

SENATE BILL NO. 919

June 13, 2024, Introduced by Senators SINGH, MCMORROW, POLEHANKI, MCDONALD RIVET, SHINK, BAYER and JOHNSON and referred to the Committee on Economic and Community Development.

A bill to amend 2000 PA 92, entitled "Food law," by amending sections 1105, 3113, and 6101 (MCL 289.1105, 289.3113, and 289.6101), section 1105 as amended by 2014 PA 516, section 3113 as amended by 2016 PA 188, and section 6101 as amended by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 1105. (1) As used in this act:
- 2** (a) "Adulterated" means ~~food to which~~ any of the following
- 3** ~~apply~~ **as applied to food:**

1 (i) It bears or contains ~~any~~**an added** poisonous or **added**
2 deleterious substance that may render it injurious to health unless
3 ~~the substance is not an added substance and~~ the quantity of that
4 substance in the food does not ordinarily render it injurious to
5 health.

6 (ii) It bears or contains ~~any~~**an** added poisonous or added
7 deleterious substance, other than a substance that is a pesticide
8 chemical in or on a raw agricultural commodity, ~~+~~a food additive,
9 ~~+~~or a color additive considered unsafe within the meaning of
10 subsection (2).

11 (iii) It is a raw agricultural commodity that bears or contains
12 a pesticide chemical considered unsafe within the meaning of
13 subsection (2).

14 (iv) It bears or contains ~~any~~**a** food additive considered unsafe
15 within the meaning of subsection (2). However, if a pesticide
16 chemical has been used in or on a raw agricultural commodity in
17 conformity with an exemption granted or limitation prescribed under
18 subsection (2) and the raw agricultural commodity ~~has been~~**is**
19 subjected to processing, the residue of that pesticide chemical
20 remaining in or on that processed food is, notwithstanding the
21 provisions of subsection (2) and this subdivision, not considered
22 unsafe if that residue in or on the raw agricultural commodity ~~has~~
23 ~~been~~**is** removed to the extent possible in good manufacturing
24 practice and if the concentration of that residue in the processed
25 food when ready to eat is not greater than the tolerance prescribed
26 for the raw agricultural commodity.

27 (v) It is or contains a new animal drug or conversion product
28 of a new animal drug that is unsafe within the meaning of section
29 ~~360b~~**512** of the federal act, 21 USC 360b.

1 (vi) It consists in whole or in part of a diseased,
2 contaminated, filthy, putrid, or decomposed substance or it is
3 otherwise unfit for food.

4 (vii) It ~~has been~~ **was** produced, prepared, packed, or held under
5 unsanitary conditions ~~in which it~~ **and** may have become contaminated
6 with filth or ~~in which it may have been~~ rendered diseased,
7 unwholesome, or injurious to health.

8 (viii) It is the product of a diseased animal or ~~an~~ animal that
9 has died other than by slaughter or ~~that has been~~ **was** fed uncooked
10 garbage or uncooked offal from a slaughterhouse.

11 (ix) Its container is composed, in whole or in part, of ~~any~~ **a**
12 poisonous or deleterious substance that may render the contents
13 injurious to health.

14 (x) A valuable constituent ~~has been~~ **is** in whole or in part
15 omitted or abstracted from the food; a substance ~~has been~~ **is**
16 substituted wholly or in part for the food; damage or inferiority
17 ~~has been~~ **is** concealed in any manner; or a substance ~~has been~~ **is**
18 added to, ~~the food or mixed~~ **with**, or packed with the food ~~so as to~~
19 increase its bulk or weight, reduce its quality or strength, or
20 make it appear better or of greater value than it is.

21 (xi) It is confectionery and ~~has~~ **is** partially or completely
22 imbedded ~~in it any~~ **with a** nonnutritive object except if, as
23 provided by rules, the object is of practical functional value to
24 the confectionery product and would not render the product
25 injurious or hazardous to health; it is confectionery and bears or
26 contains any alcohol other than alcohol not in excess of ~~1/2 of 1%~~
27 **0.5%** by volume derived solely from the use of flavoring extracts;
28 or it is confectionery and bears or contains ~~any~~ **a** nonnutritive
29 substance except a nonnutritive substance such as harmless

