

to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest. Color includes black, white, and intermediate grays.

(e) “Contaminated with filth” means contamination applicable to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(f) “Continental breakfast” means the serving of only non-potentially-hazardous food such as a roll, pastry or doughnut, fruit juice, or hot beverage, but may also include individual portions of milk and other items incidental to those foods.

(g) “Critical violation” or “critical item” means a violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

### **289.1107 Definitions; D to F.**

Sec. 1107. As used in this act:

(a) “Department” means the Michigan department of agriculture.

(b) “Director” means the director of the Michigan department of agriculture or his or her designee.

(c) “Evaluation” means a food safety audit, inspection, or food safety and sanitation assessment, whether announced or unannounced, that identifies violations or verifies compliance with this act and determines the degree of active control by food establishment operators over foodborne illness risk factors.

(d) “Extended retail food establishment” means a retail grocery that does both of the following:

(i) Serves or provides an unpackaged food for immediate consumption.

(ii) Provides customer seating in the food service area.

(e) “Fair concession” means a food concession, storage, preparation, or dispensing operation at a state or county fair.

(f) “Federal act” means the federal food, drug, and cosmetic act, 21 USC 301 to 397.

(g) “Food” means articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article.

(h) “Food additive” means any substance, the intended use of which, directly or indirectly, results in or may be reasonably expected to result in its becoming a component or otherwise affecting the characteristics of any food if that substance is not generally recognized among experts as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Food additive includes any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and includes any source of radiation intended for any use. Food additive does not include any of the following:

(i) A pesticide chemical in or on a raw agricultural commodity.

(ii) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity.

(iii) A color additive.

(iv) Any substance used in accordance with a sanction or approval granted before the enactment of the food additives amendment of 1958, Public Law 85-929, pursuant to the federal

act, the poultry products inspection act, 21 USC 451 to 471, or the meat inspection act of March 4, 1907, chapter 2907, 34 Stat. 1258.

(i) “Food code” means food code, 2005 recommendations of the food and drug administration of the United States public health service that regulates the design, construction, management, and operation of certain food establishments.

(j) “Food establishment” means an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, sold, or offered for sale. Food establishment includes a food processing plant, a food service establishment, and a retail grocery. Food establishment does not include any of the following:

(i) A charitable, religious, fraternal, or other nonprofit organization operating a home-prepared baked goods sale or serving only home-prepared food in connection with its meetings or as part of a fund-raising event.

(ii) An inpatient food operation located in a health facility or agency subject to licensure under article 17 of the public health code, MCL 333.20101 to 333.22260.

(iii) A food operation located in a prison, jail, state mental health institute, boarding house, fraternity or sorority house, convent, or other facility where the facility is the primary residence for the occupants and the food operation is limited to serving meals to the occupants as part of their living arrangement.

(k) “Food processing plant” means a food establishment that processes, manufactures, packages, labels, or stores food and does not provide food directly to a consumer.

(l) “Food safety and sanitation assessment” means judging or assessing specific food handling activities, events, conditions, or management systems in an effort to determine their potential effectiveness in controlling risks for foodborne illness and required compliance with this act, accompanied by a report of findings.

(m) “Food safety audit” means the methodical examination and review of records, food sources, food handling procedures, and facility cleaning and sanitation practices for compliance with this act, accompanied by a report of findings. Food safety audit includes checking or testing, or both, of observable practices and procedures to determine compliance with standards contained in or adopted by this act, accompanied by a report of findings.

(n) “Food service establishment” means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

(ii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(iii) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.

(iv) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.

(o) “Food warehouse” means a food establishment that stores or distributes prepackaged food for wholesaling.

**289.1109 Definitions; I to P.**

Sec. 1109. As used in this act:

(a) “Imminent or substantial hazard” means a condition at a food establishment that the director determines requires immediate action to prevent endangering the health of people.

(b) “Inspection” means the checking or testing of observable practices against standards established in or adopted by this act, accompanied by a report of findings.

(c) “Juice” means the aqueous liquid expressed or extracted from 1 or more fruits or vegetables, purees of the edible portions of 1 or more fruits or vegetables, or any concentrates of such liquid or puree.

(d) “Label” means a display of written, printed, or graphic matter upon the immediate container of any article and includes a requirement imposed under this act that any word, statement, or other information appearing on the display also appear on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(e) “Labeling” means all labels and other written, printed, or graphic matter upon an article, any of its containers or wrappers, or accompanying the article.

(f) “License limitation” means an action by which the director imposes restrictions or conditions, or both, on a license of a food establishment.

(g) “License holder” means the entity that is legally responsible for the operation of the food establishment including the owner, the owner’s agent, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

(h) “Limited wholesale food processor” means a wholesale food processor that has \$25,000.00 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or \$25,000.00 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales under this subdivision.

(i) “Local health department” means that term as defined in section 1105 of the public health code, MCL 333.1105, and having those powers and duties as described in part 24 of the public health code, MCL 333.2401 to 333.2498.

(j) “Milk product” means cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, butter-milk, cultured milk, cultured lowfat milk, cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, acidified skim milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk, milk products with added safe and suitable microbial organisms, and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. Milk product does include dietary dairy products, dairy-based infant formula, ice cream and other frozen desserts, cheese, butter, and any other product derived from milk.

(k) “Misbranded” means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

(ii) It is offered for sale under the name of another food.

(iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word “imitation” and immediately thereafter the name of the food imitated.

(iv) Its container is so made, formed, or filled as to be misleading.

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(vii) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(viii) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(ix) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 USC 343.

(xii) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(l) “Mobile food establishment” means a food establishment operating from a vehicle or watercraft that returns to a licensed commissary for servicing and maintenance at least once every 24 hours.

(m) “Mobile food establishment commissary” means an operation that is capable of servicing a mobile food establishment.

(n) “Person” means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(o) “Pesticide chemical” means any substance that, alone, in chemical combination, or in formulation with 1 or more other substances, is a pesticide within the meaning of the federal insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y, and is used in the production, storage, or transportation of raw agricultural commodities.

(p) “Principal display panel” means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(q) “Public health code” means 1978 PA 368, MCL 333.1101 to 333.25211.

### **289.2111 Inspection of food establishment by director; access; securing samples or specimens of food; examination of records; photographs or copies of records as evaluation; confidentiality.**

Sec. 2111. (1) The director shall have free access at all reasonable hours to any food establishment, including a vehicle used to transport or hold food, for the purpose of evaluating that food establishment or vehicle to determine if any of the provisions of this act are being violated. The director may secure samples or specimens of any food after paying or offering to pay for such samples in order to determine whether any provision of this act is being violated.

(2) The director may examine the records of the food establishment to obtain pertinent information about food, supplies, and equipment purchased, received, or used by, or pertaining to, persons employed by the food establishment or location.

(3) The director may take photographs or copy records as part of an evaluation. When a food establishment identifies by written document or mark that a certain area or record contains visible trade secrets, the director shall identify any photographs of that area or record as being confidential and shall diligently protect the confidentiality.

### **289.2113 Order to cease food operations; resumption; reevaluation; hearing.**

Sec. 2113. (1) The director may order immediate cessation of operation of a food establishment upon a determination that continued operation would create an imminent or substantial hazard to the public health.

(2) A food establishment ordered to cease food operations under subsection (1) shall not resume operations until the director determines, upon reevaluation, that the conditions responsible for the order to cease operations no longer exist. The director shall offer an opportunity for reevaluation upon request of the license holder of the establishment.

(3) If the director orders an immediate cessation of operation of a food establishment under subsection (1), the license holder may request an administrative hearing.

### **289.2119 Rules; review; criteria.**

Sec. 2119. (1) Notwithstanding section 12909(1) of the public health code, MCL 333.12909, the department may promulgate rules to prescribe criteria for food service sanitation programs by local health departments. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) The department shall periodically conduct comprehensive reviews of each local health department’s food service sanitation program. The reviews shall be based on criteria developed by the department with input from local health departments and shall include a review of both of the following:

(a) The adequacy of sanitary conditions in the food service establishments within the local health department jurisdiction.

(b) The competency and training of the food service inspection personnel.

**289.2123 License limitations; reevaluation; removal of limitations and reinstatement of license.**

Sec. 2123. (1) A person whose license has been limited by the director may, at any time, request a reevaluation of the food establishment for the purpose of removing the limitation and reinstating the full license.

(2) Based upon its reevaluation, if the director determines that the conditions for removal of the license limitation have been met, he or she shall remove the limitation and reinstate the full license.

**289.2125 Fees.**

Sec. 2125. (1) The department shall charge the following fees for the following services:

(a) A reissuance of a duplicate license, \$15.00.

(b) A free-sale letter, \$25.00 per letter in an order and \$5.00 per duplicate letter in the same order.

(c) An evaluation of a food establishment when the evaluation is a second reevaluation of a food establishment that has already been evaluated and found to contain a critical violation or the evaluation is performed at the request of the operator, \$60.00.

(d) A review and approval of training materials, \$60.00 per hour.

(e) A special transitory food unit plan review, \$197.00.

