

HOUSE BILL NO. 6129

November 14, 2024, Introduced by Reps. Young and Paiz and referred to the Committee on Agriculture.

A bill to amend 2000 PA 92, entitled
"Food law,"
by amending sections 2105, 2111, 2132, 3115, 4103, and 6135 (MCL 289.2105, 289.2111, 289.2132, 289.3115, 289.4103, and 289.6135), section 2111 as amended by 2015 PA 61, section 3115 as amended by 2016 PA 188, section 4103 as amended by 2023 PA 194, and section 2132 as added and section 6135 as amended by 2012 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2105. (1) When necessary for the enforcement of this act,
- 2 the director may seize without formal warrant any food found to be

1 sold, held for sale, ~~ex~~-exposed for sale, **or otherwise distributed**
 2 **to the public** in violation of this act or rules. ~~promulgated under~~
 3 ~~this act.~~

4 (2) If the director finds or has probable cause to believe
 5 that any food is adulterated or so misbranded as to be dangerous to
 6 public health or fraudulent, within the meaning of this act, ~~he or~~
 7 ~~she~~**the director** shall affix to the food a tag or other appropriate
 8 marking giving notice that the food is, or is suspected of being,
 9 adulterated or misbranded and has been seized or embargoed. A
 10 person shall not remove or dispose of the food tagged or marked as
 11 embargoed or seized, by sale or otherwise, until permission for
 12 removal or disposal is given by the director or a court. ~~of~~
 13 ~~competent jurisdiction.~~

14 (3) If food seized or embargoed under subsection (1) or (2) is
 15 determined by the director to be adulterated or misbranded, ~~he or~~
 16 ~~she~~**the director** shall cause a petition to be filed in circuit
 17 court in ~~whose~~**the** jurisdiction **where** the food is seized or
 18 embargoed for a complaint for condemnation of the food. Seized or
 19 embargoed food ~~shall~~**must** be destroyed at the expense of the
 20 claimant of the food, under the supervision of the director, and
 21 the court may order the payment of the costs and fees and storage
 22 and other proper expenses by the claimant of the food or ~~his or her~~
 23 **the claimant's** agents. However, if the court finds that
 24 adulteration or misbranding can be corrected by proper labeling or
 25 processing ~~of~~ the food, after entry of the order; payment of the
 26 costs, fees, and expenses; and execution of a good and sufficient
 27 bond conditioned that the food ~~shall~~**must** be ~~so~~-labeled or
 28 processed, the court may direct the food to be delivered to the
 29 claimant for labeling or processing under the supervision of the

1 director. The claimant shall pay the expense of the supervision.
 2 The food ~~shall~~**must** be returned to the claimant ~~of the food~~ on the
 3 representation to the court by the director that the food is no
 4 longer in violation of this act and that the expenses of
 5 supervision have been paid. If the director determines that the
 6 food ~~se~~-seized or embargoed is not adulterated or misbranded, ~~he or~~
 7 ~~she~~**the director** shall remove the tag or other marking.

8 Sec. 2111. (1) The director shall have free access at
 9 reasonable hours to any food establishment, including a vehicle
 10 used to transport or hold food **or the growing, harvesting, and crop**
 11 **storage areas of a farm that is covered under 21 CFR 112**, for the
 12 purpose of evaluating ~~that the~~ food establishment ~~or vehicle~~ to
 13 determine if this act or rules promulgated under this act are being
 14 violated. The director may secure samples of any food, after paying
 15 or offering to pay for the samples, to determine if this act or
 16 rules ~~promulgated under this act~~ are being violated.

17 (2) The director may examine the records of the food
 18 establishment to obtain pertinent information about ~~food,~~
 19 **activities regulated under this act or the rules, including, but**
 20 **not limited to, any of the following:**

21 (a) Food, supplies, and equipment purchased, received, or used
 22 by, or persons employed by **or doing business with,** the food
 23 establishment. ~~or location.~~

24 (b) Sample results.

25 (c) Food safety-related customer complaints.

26 (d) Standard operating procedures.

27 (e) Food safety plans.

28 (3) The director may take photographs, **videos, or audio**
 29 **recordings,** or copy **physical or digital** records as part of an

1 evaluation. If a food establishment identifies by written document
2 or mark that a certain area or record contains visible trade
3 secrets, the director shall identify any photographs **or videos** of
4 that area or copies of that record as being confidential and shall
5 ~~diligently protect the confidentiality.~~ **not disclose the information**
6 **unless required to do so by law.**

7 (4) Any records provided by a food establishment in connection
8 with developing, implementing, or verifying a food safety plan or
9 practice under this act are exempt from disclosure under the
10 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
11 Records described under this subsection that are released to a
12 legislative body must not contain identifying information. An
13 exemption under this subsection does not apply to documents,
14 communications, data, reports, or other information required to be
15 collected, maintained, or made available or reported to a state
16 agency or any other person by statute, rule, ordinance, permit,
17 order, consent agreement, or as otherwise provided by law.