1 coloring, harmless flavoring, harmless resinous glaze not in excess
2 of ~~4/10 of 1%, 0.4%~~, harmless natural wax not in excess of ~~4/10 of~~
3 ~~1%, 0.4%~~, harmless natural gum and pectin or any chewing gum by
4 reason of its containing harmless nonnutritive masticatory
5 substances which is in or on the confectionery by reason of its use
6 for some practical functional purpose in the manufacture,
7 packaging, or storage of such confectionery if the use of the
8 substance does not promote deception of the consumer or otherwise
9 result in adulteration or misbranding in violation of this act. For
10 the purpose of avoiding or resolving uncertainty as to the
11 application of this subdivision, the director may issue rules
12 allowing or prohibiting the use of particular nonnutritive
13 substances.

14 (xii) It is, ~~or bears,~~ or contains ~~any a~~ color additive that is
15 unsafe within the meaning of subsection (2).

16 (xiii) It ~~has been is~~ intentionally subjected to radiation,
17 unless the use of the radiation ~~was is~~ in conformity with a rule or
18 exemption under this act or a regulation or exemption under the
19 federal act.

20 (xiv) It is bottled water that contains a substance at a level
21 higher than allowed under this act.

22 (b) "Advertisement" means a representation disseminated in any
23 manner or by any means, other than by labeling, for the purpose of
24 inducing, or which is likely to induce, directly or indirectly, the
25 purchase of food.

26 (c) "Agricultural use operation" means a maple syrup
27 production facility or similar food establishment that finishes a
28 raw commodity and is integral to the agricultural production of,
29 and is located at, a farm. An agricultural use operation is not

1 considered a food processor or retail processing operation for
2 purposes of personal or real property but must meet those same
3 standards and licensing requirements ~~as prescribed in~~ **under** this
4 act.

5 (d) "Bed and breakfast" means a private residence that offers
6 sleeping accommodations to transient tenants in 14 or fewer rooms
7 for rent, is the innkeeper's residence ~~in which~~ **where** the innkeeper
8 resides while renting the rooms to transient tenants, and serves
9 breakfasts, or other meals in the case of a bed and breakfast
10 described in section 1107(t) (ii), at no extra cost to its transient
11 tenants. A bed and breakfast is not a food service establishment if
12 exempt under section 1107(t) (ii) or (iii).

13 (e) "Color additive" means a dye, pigment, or other substance
14 that is made by a process of synthesis or similar artifice or is
15 extracted, isolated, or otherwise derived, with or without
16 intermediate or final change of identity from a vegetable, animal,
17 mineral, or other source, or when added or applied to a food or any
18 part of a food is capable alone or through reaction with other
19 substances of imparting color to the food. Color additive does not
20 include ~~any a~~ material that is exempt or hereafter is exempted
21 under the federal act. This subdivision does not apply to ~~any a~~
22 pesticide chemical, soil or plant nutrient, or other agricultural
23 chemical solely because of its effect in aiding, retarding, or
24 otherwise affecting, directly or indirectly, the growth of other
25 natural physiological process of produce of the soil and thereby
26 affecting its color, whether before or after harvest. Color
27 includes black, white, and intermediate grays.

28 (f) "Consumer" means an individual who is a member of the
29 public ~~—that~~ takes possession of food, ~~is~~ **does** not ~~functioning~~

1 **function** in the capacity of an operator of a food establishment or
2 food processor, and does not offer the food for resale.

3 (g) "Contaminated with filth" means contaminated as a result
4 of not being securely protected from dust, dirt, and, as far as may
5 be necessary by all reasonable means, from all foreign or injurious
6 ~~contaminations.~~ **contaminants.**

7 (h) "Continental breakfast" means the serving of only ~~non-~~
8 ~~potentially hazardous~~ **non-potentially hazardous** food such as a
9 roll, pastry or doughnut, fruit juice, or hot beverage, but may
10 also include individual portions of milk and other items incidental
11 to those foods.

12 (i) "Core item" means a provision in the food code that is not
13 designated as a priority item or ~~a~~-priority foundation item. Core
14 item includes ~~both~~ **any** of the following:

15 (i) ~~(A)~~-An item that usually relates to general sanitation,
16 operational controls, sanitation standard operating procedures
17 (SSOPs), facilities or structures, equipment design, or general
18 maintenance.

19 (ii) ~~(B)~~-The requirements of ~~section~~ **sections** 2129(2) and
20 6152(1).