(f) A plan review as specified in section 8-201.11 of the food code, \$197.00.

(2) Fees collected under this section shall be deposited in the dairy and food safety fund for enforcement of this act.

(3) The services referred to in subsection (1)(d) and (e) involve the formal review and approval procedure. The department may provide informal review or answer questions without charging a fee.

**289.2129 Certification of managerial employee under program accredited by American national standards institute; rules.**

Sec. 2129. (1) Beginning June 30, 2009, the following food establishments shall employ a minimum of 1 managerial employee who is currently certified under a personnel certification program accredited by the American national standards institute, utilizing the conference for food protection standards:

(a) A food service establishment that is not any of the following:

(i) A mobile food establishment.

(ii) Operating under a temporary food service establishment license.

(iii) A special transitory food unit.

(iv) A vending machine location.

(b) An extended retail food establishment.

(c) The operation of a food service establishment within a retail grocery.

(2) An individual certified under subsection (1) shall be recognized with full faith and credit by the state and all local units of government throughout the state.

(3) The department may promulgate rules to do all of the following:

(a) By January 1, 2009, develop requirements for retail food establishments to follow when employing certified food safety managers or personnel.

(b) Set a reasonable date for compliance with the requirements taking into consideration existing local personnel certification requirements.

(c) Establish certification fees necessary to implement, maintain, and track certified individuals directly or by contract. The department may annually adjust the schedule of fees to provide that the fee charged is sufficient to cover the cost of the certification tracking program.

(d) Implement and enforce the requirements described in subdivision (a).

(e) The certification program developed by the American national standards institute, as it exists on the effective date of the amendatory act that added this section, is incorporated by reference. The department may adopt updates to the certification program accreditation standards in subsection (1) by rule.

(4) This section does not prohibit any local legislative body from implementing a food handler program, an employee health certification program, or a manager certification program, provided it is not in conflict with this section.

### **289.3103 Definitions.**

Sec. 3103. As used in this chapter:

(a) “Certified health department” means a county, district, or city health department that meets the criteria for certification of health departments established by this act and that is authorized by the director to enforce this act for retail groceries, food processing plants, or fair concessions.

(b) “Foodborne illness outbreak” means an incident where any of the following occur:

(i) Two or more persons, not of the same household, have ingested a common food and have a similar disease, similar symptoms, or excrete the same pathogens and there is a time, place, or person association between these persons.

(ii) There is a single case of suspected botulism, mushroom poisoning, paralytic shellfish poisoning, or other rare disease.

(iii) There is a case of a disease or poisoning that can be definitely related to ingestion of a food.

(c) “Food service sanitation program” means the systematic activity of the department and a local health department for effective administration and enforcement of the food code and this act, including all of the following:

(i) Periodic evaluations of food service establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

(iii) Review of plans and specifications for new and extensively remodeled establishments.

(iv) Educational activities.

(v) Investigation of reports of foodborne illnesses.

(vi) Other activities which may be necessary to assure proper implementation of this act.

### **289.3119 Additional license fees; collection; exemptions; adjustments; forwarding applications.**

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee ..... \$ 3.00.

(b) Temporary food service establishment.....	\$ 3.00.
(c) Food service establishment .....	\$ 22.00.
(d) Mobile food establishment commissary .....	\$ 22.00.
(e) Special transitory food unit .....	\$ 35.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of \$135.00, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1) shall be collected by the local health department at the time the license application is submitted. The state license fee is due and payable by the local health department to the state within 60 days after the fee is collected.

(4) A charitable, religious, fraternal, service, civic, or other nonprofit organization that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986 is exempt from paying additional state license fees imposed under this section except for the vending machine location license fee. An organization seeking an exemption under this subsection shall furnish to the department or a local health department evidence of its tax-exempt status.

(5) A veteran who has a waiver of a license fee under the circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is exempt from paying the fees prescribed in this section.

(6) The department shall adjust on an annual basis the fees prescribed by subsections (1) and (2) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index but not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment.

(7) The local health department shall forward the license applications to the department with appropriate recommendations.

**289.3121 Evaluations; maintenance and retention of records.**

Sec. 3121. (1) The department or a local health department shall conduct evaluations in compliance with this act.

(2) Records for all of the following shall be maintained by a local health department:

- (a) Applications for licensure.
- (b) Operation licenses.
- (c) Evaluation reports.
- (d) Pertinent correspondence.
- (e) Plans and specifications.
- (f) Administrative actions.
- (g) Other applicable information relating to the operation of each food service establishment.

(3) A local health department shall maintain a record of all consumer complaints, the ensuing investigation, and the result of the complaint.

(4) All department and local health department records shall be retained in accordance with the records retention schedule of the department.



**289.3123 Evaluations; frequency.**

Sec. 3123. (1) A compliance evaluation of each food service establishment shall be performed by the director at least once every 6 months or as required by a statewide department approved risk-based schedule. Risk-based schedules shall be developed in consultation with local health departments.

(2) A food service establishment which operates for 9 or fewer months each year shall be inspected at least once during the period of operation by the director or as prescribed in the department's risk-based schedule.

**289.3125 Evaluations; reducing frequency; limitation.**

Sec. 3125. (1) Subject to subsection (3), a local health department, with the approval of the director and based on criteria developed by the department in consultation with local health departments, may reduce the frequency of evaluations of individual food service establishments if the local health department determines that a reduced evaluation frequency will not adversely affect food service sanitation practices within the food service establishment.

(2) A food service establishment which, upon investigation, is implicated in a foodborne illness outbreak or chemical intoxication shall be evaluated by the director in compliance with section 3123 for not less than the next 12 months.

(3) A local health department shall not reduce the minimum frequency of evaluations of any food service establishment to less than that described in section 3123 unless approved by the department.

**289.3127 Evaluation findings; report.**

Sec. 3127. (1) The findings of an evaluation of a food service establishment shall be recorded on an evaluation report form approved by the department. The form shall identify those items considered to be critical from a public health standpoint.

(2) The evaluation report shall summarize findings relative to compliance with the requirements of this act. The report form shall be signed and dated by the local health department representative.

(3) Upon completion of the evaluation, a copy of the completed evaluation report form shall be furnished to the person in charge of the food service establishment. The person in charge shall sign the report form acknowledging receipt.

**289.3135 Certification of local health department; application; qualifications.**

Sec. 3135. (1) The department shall make available to any local health department an application form to be completed as a request for certification. The application shall provide information needed to substantiate the request to become a certified health department.

(2) A local health department seeking certification shall have sufficient trained administrative, evaluation, and support personnel and sufficient equipment to enforce applicable laws and rules consistent with current state standards in all licensed establishments within its jurisdictional boundaries.

(3) A certified health department shall demonstrate to the department the ability to conduct evaluations and related activities in accordance with the department's electronic evaluation system within prescribed time limitations utilized by the department. Evaluation, investigation, and legal actions and related activities shall be reported to the department on forms furnished by the department.

(4) A certified health department must be capable of conducting necessary sampling and product surveillance equal to state standards.

**289.3137 Reports made by certified health departments; review and evaluation; conduct of evaluation quality assurance program; report to department; findings of department review or evaluation.**

Sec. 3137. (1) The department shall conduct a general review and evaluation of reports and related data made by certified health departments under this act as often as considered necessary by the department.

(2) An evaluation quality assurance program consisting of field evaluation of performed evaluations conducted by the certified health department shall be routinely conducted by the department at a ratio of approximately 1 per 100 evaluations made.

(3) A certified health department shall report annually to the department a summary of all inspections, investigations, samplings, legal actions, and any other actions of a significant nature on a form furnished by the department. This report shall be made annually on the basis of the state fiscal year.

(4) A review disclosing adverse findings shall be reported in writing by the department to the health officer of the certified health department within 30 days after the review under subsection (1) is completed.

**289.3139 Notice of deficiencies; hearing; revocation of certification; reapplication.**

Sec. 3139. (1) If a certified health department fails to meet the requirements established in this act or rules promulgated under this act, written notice of deficiencies shall be furnished to the health officer of that certified health department within 30 days after completion of the review under section 3137. This notice shall offer an opportunity to the health officer of the certified health department for a hearing with the director. If a hearing is not requested, certification issued under this chapter shall be revoked within 30 days following the notice to the health officer of the certified health department. If a hearing is held and deficiencies are not corrected within the time period specified in the hearing, certification shall be revoked within the time period specified in the hearing.

(2) If requested by the health officer of the certified health department in a written notice to the director, certification issued under this chapter shall be revoked within 30 days of receipt of the written notice.

(3) Revocation of certification issued under this chapter does not restrict a health department from reapplication for certification.

**289.4101 Food establishment license; scope.**

Sec. 4101. (1) Except as provided in section 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.

**289.4103 Application for license; submission; forms; information; mobile food establishment license; commissary service; 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) Application for the license under subsection (1) shall be submitted upon the forms approved by the department and shall contain the reasonable information required by the department to process the application.

(3) An application for a mobile food establishment license shall include all of 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 director may issue a temporary food establishment license.