18 Sec. 2132. The department may enter into agreements with **state**
19 **agencies**, other states, ~~and the federal government~~, **colleges**,
20 **universities**, and **associations** to **implement this act** and provide
21 and accept food safety assistance, including the training of
22 personnel. Any employee of the department assigned to food safety
23 duties or training programs outside this state shall be considered
24 to be working inside this state for purposes of compensation and
25 any other employee benefits.

26 Sec. 3115. (1) A local health department shall promptly review
27 a license application for a food service establishment to determine
28 if the application is complete and accurate. A local health
29 department may return an incomplete or inaccurate application to a

1 license applicant and request any additional information it
2 considers necessary to ensure completeness or accuracy of the
3 application.

4 (2) Subject to subsection (3), after a local health department
5 determines that an application under subsection (1) is proper,
6 complete, and accurate, it shall ~~inspect~~**evaluate** the ~~proposed or~~
7 ~~existing~~ food service establishment to determine compliance with
8 this act.

9 (3) If a temporary food establishment will serve only low-risk
10 food, instead of conducting an ~~inspection~~**evaluation** under
11 subsection (2), a local health department, based on a public health
12 risk assessment, may conduct an in-office consultation, including
13 food safety education ~~—~~and operational review of the proposed
14 temporary food establishment with the license applicant. The ~~person~~
15 **individual** in charge of the temporary food establishment must be
16 present during the in-office consultation. A local health
17 department that conducts an in-office consultation under this
18 subsection may also conduct an ~~inspection~~**evaluation** under
19 subsection (2).

20 (4) A local health department shall conduct an ~~inspection~~
21 **evaluation** under subsection (2) or an in-office consultation under
22 subsection (3), as applicable, before it makes its recommendation
23 to the department on the issuance of a license.

24 (5) A local health department shall forward to the department
25 its recommendation for license approval or approval with
26 limitation.

27 Sec. 4103. (1) An applicant shall submit an application for a
28 food establishment license at least 30 calendar days before the
29 date planned for its opening or the change of ownership. For

1 temporary food establishments applying less than 4 days ~~from~~**before**
2 opening, the director may charge twice the applicable license fee
3 to perform the licensing evaluation.

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

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

10 (a) The ~~location and dates~~ **and hours** of ~~the operation.~~**service**
11 **for each location listed in the route schedule under subdivision**
12 **(c).**

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

15 **(c) The route schedule.**

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

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

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

27 Sec. 6135. (1) The name and address of the business operating
28 a mobile food establishment ~~shall~~**must** be affixed to each side of
29 the exterior of the vehicle in letters not less than 3 inches high

1 and 3/8 of an inch wide and ~~shall~~**must** be in contrast to the
2 vehicle background color. When more than 1 mobile food ~~service~~
3 establishment is operated by the same person, the director shall
4 assign a number to each establishment.

5 (2) A copy of **the approved menu, standard operating**
6 **procedures, and** limitations attached to the license of a mobile
7 food ~~service~~ establishment ~~shall~~**must** be carried on the mobile food
8 ~~service~~ establishment at all times.

9 (3) ~~If a~~**A** mobile food establishment ~~is operating on a~~
10 ~~regularly scheduled route, the director may require the license~~
11 ~~holder to~~**must** provide a copy of the route schedule ~~when the~~
12 ~~license is approved to the local health department or department,~~
13 **as applicable, with an application for a license under section 4103**
14 and every time the route schedule is changed. **Not less than 4**
15 **business days before any food is served or prepared within a**
16 **jurisdiction, the mobile food establishment must provide to the**
17 **local health department or department, as applicable, in writing,**
18 **each location in the jurisdiction at which food will be served and**
19 **the dates and hours of service.**

20 (4) ~~The director or the operator in the presence of the~~
21 ~~director~~**owner of the mobile food establishment** shall affix ~~2~~
22 ~~decals~~**a decal** provided by the department on the mobile food
23 establishment at the time the license is issued. The ~~decals shall~~
24 **decal must** be conspicuously displayed on ~~each side of~~ the mobile
25 food establishment so as to be visible when in transit and while
26 serving the public.