21 (iii) **The requirements of section 6101(1)(d).**

22 (j) "Cottage food operation" means ~~a person~~ **an individual** who
23 produces or packages cottage food products only in a kitchen of
24 that ~~person's~~ **individual's** primary domestic residence within this
25 state.

26 (k) "Cottage food product" means a food that is not
27 potentially hazardous food as that term is defined in the food
28 code. ~~Examples of cottage~~ **Cottage** food product ~~include,~~ **includes,**
29 but ~~are~~ **is** not limited to, jams, jellies, dried fruit, candy,

1 cereal, granola, dry mixes, vinegar, dried herbs, and baked goods
 2 that do not require temperature control for safety. Cottage food
 3 product does not include any **of the following**:

4 (i) **A** potentially hazardous food regulated under 21 CFR parts
 5 113 and 114, ~~examples of which include, including,~~ but ~~are~~ not
 6 limited to, meat and poultry products, ~~÷~~salsa, ~~÷~~milk products, ~~÷~~
 7 bottled water and other beverages, ~~÷~~and home-produced ice
 8 products. ~~Cottage food product also does not include canned~~

9 (ii) **Canned** low-acid fruits. ~~or acidified~~

10 (iii) **Acidified** vegetables. ~~and other~~

11 (iv) **Other** canned foods, except for jams, jellies, and
 12 preserves, as **those terms are** defined in 21 CFR part 150.

13 (2) ~~Any~~**An** added poisonous or **added** deleterious substance,
 14 food additive, pesticide chemical in or on a raw agricultural
 15 commodity, or color additive is considered unsafe for the purpose
 16 of subsection (1)(a), unless there is in effect a federal
 17 regulation or exemption from regulation under the federal act, the
 18 federal meat inspection act, 21 USC 601 to 683, the poultry
 19 products inspection act, 21 USC 451 to 472, or another federal
 20 statute, or a rule limiting the quantity of the substance, and the
 21 use or intended use of the substance, and the use or intended use
 22 of the substance conforms to the terms prescribed by the federal
 23 regulation, ~~or exemption,~~ or ~~the~~ rule.

24 Sec. 3113. (1) ~~A~~**Except as otherwise provided in this**
 25 **subsection, a** county, city, village, or township shall not regulate
 26 those aspects of **a** food service ~~establishments~~**establishment** that
 27 are subject to regulation under this act except to the extent
 28 necessary to carry out the responsibility of a local health
 29 department to implement **the** licensing provisions of chapter IV. **A**

1 county, city, village, or township may adopt and enforce an
2 ordinance that is more restrictive than section 6-501.115(B) (6) of
3 the food code as set forth in section 6101(1) (d).

4 (2) This chapter does not relieve the applicant for a license
5 or a ~~licensee~~**license holder** from ~~the~~ responsibility ~~for~~**of**
6 securing a local permit or complying with applicable local codes,
7 regulations, or ordinances not in conflict with this act.

8 Sec. 6101. (1) Chapters 1 through 8 of the food code are
9 incorporated by reference except as amended and modified as
10 follows:

11 (a) Where provisions of this act and rules specify different
12 requirements.

13 (b) Section 3-401.14 is modified to read as follows:

14 "3-401.14 Non-Continuous Cooking of Raw Animal Foods.

15 Raw animal foods that are cooked using a non-continuous
16 cooking process ~~shall~~**must** be:

17 (A) Subject to an initial heating process that is no longer
18 than 60 minutes in duration;^P

19 (B) Immediately after initial heating, cooled according to the
20 time and temperature parameters specified for cooked potentially
21 hazardous food (time/temperature control for safety food) under
22 paragraph 3-501.14 (A);^P

23 (C) After cooling, held frozen or cold, as specified for
24 potentially hazardous food (time/temperature control for safety
25 food) under paragraph 3-501.16 (A) (2);^P

26 (D) ~~Prior to~~**Before** sale or service, cooked using a process
27 that heats all parts of the food to a time/temperature specified in
28 paragraph 3-401.11 (A);^P

29 (E) Cooled according to the time and temperature parameters

1 specified for cooked potentially hazardous food (time/temperature
2 control for safety food) under paragraph 3-501.14(A) if not either
3 hot held as specified under paragraph 3-501.16(A), served
4 immediately, or held using time as a public health control as
5 specified under section 3-501.19 after complete cooking;^P and