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

Sec. 4105. (1) Except as otherwise provided for in subsection (2), 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:

<u>Public Act No.</u>	<u>Year</u>	<u>Compiled Law Sections</u>
141	1939	285.61 to 285.88
228	1959	286.371 to 286.379
158	1964	290.451 to 290.466
266	2001	288.471 to 288.540
267	2001	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, who 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 Michigan if the outlet is operated by the producer and the processing facility is licensed under this act.

(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, capturing, 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, capturing, 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.

(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.

### **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.

### **Repeal of MCL 289.1115, 289.1117, and 289.6151; effective date.**

Enacting section 1. Sections 1115, 1117, and 6151 of the food law of 2000, 2000 PA 92, MCL 289.1115, 289.1117, and 289.6151, are repealed effective April 1, 2008.

### **Effective date of MCL 289.2125, 289.3119, and 289.4103; effective date of MCL 289.1105, 289.1107, 289.1109, 289.2111, 289.2113, 289.2119, 289.2123, 289.2129, 289.3103, 289.3121, 289.3123, 289.3125, 289.3127, 289.3135, 289.3137, 289.3139, 289.4101, 289.4105, and 289.4107.**

Enacting section 2. (1) Sections 2125, 3119, and 4103 of the food law of 2000, 2000 PA 92, MCL 289.2125, 289.3119, and 289.4103, as amended by this amendatory act, take effect January 1, 2008.

(2) Sections 1105, 1107, 1109, 2111, 2113, 2119, 2123, 2129, 3103, 3121, 3123, 3125, 3127, 3135, 3137, 3139, 4101, 4105, and 4107 of the food law of 2000, 2000 PA 92, MCL 289.1105, 289.1107, 289.1109, 289.2111, 289.2113, 289.2119, 289.2123, 289.2129, 289.3103, 289.3121, 289.3123, 289.3125, 289.3127, 289.3135, 289.3137, 289.3139, 289.4101, 289.4105, and 289.4107, as amended by this amendatory act, take effect April 1, 2008.

**Conditional effective date.**

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 595 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 16, 2007.

Filed with Secretary of State October 16, 2007.

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**Compiler's note:** Senate Bill No. 595, referred to in enacting section 3, was filed with the Secretary of State October 16, 2007, and became 2007 PA 114, Imd. Eff. Oct. 16, 2007.

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**[No. 114]****(SB 595)**

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending sections 4111, 4113, 4116, 4117, 4125, 5101, 5105, 5107, 6101, 6115, 6129, 6137, 6147, 6149, 7105, 7113, 7115, 7119, 7125, 7137, 8105, and 8107 (MCL 289.4111, 289.4113, 289.4116, 289.4117, 289.4125, 289.5101, 289.5105, 289.5107, 289.6101, 289.6115, 289.6129, 289.6137, 289.6147, 289.6149, 289.7105, 289.7113, 289.7115, 289.7119, 289.7125, 289.7137, 289.8105, and 289.8107), sections 4111, 4117, 6101, and 6149 as amended by 2002 PA 487 and section 4116 as added by 2004 PA 267, and by adding sections 6140, 6150, and 7106.

*The People of the State of Michigan enact:*

**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 food establishment: \$67.00.
- (b) Extended retail food establishment: \$172.00.
- (c) Wholesale food processor: \$172.00.
- (d) Limited wholesale food processor: \$67.00.
- (e) Mobile food establishment: \$172.00.
- (f) Temporary food establishment: \$25.00.
- (g) Special transitory food unit: \$135.00.
- (h) Mobile food establishment commissary: \$172.00.
- (i) Food warehouse: \$67.00.

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

(2) If a local health department no longer conducts a food service sanitation program, the department, in consultation with the commission of agriculture, shall set the food sanitation fees to be imposed for the department's services performed under subsection (1)(j). The fees imposed shall equal, as nearly as possible, 1/2 of the department's cost of providing the service. The conduct of the services resulting from a cessation of a food service sanitation program is considered an imminent or substantial hazard that allows the department to 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 in the amount provided by amendment of this act or as authorized pursuant to 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.

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

Sec. 4113. (1) The department shall impose, for a renewal application postmarked or delivered in person beginning May 1 of each year, a late fee of an additional \$10.00 for each business day the application is late. The late fee for a new application submitted after the establishment has opened for business is an additional \$10.00 for each business day the application is late. The total late fee shall not exceed \$100.00.

(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 is not required regarding the department's refusal to issue or renew a license under this section except as allowed 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, selling, or offering for sale the food or drink described in this subsection.

(4) The 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 the late fee for the administration and enforcement of this act.

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

Sec. 4116. (1) Beginning the effective date of the amendatory act that added this subsection 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 any agency or department of the state of Michigan. 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 does not operate as 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, shall 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) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agricultural and food issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the appropriate time period described in subsection (1).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the appropriate time period and the amount of money returned to licensees and registrants under subsection (2).

(4) 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 the state of Michigan. 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.

**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; advisory committee; 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 shall 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 shall not lapse to the general fund at the end of the fiscal year and shall carry 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 shall 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 shall be used to provide statewide training and education to consumers on

food safety. An advisory committee consisting of at least 9 people representing consumers, industry, government, and academia shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried 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 shall 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 shall be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. The advisory committee created in subsection (2) shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried 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(4) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

### **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 is issued, the director shall determine if the applicant meets the minimum requirements of this act and rules promulgated under this act.

(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 or a registration for bottled water issued under this act for failure to comply with requirements of this act or a rule promulgated under this act. A person whose registration for bottled water is revoked or suspended shall discontinue the sale and offering for sale of the bottled water until he or she complies with this act and the director issues a new registration or removes the suspension.

(3) For a person whose food establishment license has been 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.

(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 or registration issued under this act. A person whose license or registration 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.

### **289.5101 Prohibited acts; violation.**

Sec. 5101. (1) A person shall not do or cause to be done any of the following:

- (a) Manufacture, sell, deliver, hold, or offer for sale adulterated or misbranded food.
- (b) Adulterate or misbrand food.



(c) Receive in commerce food that is adulterated or misbranded and deliver or proffer the delivery of that food for pay or otherwise.

(d) Sell, deliver for sale, hold for sale, or offer for sale food unless that person holds a license issued under chapter IV.

(e) Disseminate a false advertisement.

(f) Refuse to permit entry or evaluation, or to permit the taking of a sample, as authorized by section 2111.

(g) Give a false guaranty or undertaking, except by a person who relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person from whom he or she received the food in good faith.

(h) Remove or dispose of seized or embargoed food in violation of section 2105.

(i) Alter, mutilate, destroy, obliterate, or remove all or part of the label or do any other act with respect to a food while the food is held for sale resulting in the food being adulterated or misbranded.

(j) Forge, counterfeit, simulate, or falsely represent, or without proper authority use any mark, stamp, tag, label, or other identification device authorized or required by this act or rules promulgated under this act.

(k) Permit filthy or insanitary conditions to exist in a food establishment in which food intended for human consumption is manufactured, received, kept, stored, served, sold, or offered for sale.

(l) Falsely identify a country, state, or other place of origin of food on a label, tag, or other document with intent to deceive or defraud.

(m) Fail to establish or maintain any record or make any report required under this act or the federal act, or refuse to permit access to or verification or copying of any such required record.

(n) Interfere with the director in the conduct of his or her responsibilities under this act.

(o) Make a false statement, representation, or certification in any application, report, plan, or other document that is required to be maintained under this act or rules promulgated under this act.

(p) Remove a tag, seal, or mark placed by the director.

(q) Operate without a license, registration, permit, or endorsement.

(r) Violate a provision of this act or a rule promulgated under this act.

(2) Each day a violation of this section occurs is a separate violation of this section.

### **289.5105 Administrative fines or costs.**

Sec. 5105. (1) Upon finding that a person violated a provision of this act or rule promulgated under this act, the department may impose an administrative fine of not more than \$500.00 for the first offense and not more than \$1,000.00 for a second or subsequent offense and the actual costs of the investigation of the violation. Each day of any continuing violation is not considered a separate violation of this act or rule promulgated under this act. Under no circumstances shall the department impose upon any licensee or registrant administrative fines in the aggregate amount of more than \$4,000.00 per location for a firm with annual gross receipts of \$500,000.00 or less and \$8,000.00 per location for a firm with annual gross receipts of over \$500,000.00 during any 12-month period.

(2) Any administrative fines and costs collected under this section shall be deposited into the dairy and food safety fund.

(3) This section does not require the department to issue an administrative fine for minor violations of this act whenever the department believes that the public interest will be adequately served under the circumstances by a suitable written notice or warning.

(4) The conditions warranting administrative fines to achieve compliance with the provisions of the food code are limited to critical or repeated violations that remain uncorrected beyond the time frame for correction approved, directed, or ordered by the director under food code section 8-405.11(A) and (B) and section 8-406.11(A) and (B). The department shall not impose an administrative fine for a noncritical violation of the food code unless at least 30 calendar days have been allowed for correction after the evaluation.

