 mixes for cakes, doughnuts, pancakes, and pastry flours.

3 (d) "Food" or "food product" means flour, bread, rolls,
4 buns, bagels, pita bread, soft biscuits, macaroni, and noodle
5 products.

6 (e) "Person" means an individual, corporation, partnership,
7 association, or other legal entity.

8 (f) "Rule" means rules promulgated pursuant to the adminis-
9 trative procedures act of 1969, Act No. 306 of the Public Acts of
10 1969, being sections 24.201 to 24.328 of the Michigan Compiled
11 Laws.

12 Sec. 2. (1) The department shall establish a definition,
13 standard of identity, and a standard of enrichment for the
14 following:

15 (a) Flour.

16 (b) Breads, rolls, and buns.

17 (c) Macaroni and noodle products.

18 (2) In order to comply with subsection (1), the department
19 shall adopt the definitions, standards of identity, and standards
20 of enrichment as defined in 21 C.F.R. parts 136 and 137.

21 Sec. 3. When a definition, standard of identity, and stan-
22 dard of enrichment have been established pursuant to section 2,
23 only the enriched form of food products shall be manufactured,
24 mixed, compounded, or sold in this state, except as otherwise
25 provided in this act.

26 Sec. 4. (1) Flour shall not be required to be enriched when
27 sold to a wholesale distributor, wholesale broker, baker, or

1 other processor, if the purchaser furnishes to the seller a
2 certificate prescribed by the director certifying that the flour
3 will be 1 or more of the following:

4 (a) Resold to a wholesale distributor, wholesale broker,
5 baker, or other processor.

6 (b) Used in the manufacture, mixing, or compounding of food
7 products enriched to meet the requirements of this act.

8 (c) Used in the manufacture of products other than food
9 products.

10 (2) The purchaser and seller shall retain at the place of
11 business, and shall make available for inspection by the depart-
12 ment, a copy of each certificate for a period of not less than 1
13 year..

14 Sec. 5. Bagels, pita bread, and soft biscuits shall be man-
15 ufactured using enriched flour or using flour that has been
16 enriched in compliance with section 2(1).

17 Sec. 6. The director shall promulgate rules governing
18 labeling of enriched food products pursuant to the Michigan food
19 law of 1968, Act No. 39 of the Public Acts of 1968, being sec-
20 tions 289.701 to 289.727 of the Michigan Compiled Laws, and may
21 promulgate rules to implement this act.

22 Sec. 7. (1) For purposes of enforcing this act, the direc-
23 tor may take samples of food for analysis and conduct examina-
24 tions and investigations.

25 (2) The director may enter, at reasonable times, a factory,
26 mill, bakery, warehouse, store, or other establishment where food
27 products are manufactured, processed, packed, sold, or stored, or

1 a vehicle used for the transportation of these products, to
2 inspect the place, vehicle, or products to determine if the pro-
3 visions of this act or the rules promulgated under this act are
4 being violated.

5 Sec. 8. (1) Whenever the director has probable cause to
6 believe that a food product is not enriched as required by this
7 act, the director shall affix to the product a tag or other
8 appropriate marking, giving notice that the product is, or is
9 suspected of being, unenriched and has been detained or seized,
10 and warning all persons not to remove or dispose of the product
11 by sale or otherwise until permission for removal or disposal is
12 given by the director or a court.

13 (2) When food products detained or seized under subsection
14 (1) are found by the director to be unenriched and the product is
15 not voluntarily destroyed or corrected under the supervision of
16 the director, the director shall cause a petition to be filed in
17 the circuit court for the jurisdiction in which the product is
18 detained or seized. If the director finds that the product is
19 enriched, the director shall remove the tag or other marking.

20 (3) If the court finds that detained or seized food products
21 are unenriched, and after entry of the decree, the products shall
22 be destroyed by the defendant under the supervision of the direc-
23 tor and all court costs, fees, storage, and other necessary
24 expenses shall be paid by the defendant.

25 (4) If the lack of enrichment can be corrected by proper
26 processing of the product, the court, after entry of the decree
27 and after the costs, fees, and expenses have been paid and a bond

1 sufficient, to cover the cost of processing, has been executed,
2 may direct that the product be delivered to the defendant for
3 processing under the supervision of the director. The product
4 shall be returned to the defendant on the representation to the
5 court by the director that the product is no longer in violation
6 of this act and that the expense of supervision has been paid.

7 Sec. 9. (1) Except as otherwise provided in this act, a
8 person shall not manufacture, mix, compound, sell, or offer for
9 sale, for human consumption, food products not enriched pursuant
10 to this act.

11 (2) A person who violates subsection (1) is guilty of a mis-
12 demeanor punishable by a fine of not more than \$1,000.00, or
13 imprisonment for not more than 30 days, or both. Each separate
14 violation of subsection (1) is a separate misdemeanor.

15 Sec. 10. A person who violates this act or a rule promul-
16 gated under this act is guilty of a misdemeanor and shall be pun-
17 ished by imprisonment for not more than 90 days or a fine of not
18 less than \$100.00 or more than \$1,000.00, or both. In addition,
19 the department may apply to the circuit court for, and the court
20 shall have jurisdiction upon hearing and for cause shown, to
21 grant a temporary or permanent injunction restraining a person
22 from violating a provision of this act irrespective of whether
23 there exists an adequate remedy at law.

24 Sec. 11. Whenever an agent of the department finds or has
25 probable cause to believe that any food is adulterated, or so
26 misbranded as to be dangerous to the public health or fraudulent
27 within the meaning of this act, he or she shall affix to the food

1 a tag giving notice that the food is, or is suspected of being,
2 adulterated or misbranded and has been detained or seized; and
3 warning all persons not to remove or dispose of the food by sale
4 or otherwise until permission for removal or disposal is given by
5 the agent or the court. It is unlawful for any person to remove
6 or dispose of the detained or seized food by sale or otherwise
7 without permission.