6 (F) Stored as follows:

7 (1) After initial heating but ~~prior to~~**before** cooking as
8 specified under paragraph (D) of this section, separate from ready-
9 to-eat foods as specified under paragraph 3-302.11;^{Pf} and

10 (2) After initial heating, but ~~prior to~~**before** complete
11 cooking, marked or otherwise identified as foods that must be
12 cooked as specified under paragraph (D) of this section ~~prior to~~
13 **before** being offered for sale or service.^{Pf} The food may be
14 identified in any effective manner provided that the marking system
15 is disclosed to the regulatory authority upon request."

16 (c) Section 2-103.11(L) is modified to read as follows:

17 "Employees are properly trained in food safety as it relates
18 to their assigned duties;^{Pf} and".

19 (d) Section 6-501.115(B) is modified by the addition of
20 subparagraph (6) that reads as follows:

21 "(6) A dog that is controlled by a customer in an outdoor
22 dining area of a food service establishment if all of the following
23 apply:

24 (a) A health or safety hazard will not result from the
25 presence or activities of the dog.

26 (b) All of the following requirements are met:

27 (i) The dog does not pass through the interior of the food
28 service establishment or any playground area of the food service
29 establishment to enter the outdoor dining area. A separate entrance

1 must be provided from the exterior of the food service
2 establishment to the outdoor dining area.

3 (ii) The outdoor dining area is maintained free of visible dog
4 hair, dog dander, and other dog-related waste and debris. The
5 outdoor dining area is cleaned and disinfected appropriately as
6 needed.

7 (iii) Surfaces contaminated by the waste created from a dog's
8 bodily functions are immediately cleaned and disinfected.

9 (iv) Equipment used to clean and that comes in contact with the
10 waste created from a dog's bodily functions is stored separate from
11 all other cleaning equipment and is not used for other cleaning
12 purposes.

13 (v) All dog-related waste or debris is disposed of at least
14 daily outside of the food service establishment in a covered waste
15 receptacle.

16 (vi) An employee who touches a dog or cleans the waste created
17 from a dog's bodily functions does not serve food or beverages or
18 handle tableware until the employee has washed the employee's
19 hands.

20 (vii) The dog is not allowed on a seat, chair, or customer's
21 lap, or allowed to contact a tabletop, countertop, or similar
22 surface in the outdoor dining area.

23 (viii) The dog is not allowed to contact reusable tableware
24 unless the tableware is dedicated to use by dogs and readily
25 distinguishable as such or is provided by the customer handling the
26 dog.

27 (ix) The dog is not allowed in an area where food is prepared.

28 (x) The dog is not unattended.

29 (xi) The customer is 18 years of age or older.

1 (xii) The customer keeps the dog on a leash.

2 (c) The food service establishment does all of the following:

3 (i) Maintains at the food service establishment and makes
4 available to the local health department, department, or a customer
5 on request, written procedures that ensure compliance with the
6 requirements of sub-subparagraph (b).

7 (ii) Before allowing a dog within the food service
8 establishment, notifies the local health department in writing that
9 the food service establishment intends to allow customers' dogs to
10 accompany customers in the outdoor dining area of the food service
11 establishment. The food service establishment shall mail the notice
12 by first-class mail or deliver the notice not less than 30 days
13 before allowing dogs to accompany customers. The notice is
14 effective while the food service establishment remains in business.
15 The food service establishment is not required to mail or deliver
16 more than 1 notice.

17 (d) The food service establishment may do any of the
18 following:

19 (i) Determine the location and the amount of space designated
20 for a customer accompanied by the customer's dog.

21 (ii) Establish a limit on the size and type of dog and any
22 other limitation relating to a customer's dog.

23 (iii) Deny entry or eject from the food service establishment a
24 customer and the customer's dog."

25 (2) The owner of a dog brought into a food service
26 establishment under subsection (1)(d) is liable for any damage or
27 injury to the food service establishment, an employee of the food
28 service establishment, or a customer of the food service
29 establishment caused by the dog.

1 **(3)** ~~(2)~~—The director, by rule, may adopt any changes or
2 updates to the food code.

3 **(4)** ~~(3)~~—The annexes of the food code are ~~considered~~ persuasive
4 authority for interpretation of the food code.