### **289.5107 Violations; penalties; costs of investigation.**

Sec. 5107. (1) Except as otherwise provided under this act, a person who violates any provision of this act or rules promulgated under this act is guilty of a misdemeanor and shall be punished by a fine of not less than \$250.00 or more than \$2,500.00 or by imprisonment for not more than 90 days, or both.

(2) Notwithstanding the other provisions of this act, a person who knowingly violates section 5101(1)(b) or (l) is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$10,000.00 plus twice the amount of any economic benefit associated with the violation, or both.

(3) If a violation results in a conviction under this act, the court shall assess against the defendant the costs of the department's investigation. The assessment for costs of investigation shall be deposited into the dairy and food safety fund for the enforcement of this act.

### **289.6101 Incorporation by reference; changes or updates by rule; annexes.**

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

(a) Where provisions of this act and rules promulgated under this act specify different requirements.

(b) Section 3-501.16(A)(2) is modified so that “subparagraph 3-501.16(A)(2)(b)” is stricken.

(2) The director, by promulgation of a rule, may adopt any changes or updates to the food code.

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

### **289.6115 Preopening evaluation.**

Sec. 6115. (1) After completion of the construction, alteration, conversion, or remodeling and before the opening of a food service establishment, the license applicant or license holder shall notify the director of the completion, shall submit an application for a license to operate the food service establishment, and shall arrange for a preopening evaluation.

(2) During the preopening evaluation, the director shall determine whether the food establishment was constructed, altered, converted, or remodeled in accordance with the approved plans and specifications.

(3) Local health departments may specify when requests for preopening inspections are to be submitted.

**289.6129 Consideration of risk-based evaluation methodology; evaluation report; critical violations; correction.**

Sec. 6129. (1) The director shall consider the risk-based evaluation methodology as described in food code annex 5, section 4 A-H for conducting evaluations of food establishments.

(2) The completed evaluation report shall specify a period of time for correction of noted violations. The license holder shall correct the violations within the time specified in the report.

(3) All violations which are marked as critical on the inspection report form shall be corrected immediately unless otherwise specified. The director shall confirm corrections within 30 days after the report is issued.

**289.6137 Special transitory food unit license; procedures; qualifications; noncompliance.**

Sec. 6137. (1) To qualify for a special transitory food unit license, an applicant shall allow a review and receive approval of plans and specifications as specified in chapter VI. This review and approval must include the menu and standard operating procedures for the unit.

(2) A special transitory food unit license holder shall do all of the following:

(a) Keep a copy of the approved standard operating procedures in the unit and available for review upon evaluation by the director.

(b) Operate in compliance with standard operation procedures approved by the director.

(c) Before serving food within the jurisdiction of a local health department, notify the local health department in writing of each location in the jurisdiction at which food will be served and the dates and hours of service. The license holder shall mail the notice by first-class mail or deliver the notice not less than 4 business days before any food is served or prepared for serving within the jurisdiction of the local health department.

(d) While in operation, request and receive 2 evaluations per licensing year spaced generally over the span of the operating season. A local health department and the department shall charge a fee of \$90.00 for such an evaluation.

(e) Send a copy of all evaluation reports to the regulatory authority that approved the license within 30 days after receipt.

(3) If a license holder fails to comply with any of the requirements of this section or the food code, the food establishment is ineligible for licensure as a special transitory temporary food establishment for the following licensing year and must apply for temporary or other type of food establishment licenses.

**289.6140 Milk and milk products.**

Sec. 6140. (1) Only pasteurized ingredients from a department-approved source shall be used for milk and milk products manufactured, sold, served, or prepared at a retail food establishment. Such ingredients include, but are not limited to, milk, milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, eggs, and egg products.

(2) Ingredients that may be subsequently added to milk or milk products are those flavorings or other ingredients that have been found to be safe and suitable and added in a manner to prevent contamination, including, but not limited to, the following:

(a) Ingredients permitted by a standard of identity for milk or milk products under the federal act or regulations.

(b) Fresh fruits and vegetables added to cultured milk and cultured milk products provided the resultant equilibrium pH level (4.6 or below when measured at 24 degrees Celsius

(75 degrees Fahrenheit)) of the finished product is reached without undue delay and is maintained during the shelf life of the product.

(c) Ingredients subjected to prior heating sufficient to destroy pathogenic microorganisms such as roasted nuts or dried fruits.

(d) Ingredients having a water activity ( $A_w$ ) value of 0.85 or less.

(e) Ingredients having a high acid content (pH level of 4.6 or below when measured at 24 degrees Celsius (75 degrees Fahrenheit)) or high alkalinity (pH level greater than 11 when measured at 24 degrees Celsius (75 degrees Fahrenheit)).

(f) Dry sugars and salts.

(g) Flavor extracts having a high alcohol content.

(h) Safe and suitable bacterial cultures and enzymes.

(i) Other ingredients that have been found to be safe and suitable by the U.S. food and drug administration.

(3) Retail food establishments that manufacture and wholesale milk and milk products must additionally be licensed pursuant to and meet requirements of the manufacturing milk law, 2001 PA 267, MCL 288.561 to 288.740, or the grade A milk law, 2001 PA 266, MCL 288.471 to 288.540.

### **289.6147 Disaster; cessation of operations; report; emergency plans as temporary alternative procedures.**

Sec. 6147. If a food establishment is affected by fire, flooding, accidents, explosions, or other disaster that may create an imminent or substantial hazard and unless otherwise directed, all food operations shall cease and the licensee shall immediately report to the director the disaster and the effect of the disaster on the operation of the establishment. The department may recognize emergency plans that, if being followed, serve as a means to use temporary alternative procedures for continuity of operation.

### **289.6149 Definitions; satisfaction of section 3-603.11 of food code; statement; disclosures and reminders; text; exemptions.**

Sec. 6149. (1) As used in this section:

(a) "Publicly available" means accessible to consumers, without their having to request it, before their placing food orders or making their selections.

(b) "Selection information" means whatever consumers read to make their order selections, such as menu, table tent, placard, chalkboard, or other written means.

(2) To satisfy section 3-603.11 of the food code, the food establishment may provide the following statement on selection information so that it is publicly available: "Ask your server about menu items that are cooked to order or served raw. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness."

(3) A statement used under subsection (2) may be tailored to be product specific if a food establishment either has a limited menu or offers only specific animal-derived foods in raw or undercooked, ready-to-eat form.

(4) The language for the menu items shall match the language used for the disclosure and the reminder. The disclosure and reminder may also be in additional languages.

(5) The text for disclosures and reminders shall meet the following requirements:

(a) The text size for statements on handheld menus or table tents shall be visually equivalent to at least 11-point font size or may be visually equivalent to the font size of menu item descriptions.

(b) Text color provides a clear contrast to background.

(6) Table tents, placards, or chalkboards that are used exclusively to list food items that are offered as daily, weekly, or temporary specials are exempt from the requirements of this section when those food items also appear in the primary selection information that contains the disclosures and reminders meeting the requirements of this section.

### **289.6150 Definitions; presence or lack of artificial trans fat; statement; language.**

Sec. 6150. (1) As used in this section:

(a) “Artificial trans fat” means an unsaturated fat or fatty acid that is produced by the partial hydrogenation of plant oils and that contains 1 or more instances of atoms bonded in a trans configuration.

(b) “Publicly available” means accessible to consumers, without their having to request it, before placing their food orders or making their selections.

(c) “Selection information” means whatever consumers read to make their order selections, such as a menu, table tent, placard, chalkboard, or other written means.

(2) A food service establishment may, but is not required to, provide on the selection information, so that it is publicly available, a statement regarding the presence or lack of artificial trans fat in any food served by the food service establishment.

(3) A statement described in subsection (2) may be tailored to be product-specific if a food service establishment has a limited menu.

(4) The text for a statement described in subsection (2) may be in more than 1 language and may meet the requirements of section 6149.

### **289.7105 Processor of seafood; waiver for processor of smoked fish.**

Sec. 7105. All processors of seafood shall comply with regulations of the U.S. food and drug administration in 21 CFR part 123. The requirement that a processor of smoked fish comply with the smoked fish rules is waived if the processor demonstrates compliance with the federal regulation described in this section.

### **289.7106 Processors of juice; safe cider production.**

Sec. 7106. (1) All processors of juice shall comply with the regulations of the U.S. food and drug administration in 21 CFR part 120.

(2) An establishment that presses apple cider shall have at least 1 active employee currently certified under a program described in section 2129 or having completed a current course recognized by the department as pertinent to safe cider production.

### **289.7113 Definitions.**

Sec. 7113. As used in this chapter:

(a) “Added fat” means the addition of fat tissue originating from portions consisting of less than 12% muscle tissue in each portion.

(b) “Added water” means greater moisture content than normally found in meat and, except for poultry, is determined by total moisture minus 4 times the percentage of protein. Added water may be in the form of water or ice.

(c) “Artificial coloring” means coloring containing any dye or pigment which was manufactured by a process of synthesis or other similar artifice or by extraction of a natural dye or pigment from a plant or other material from which the dye or pigment was formed.

(d) “Artificial flavoring” means any flavoring containing any sapid or aromatic constituent manufactured by synthesis or similar process.

(e) “Binders” means food and nonfood substances used as an ingredient in comminuted meats for binding, stabilizing, thickening, or maintaining viscosity of the product.

(f) “By-products or variety meats” means hearts, livers, brains, tongues, tripe, stomach, lungs, melts, eyes, weasand meats, head meat, cheek meat, salivary glands, udder, lips, ears, snouts, skin, feet, spleens, slaughterhouse by-products, spinal cords, cracklings or crackling meal, packinghouse by-products, processing plant by-products, partially defatted fatty tissues, and partially defatted chopped meat.

(g) “Comminuted” means chopped, diced, flaked, ground, or otherwise reduced to minute particles.

(h) “Extenders” means food substances used as an ingredient in comminuted meats primarily for replacement of meat ingredients.

(i) “Fat” means the quantity of adipose tissue determined by chemical analysis.

(j) “Fresh meat” means meat that has undergone no cooking, heating, or other processing except boning, cutting, comminuting, or freezing.

(k) “Lamb” means meat derived from sheep less than 1 year of age.

(l) “Meat” means the edible part of clean, sound striated muscle of cattle, swine, sheep, deer and other cervids, goat, turkey, duck, ratite, or chicken slaughtered in compliance with all applicable laws, with or without the accompanying and overlying fat, and sinew, nerve, gland, and blood vessels which normally accompany the muscle tissues and which are not separated from it in the process of dressing. Meat does not include specified risk materials.

(m) “Skeletal meat” means the meat that is attached to a part of the skeleton including head and cheek meat.

(n) “Specified risk materials” means items associated with the nervous system of beef cattle that are prohibited from human food as defined in 9 CFR 310.22.

(o) “Veal” means meat derived from a calf not more than 1 year of age.

### **289.7115 Sausage; contents; definitions.**

Sec. 7115. Sausage consists only of skeletal meat either fresh, cured, salted, pickled, or smoked. Poultry sausage may contain accompanying skin in natural proportions. Sausage may contain the following:

(a) Salt or spice, cure agents such as sodium or potassium nitrate or sodium or potassium nitrite, cure accelerators such as sodium erythorbate or ascorbic acid, all that comply with applicable regulations of the United States department of agriculture food safety inspection service or any other curing agents determined appropriate by the department or pursuant to rules promulgated under this act. As used in this subdivision, “curing agent” or “curing accelerator” means any substance added to meat to cause or enhance preservation of the meat product.

(b) Added edible animal fat from the animals specified, eggs or egg products, chives, tomatoes, parsley, peppers, onions, garlic, celery, seasoning, or other natural flavoring, honey, syrup, sugar, pure refined dextrose, or subsequent cooking or smoking.

(c) Not more than 3-1/2% by weight nonfat dry milk, dry whole milk, or calcium-reduced milk if it is declared in conjunction with the product name.

(d) Fruits, vegetables, or nuts, or a combination thereof, if the name of the product is so qualified.

(e) Not less than 12% protein. The protein content requirement shall not apply to pork sausage, breakfast sausage, or roasted sausage but the finished product shall contain not more than 50% of fat. Fresh sausage shall contain no added water, except to facilitate chopping or mixing and in an amount not to exceed 3% of the total ingredients. Cooked sausage shall not exceed 40% fat and added water.

(f) Fresh and fresh frozen sausage, smoked and unsmoked dry sausage, may contain antioxidants such as butylated hydroxyanisole, butylated hydroxytoluene or propyl gallate, or a combination of these antioxidants, with or without citric acid, in amounts that comply with applicable regulations of the United States department of agriculture food safety inspection service. When such antioxidants are added, the label on the product shall declare the presence of antioxidants in the manner required by the United States department of agriculture food safety inspection service.

(g) Sausage shall not contain any extenders, artificial flavors, artificial color, binders, excess added water or ice, boric acid or borates, sulphites, sulfur dioxide, sulphurous acid, or any other harmful preservative, by-products, or variety meats. Extenders necessary to produce low-fat products may be permitted as described in rules promulgated under this act. No other parts of the animal or any other substance excepting as above specified shall be permitted in sausage.

(h) Harmless lactic acid bacterial starters may be used in an amount not to exceed 1/2 of 1%. When used, the harmless bacterial starter shall be included in the list of ingredients in the order of its predominance.

(i) The following products are considered to be sausage, whether processed or inserted in either natural or artificial casings or other containers: wieners, bologna, ring bologna, knackwurst, bratwurst, roasted sausage, breakfast sausage, pork sausage, chicken sausage, turkey sausage, leona, beer salami, cooked salami, Polish sausage, minced luncheon, kielbasa, bockwurst, all varieties of dry or semi-dry sausage, and other meat food products prepared in sausage form and excluding loaves, liver products, headcheese, sulze, blood sausage, potato sausage, kishka, tongue sausage, and New York or New England pressed luncheon.

(j) “Fresh pork sausage”, “Polish sausage”, “fresh kielbasa”, and “fresh country-style sausage” are sausages prepared from fresh pork meat.

(k) “Italian-style sausage” shall be uncured, unsmoked, and contain at least 85% meat or meat and fat with no more than 35% fat. Italian sausage contains fennel or anise and may contain red and green pepper, onion, and garlic. Italian sausage shall be prepared from fresh pork meat.

(l) “Fresh beef sausage” is prepared with fresh beef meat and shall not contain more than 30% fat.

(m) “Poultry sausage or poultry-meat sausage” shall be made from fresh poultry meat containing the natural proportions of light and dark meat unless otherwise designated. The name shall be identified by the species contained if the product contains all its meat from 1 species. It shall not contain more than 30% fat. Poultry-meat sausage shall not contain skin.

(n) “Cervid sausage” shall be made from the meat of cervidae from approved sources. The name shall be identified by the species contained if the product contains all its meat from 1 species, such as “venison sausage” or “elk sausage”. A person shall not offer for sale, sell, or expose for sale any other product described as cervid sausage. Fat of another species and approved source may be added to cervid sausage.

(o) Sausage containing wild game and made on commercial order shall be labeled “not for sale”. Wild game from more than 1 owner shall not be mixed into sausage unless a licensed processor butchered all the wild game. Processors shall reject any carcass that shows evidence

of spoilage or contamination. Wild game and wild-game product and processing times shall be kept separate from other meat and meat processing, including, but not limited to, storage in separate or structurally-partitioned coolers. Food contact surfaces shall be thoroughly washed and sanitized after the processing of wild game and before the resumption of any other processing.

**289.7119 Other comminuted meat food products; compliance with federal regulations.**

Sec. 7119. Other comminuted meat food products, including nonspecific loaves and liver products, headcheese, blood sausage, kishka, tongue sausage, chili con carne with beans, or any other meat food products that may be allowed, shall be produced in compliance with applicable regulations of the United States department of agriculture food safety inspection service.

**289.7125 Ground lamb, chicken, turkey, and veal; contents.**

Sec. 7125. Ground lamb, chicken, turkey, and veal shall not contain any added water or ice, artificial flavoring, by-products or variety meats, binders, extenders, artificial color, vegetable coloring, or chemical preservatives. No other parts of the animal or any other substance shall be permitted except as follows:

(a) Ground lamb shall consist of comminuted fresh lamb meat, with or without added lamb fat, and shall not contain more than 25% fat.

(b) Ground poultry shall consist of comminuted fresh poultry meat, with or without accompanying skin in natural proportions, with or without added poultry fat, and shall not contain more than 20% fat. The name shall be identified by the species contained in the product.

(c) Ground poultry meat shall consist of comminuted fresh poultry meat, with or without added poultry fat, and shall not contain more than 15% fat. The name shall be identified by the species contained in the product.

(d) Ground veal shall consist of comminuted fresh veal meat, with or without added veal fat, and shall not contain more than 20% fat.

(e) Ground pork shall consist of comminuted fresh pork with or without the addition of pork fat as such and shall not contain more than 30% fat. Ground pork shall not contain extenders, binders, variety meats, by-products, added water or ice, artificial flavor or color, vegetable coloring, chemical preservative, boric acid or borates, sulphites, sulfur dioxide, or sulphurous acid. No other parts of the animal or any other substance is permitted in ground pork.

**289.7137 Food additives; limitation.**

Sec. 7137. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR parts 170 to 180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR parts 181 to 186, substances that exceed amounts established under applicable regulations of the United States department of agriculture food safety inspection service, or pesticide residues that exceed provisions specified in 40 CFR part 185.

**289.8105 Prohibited acts.**

Sec. 8105. (1) A person shall not do any of the following:

(a) Make, publish, disseminate, circulate, or place before the public any advertisement containing any assertion, representation, or statement which is untrue, deceptive, or misleading or falsely represents the kind, classification, grade, or quality of meat.



(b) Use any term of quality without using or having for sale the quality of meat advertised or offered for sale.

(c) Designate or use any brand name of a company unless the meat so advertised or displayed for sale is of a quality which the use or designation of the brand name of such company would reasonably indicate.

(2) A person shall not advertise or display for sale any of the following:

(a) Any meat of the ovine species that is 2 years old or over as “yearling” or “lamb”. Such meat shall be clearly designated “mutton”.

(b) Any meat described by the use of words associated with grading terminology unless such meat advertised for sale actually bears the “USDA” federal stamp designating such grade or is of equal quality as the federal grade would designate.

(c) Any ham unless the advertisement or display states whether the ham is whole, bone-in, semi-boneless, or boneless.

(d) Any ham portion described by the use of the words “one-half” or “half ham” that has had a center slice removed.

(e) Any pork shoulder described as “ham”.

(f) Any meat or meat product which has been branded or marked as imitation by a manufacturer or processor unless the advertisement or display clearly states that such meat or meat product is an imitation.

(3) A person shall not substitute in any sale any inferior or cheaper cut of meat without informing the purchaser that such substitution is being made.

(4) A person shall not keep or display any canned meats or canned meat products at a temperature exceeding 6° centigrade (41° Fahrenheit) if the label of such meats or meat products specifies that they shall be kept under refrigeration.

(5) Whenever it becomes necessary for the purposes of this act to procure a sample or samples of meat or meat products, the person in charge of the place where evaluation is made must permit the sample or samples to be obtained upon being tendered the advertised or offered price of the item being procured.

### **289.8107 Definitions; prepackaged perishable food; date.**

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

(a) “Date” means the recommended last day of sale.

(b) “Perishable food” means any food in package form which the manufacturer, packer, or retailer, in conjunction with the department, determines as having a significant risk of spoilage, loss of value, or loss of palatability within 90 days of the date of packaging.

(c) “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 there is clearly and conspicuously stamped upon or attached to the package 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.

(3) The date may be displayed with or without explanatory terms. If explanatory terms are used, such 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) Except for meat that has been removed from federally inspected retail packages, this section does not prohibit the sale of food after the date if the product is wholesome and sound and is clearly identified as having passed the date.

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

(6) A person 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) 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 placed on, or attached to, each package of such food.

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

(9) 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, canned food, 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.

**Effective date of MCL 289.4111, 289.4113, 289.4116, 289.4117, 289.4125, 289.5101, 289.5105, 289.5107, 289.6101, 289.6115, 289.6129, 289.6137, 289.6147, 289.6149, 289.7105, 289.7113, 289.7115, 289.7119, 289.7125, 289.7137, 289.8105, and 289.8107 and MCL 289.6140, 289.6150, and 289.7106.**

Enacting section 1. (1) Section 4111 of the food law of 2000, 2000 PA 92, MCL 289.4111, as amended by this amendatory act, takes effect January 1, 2008.

(2) Sections 4113, 4116, 4117, 4125, 5101, 5105, 5107, 6101, 6115, 6129, 6137, 6147, 6149, 7105, 7113, 7115, 7119, 7125, 7137, 8105, and 8107 of the food law of 2000, 2000 PA 92, MCL 289.4113, 289.4116, 289.4117, 289.4125, 289.5101, 289.5105, 289.5107, 289.6101, 289.6115, 289.6129, 289.6137, 289.6147, 289.6149, 289.7105, 289.7113, 289.7115, 289.7119, 289.7125, 289.7137, 289.8105, and 289.8107, as amended by this amendatory act, and sections 6140, 6150, and 7106 of the food law of 2000, 2000 PA 92, as added by this amendatory act, take effect April 1, 2008.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4956 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 16, 2007.

Filed with Secretary of State October 16, 2007.

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**Compiler's note:** House Bill No. 4956, referred to in enacting section 2, was filed with the Secretary of State October 16, 2007, and became 2007 PA 113, Imd. Eff. Oct. 16, 2007.

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**[No. 115]****(SB 276)**

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 9f (MCL 211.9f), as amended by 2004 PA 79.

*The People of the State of Michigan enact:*

**211.9f Personal property of business; tax exemption; hearing; duration of exemption; approval or disapproval of resolution by state tax commission; continuation of exemption; definitions.**

Sec. 9f. (1) The governing body of an eligible local assessing district may adopt a resolution to exempt from the collection of taxes under this act all new personal property owned or leased by an eligible business located in 1 or more eligible districts designated in the resolution. The clerk of the eligible local assessing district shall notify in writing the assessor of the local tax collecting unit in which the eligible district is located and the legislative body of each taxing unit that levies ad valorem property taxes in the eligible local assessing district in which the eligible district is located. Before acting on the resolution, the governing body of the eligible local assessing district shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

(2) The exemption under this section is effective on the December 31 immediately succeeding the adoption of the resolution by the governing body of the eligible local assessing district and shall continue in effect for a period specified in the resolution. A copy of the resolution shall be filed with the state tax commission. A resolution is not effective unless approved by the state tax commission as provided in subsection (3).

(3) Not more than 60 days after receipt of a copy of the resolution adopted under subsection (1), the state tax commission shall approve or disapprove the resolution. The state treasurer, with the written concurrence of the president of the Michigan strategic fund, shall advise the state tax commission as to whether exempting new personal property of the eligible business is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state.

(4) Subject to subsection (5), if an existing eligible business sells or leases new personal property exempt under this section to an acquiring eligible business, the exemption granted to the existing eligible business shall continue in effect for the period specified in the resolution adopted under subsection (1) for the new personal property purchased or leased from the existing eligible business by the acquiring eligible business and for any new personal property purchased or leased by the acquiring eligible business.

(5) After December 31, 2007, an exemption for an existing eligible business shall continue in effect for an acquiring eligible business under subsection (4) only if the continuation of the exemption is approved in a resolution adopted by the governing body of an eligible local assessing district.

(6) Notwithstanding the amendatory act that added section 2(1)(c), all of the following shall apply to an exemption under this section that was approved by the state tax commission on or before April 30, 1999, regardless of the effective date of the exemption:

(a) The exemption shall be continued for the term authorized by the resolution adopted by the governing body of the eligible local assessing district and approved by the state tax commission with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(b) The exemption shall not be impaired or restricted with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(7) As used in this section:

(a) “Eligible business” means, effective August 7, 1998, a business engaged primarily in manufacturing, mining, research and development, wholesale trade, or office operations. Eligible business does not include a casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales. As used in this subdivision, “casino” means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(b) “Eligible district” means 1 or more of the following:

(i) An industrial development district as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.

(ii) A renaissance zone as that term is defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(iii) An enterprise zone as that term is defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(iv) A brownfield redevelopment zone as that term is designated under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(v) An empowerment zone designated under subchapter U of chapter 1 of the internal revenue code of 1986, 26 USC 1391 to 1397F.

(vi) An authority district or a development area as those terms are defined in the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(vii) An authority district as that term is defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(viii) A downtown district or a development area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

(c) “Eligible distressed area” means 1 of the following:

(i) That term as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(ii) An area that contains an eligible business as described in section 8(5)(b)(ii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(d) “Eligible local assessing district” means a city, village, or township that contains an eligible distressed area.

(e) “New personal property” means personal property that was not previously subject to tax under this act and that is placed in an eligible district after a resolution under subsection (1) is approved by the eligible local assessing district. As used in this subdivision, for exemptions approved by the state tax commission under subsection (3) after April 30, 1999, new personal property does not include buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5251 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 30, 2007.

Filed with Secretary of State October 30, 2007.

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**Compiler's note:** House Bill No. 5251, referred to in enacting section 1, was filed with the Secretary of State October 30, 2007, and became 2007 PA 116, Imd. Eff. Oct. 30, 2007.

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## **[No. 116]**

### **(HB 5251)**

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to

provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending section 9f (MCL 211.9f), as amended by 2004 PA 79.

*The People of the State of Michigan enact:*

**211.9f Personal property of business; tax exemption; hearing; duration of exemption; approval or disapproval of resolution by state tax commission; continuation of exemption; definitions.**

Sec. 9f. (1) The governing body of an eligible local assessing district may adopt a resolution to exempt from the collection of taxes under this act all new personal property owned or leased by an eligible business located in 1 or more eligible districts designated in the resolution. The clerk of the eligible local assessing district shall notify in writing the assessor of the local tax collecting unit in which the eligible district is located and the legislative body of each taxing unit that levies ad valorem property taxes in the eligible local assessing district in which the eligible district is located. Before acting on the resolution, the governing body of the eligible local assessing district shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

(2) The exemption under this section is effective on the December 31 immediately succeeding the adoption of the resolution by the governing body of the eligible local assessing district and shall continue in effect for a period specified in the resolution. A copy of the resolution shall be filed with the state tax commission. A resolution is not effective unless approved by the state tax commission as provided in subsection (3).

(3) Not more than 60 days after receipt of a copy of the resolution adopted under subsection (1), the state tax commission shall approve or disapprove the resolution. The state treasurer, with the written concurrence of the president of the Michigan strategic fund, shall advise the state tax commission as to whether exempting new personal property of the eligible business is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state.

(4) Subject to subsection (5), if an existing eligible business sells or leases new personal property exempt under this section to an acquiring eligible business, the exemption granted to the existing eligible business shall continue in effect for the period specified in the resolution adopted under subsection (1) for the new personal property purchased or leased from the existing eligible business by the acquiring eligible business and for any new personal property purchased or leased by the acquiring eligible business.

(5) After December 31, 2007, an exemption for an existing eligible business shall continue in effect for an acquiring eligible business under subsection (4) only if the continuation of the exemption is approved in a resolution adopted by the governing body of an eligible local assessing district.

(6) Notwithstanding the amendatory act that added section 2(1)(c), all of the following shall apply to an exemption under this section that was approved by the state tax commission on or before April 30, 1999, regardless of the effective date of the exemption:

(a) The exemption shall be continued for the term authorized by the resolution adopted by the governing body of the eligible local assessing district and approved by the state tax commission with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(b) The exemption shall not be impaired or restricted with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(7) As used in this section:

(a) “Acquiring eligible business” means an eligible business that purchases or leases assets of an existing eligible business, including the purchase or lease of new personal property exempt under this section, and that will conduct business operations similar to those of the existing eligible business at the location of the existing eligible business within the eligible district.

(b) “Eligible business” means, effective August 7, 1998, a business engaged primarily in manufacturing, mining, research and development, wholesale trade, or office operations. Eligible business does not include a casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales. As used in this subdivision, “casino” means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(c) “Eligible district” means 1 or more of the following:

(i) An industrial development district as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.

(ii) A renaissance zone as that term is defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(iii) An enterprise zone as that term is defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(iv) A brownfield redevelopment zone as that term is designated under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(v) An empowerment zone designated under subchapter U of chapter 1 of the internal revenue code of 1986, 26 USC 1391 to 1397F.

(vi) An authority district or a development area as those terms are defined in the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(vii) An authority district as that term is defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(viii) A downtown district or a development area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

(d) “Eligible distressed area” means 1 of the following:

(i) That term as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(ii) An area that contains an eligible business as described in section 8(5)(b)(ii) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(e) “Eligible local assessing district” means a city, village, or township that contains an eligible distressed area.

(f) “Existing eligible business” means an eligible business identified in a resolution adopted under subsection (1) for which an exemption has been granted under this section.

(g) “New personal property” means personal property that was not previously subject to tax under this act and that is placed in an eligible district after a resolution under subsection (1) is approved by the eligible local assessing district. As used in this subdivision, for exemptions approved by the state tax commission under subsection (3) after April 30, 1999, new personal property does not include buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 276 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.  
Approved October 30, 2007.  
Filed with Secretary of State October 30, 2007.

**Compiler's note:** Senate Bill No. 276, referred to in enacting section 1, was filed with the Secretary of State October 30, 2007, and became 2007 PA 115, Imd. Eff. Oct. 30, 2007.

**[No. 117]**

**(SB 231)**

AN ACT to make appropriations for the department of history, arts, and libraries for the fiscal year ending September 30, 2008; to provide for the expenditure of those appropriations; to provide for the disposition of fees and other income received by the state agencies; to create funds; to provide for the disbursement of certain grants; to provide for reports; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

*The People of the State of Michigan enact:*

PART 1

LINE-ITEM APPROPRIATIONS

**Appropriations; department of history, arts, and libraries.**

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of history, arts, and libraries for the fiscal year ending September 30, 2008, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES**

APPROPRIATION SUMMARY:

Full-time equated unclassified positions .....	6.0	
Full-time equated classified positions .....	230.0	
GROSS APPROPRIATION .....		\$ 49,502,900
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers.....		139,200
ADJUSTED GROSS APPROPRIATION .....		\$ 49,363,700
Federal revenues:		
Total federal revenues .....		7,307,400
Special revenue funds:		
Total private revenues.....		112,400
Total other state restricted revenues .....		2,645,600
State general fund/general purpose .....		\$ 39,298,300

**Department operations.**

**Sec. 102. DEPARTMENT OPERATIONS**

Full-time equated unclassified positions .....	6.0
Full-time equated classified positions.....	32.0



	For Fiscal Year Ending Sept. 30, 2008
Unclassified salaries .....	\$ 228,600
Management services—31.0 FTE positions .....	2,786,400
Building occupancy charges and rent .....	3,277,800
Worker's compensation .....	9,000
Film office—1.0 FTE positions .....	180,300
Human resources optimization user charges .....	16,500
GROSS APPROPRIATION .....	\$ 6,498,600
Appropriated from:	
State general fund/general purpose .....	\$ 6,498,600

**Information technology.**

**Sec. 103. INFORMATION TECHNOLOGY**

Information technology services and projects.....	\$ 1,099,200
GROSS APPROPRIATION .....	\$ 1,099,200
Appropriated from:	
Mackinac Island state park fund.....	47,000
State general fund/general purpose .....	\$ 1,052,200

**Council for arts and cultural affairs.**

**Sec. 104. COUNCIL FOR ARTS AND CULTURAL**

**AFFAIRS**

Full-time equated classified positions .....	5.0
Administration—5.0 FTE positions .....	\$ 434,400
Arts and cultural grants .....	7,754,000
GROSS APPROPRIATION .....	\$ 8,188,400
Appropriated from:	
NFAH-NEA, promotion of the arts, partnership agreements.....	700,000
State general fund/general purpose .....	\$ 7,488,400

**Mackinac island state park commission.**

**Sec. 105. MACKINAC ISLAND STATE PARK**

**COMMISSION**

Full-time equated classified positions .....	39.0
Mackinac Island park operation—24.3 FTE positions .....	\$ 1,544,100
Historical facilities system—14.7 FTE positions .....	1,948,500
GROSS APPROPRIATION .....	\$ 3,492,600
Appropriated from:	
Federal funds.....	200,000
Mackinac Island state park operation fund.....	160,200
Mackinac Island state park fund.....	1,566,000
State general fund/general purpose .....	\$ 1,566,400

**Michigan historical program.**

**Sec. 106. MICHIGAN HISTORICAL PROGRAM**

Full-time equated classified positions .....	83.0
Historical administration and services—71.0 FTE positions .....	\$ 5,812,800
Federal programs—12.0 FTE positions .....	850,000
Heritage publications .....	700,000
Private grants and gifts .....	112,400

	For Fiscal Year Ending Sept. 30, 2008
Thunder Bay national marine sanctuary and underwater preserve... \$	202,000
Michigan history day.....	25,000
GROSS APPROPRIATION .....	\$ 7,702,200
Appropriated from:	
Interdepartmental grant revenues:	
IDG-MDOT, comprehensive transportation fund .....	3,800
IDG-MDOT, state aeronautics fund .....	2,300
IDG-MDOT, state trunkline fund .....	133,100
Federal revenues:	
DOI-NPS, historic preservation grants-in-aid .....	850,000
Special revenue funds:	
Private - grants and gifts.....	10,000
Private - Mann house trust fund.....	102,400
Game and fish protection fund .....	3,700
Heritage publication fund .....	700,000
Marine safety fund .....	400
Special revenue, internal service and pension trust .....	49,200
State lottery fund .....	19,100
State services fee fund .....	12,300
Waterways fund .....	800
State general fund/general purpose .....	\$ 5,815,100

**Library of Michigan.**

**Sec. 107. LIBRARY OF MICHIGAN**

Full-time equated classified positions.....71.0	
Book distribution centers.....	\$ 350,000
Collected gifts and fees.....	86,900
Library of Michigan operations—71.0 FTE positions.....	6,022,600
Library services and technology act.....	5,557,400
State aid to libraries .....	10,000,000
Subregional state aid .....	505,000
GROSS APPROPRIATION .....	\$ 22,521,900
Appropriated from:	
Library services and technology act.....	5,557,400
User fees .....	86,900
State general fund/general purpose .....	\$ 16,877,600

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

**Total state spending; payments to local units of government.**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2007-2008 is \$41,943,900.00 and state

spending from state resources to be paid to local units of government for fiscal year 2007-2008 is \$11,536,300.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES

Arts and cultural grants.....	\$	1,031,300
State aid to libraries .....		10,000,000
Subregional state aid .....		505,000
Total department of history, arts, and libraries.....	\$	<u>11,536,300</u>

**Appropriations subject to MCL 18.1101 to 18.1594.**

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

**Definitions.**

Sec. 203. As used in this appropriation act:

- (a) “Department” means the department of history, arts, and libraries.
- (b) “Director” means the director of the department of history, arts, and libraries.
- (c) “DOI-NPS” means the United States department of interior, national park service.
- (d) “Fiscal agencies” means the house fiscal agency and the senate fiscal agency.
- (e) “FTE” means full-time equated.
- (f) “IDG” means interdepartmental grant.
- (g) “MCACA” means the Michigan council for arts and cultural affairs.
- (h) “MDOT” means the Michigan department of transportation.
- (i) “NEA” means the national endowment for the arts.
- (j) “NFAH” means the national foundation of the arts and the humanities.
- (k) “Subcommittees” means all members of the appropriate subcommittees of the senate and house of representatives appropriations committees.

**Billing by department of civil service.**

Sec. 204. The department of civil service shall bill the departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

**Hiring freeze; exceptions.**

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director may grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

**Privatization; project plan.**

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the subcommittees and the fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the fiscal agencies and to the subcommittees within 30 months.

**Reporting requirements; use of Internet.**

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This requirement may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

**Purchase of foreign goods or services.**

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses, if they are competitively priced and of comparable quality. In addition, preference should be given to goods or services, or both, that are manufactured or provided by Michigan businesses owned and operated by veterans, if they are competitively priced and of comparable quality.

**Policy changes; report; adoption of rule having disproportionate economic impact on small businesses; definitions.**

Sec. 210. (1) The department shall report to the senate and house appropriation subcommittees on the budget for the department, the joint committee on administrative rules, and the senate and house fiscal agencies no later than April 1, 2008 on each specific policy change made to implement a public act affecting the department that took effect during the prior calendar year.

(2) Funds appropriated in part 1 shall not be used by the department to adopt a rule that will apply to a small business and that will have a disproportionate economic impact on small businesses because of the size of those businesses if the department fails to reduce the disproportionate economic impact of the rule on small businesses as provided under section 40 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.240.

(3) As used in this section:

(a) "Rule" means that term as defined under section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

(b) "Small business" means that term as defined under section 7a of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207a.

**Affirmative action programs.**

Sec. 211. The department shall establish and maintain affirmative action programs based on guidelines developed by the state equal opportunity workforce planning council which was created by Executive Order No. 1996-13 in order to receive general fund/general purpose dollars in compliance with section 26 of article I of the state constitution of 1963.

**Technology-related services and projects; payment of user fees.**

Sec. 213. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. The user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

**Information technology; designation of amounts as work projects; carrying forward amounts.**

Sec. 214. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

**Agreements to provide services.**

Sec. 215. (1) The department may provide and enter into agreements to provide general services, training, meetings, information, special equipment, software, and facility use, and technical consulting services to other principal executive departments, state agencies, local units of government, the judicial branch of government, other organizations, and patrons of department facilities. Fees for services shall be reasonably related to the cost of providing the services and shall be used to offset the costs of the services. The department may receive and expend funds in addition to those authorized in part 1 for the following:

(a) Supplying census-related information and technical services, publications, statistical studies, population projections and estimates, and other demographic products.

(b) Microfilming and other document and data imaging services, media, storage, and copies.

(c) Patron copier and document reproduction services and copies.

(d) Conferences, training classes, exhibits, programs, and workshops conducted as part of the department's mission.

(e) Use of specialized equipment, facilities, and software that permit distance learning and meetings, and group decision making.

(f) Special services including the rental of department exhibits and collections.

(g) Application fees.

(h) Grants, gifts, and bequests, including those for capital projects.

(2) The funds received under this section shall be deposited in and expended from the history, arts, and libraries fund established in section 216 of this act.

**History, arts, and libraries fund; creation; use; carrying forward fund balance; report.**

Sec. 216. (1) A fund known as the history, arts, and libraries fund is created in the department. The fund shall be used to receive and expend funds in addition to those authorized in part 1. All funds are allocated for expenditure upon receipt. The fund balance may be carried forward for expenditure in subsequent fiscal years.

(2) The department shall provide a report to the senate and house of representatives appropriations subcommittees on history, arts, and libraries of all revenues to and expenditures from the history, arts, and libraries fund. The report shall include an estimated fund balance for the fiscal year ending September 30, 2008. The report is due November 1, 2008.

**Out-of-state travel.**

Sec. 217. (1) Due to the current budgetary problems in this state, out-of-state travel shall be limited to situations in which 1 or more of the following conditions apply:

(a) The travel is required by legal mandate or court order or for law enforcement purposes.

(b) The travel is necessary to protect the health or safety of Michigan citizens or visitors or to assist other states in similar circumstances.

(c) The travel is necessary to produce budgetary savings or to increase state revenues, including protecting existing federal funds or securing additional federal funds.

(d) The travel is necessary to comply with federal requirements.

(e) The travel is necessary to secure specialized training for staff that is not available within this state.

(f) The travel is financed entirely by federal or nonstate funds.

(2) If out-of-state travel is necessary but does not meet 1 or more of the conditions in subsection (1), the state budget director may grant an exception to allow the travel. Any exceptions granted by the state budget director shall be reported on a monthly basis to the senate and house of representatives appropriations committees.

(3) Not later than January 1 of each year, each department shall prepare a travel report listing all travel by classified and unclassified employees outside this state in the immediately preceding fiscal year that was funded in whole or in part with funds appropriated in the department's budget. The report shall be submitted to the chairs and members of the senate and house of representatives appropriations committees, the fiscal agencies, and the state budget director. The report shall include the following information:

(a) The name of each person receiving reimbursement for travel outside this state or whose travel costs were paid by this state.

(b) The destination of each travel occurrence.

(c) The dates of each travel occurrence.

(d) A brief statement of the reason for each travel occurrence.

(e) The transportation and related costs of each travel occurrence, including the proportion funded with state general fund/general purpose revenues, the proportion funded with state restricted revenues, the proportion funded with federal revenues, and the proportion funded with other revenues.

(f) A total of all out-of-state travel funded for the immediately preceding fiscal year.

#### **Supplemental fund sourcing options.**

Sec. 218. It is the intent of the legislature to explore supplemental fund sourcing options for the department of history, arts, and libraries.

#### **Employee communicating with legislative member or staff; disciplinary action prohibited.**

Sec. 219. The department shall not take disciplinary action against an employee for communicating with a member of the legislature or his or her staff.

#### **Michigan film advisory commission; publication of proposed minutes on Internet.**

Sec. 220. The department shall publish the proposed minutes of the Michigan film advisory commission on the Internet within 8 business days after the meeting to which the minutes refer. Approved minutes of the Michigan film advisory commission shall be posted on the Internet within 8 business days after their approval.

#### **Businesses in deprived and depressed communities; contracts to provide services or supplies.**

Sec. 222. The director shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. The director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

**Legal services.**

Sec. 223. Funds appropriated in part 1 shall not be used by a principal executive department, state agency, or authority to hire a person to provide legal services that are the responsibility of the attorney general. This prohibition does not apply to legal services for bonding activities or for those activities that the attorney general authorizes.

**Michigan after-school partnership.**

Sec. 224. (1) The department of history, arts, and libraries shall collaborate with the state board of education, the department of human services, the department of community health, and the department of labor and economic growth to extend the duration of the Michigan after-school partnership, and oversee its efforts to implement the policy recommendations and strategic next steps identified in the Michigan after-school initiative's report of December 15, 2003.

(2) From the funds appropriated in part 1, \$25,000.00 may be used to support the Michigan after-school partnership. Funds shall be used to leverage other private and public funding to engage the public and private sectors in building and sustaining high-quality out-of-school-time programs and resources. The co-chairs, representing the department, the state board of education, the department of human services, the department of labor and economic growth, and the department of community health shall name a fiduciary agent and may authorize the fiduciary to expend funds and hire people to accomplish the work of the Michigan after-school partnership.

(3) Participation in the Michigan after-school partnership shall be expanded beyond the membership of the initial Michigan after-school initiative to increase the representation of parents, youth, foundations, employers, and others with experience in education, child care, after-school and youth development services, and crime and violence prevention, and to include representation from the Michigan department of history, arts, and libraries. Each year, on or before December 31, the Michigan after-school partnership shall report its progress in reaching the recommendations set forth in the Michigan after-school initiative's report to the legislature and governor.

**Contingency funds.**

Sec. 226. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$2,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$1,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$750,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

**Continuous improvement efficiency mechanisms.**

Sec. 227. From the funds appropriated in part 1, the department shall implement continuous improvement efficiency mechanisms in the programs administered by the department.

The continuous improvement efficiency mechanisms shall identify changes made in programs to increase efficiency and reduce expenditures in the programs. On March 31, 2008 and September 30, 2008, the department shall submit a report to the state budget director, the senate and house appropriation subcommittees, and the senate and house fiscal agencies on the progress made toward increased efficiencies in department programs. At a minimum, each report shall include information on the program review process, the type of improvement mechanisms implemented, and actual and projected expenditure savings as a result of the increased program efficiencies.

### **MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS**

#### **MCACA; administration of arts and cultural grants; duties; payments; distribution of funds; transition of nonprofit arts and cultural organizations to professionally directed operations; disqualification of grant recipient.**

Sec. 401. (1) The MCACA in the department shall administer the arts and cultural grants appropriated in part 1.

(2) The MCACA shall render fair and independent decisions concerning arts and cultural grant requests and shall do all of the following:

(a) Use published criteria to evaluate program quality, including all of the following:

(i) The department's intended goals and outcomes for each program.

(ii) The department's quantifiable measures of success in meeting the intended goals and outcomes.

(b) Seek to award grants on an equitable geographic basis to the extent possible given the quality of grant applications received.

(c) Give priority to projects that serve multiple counties, leverage significant additional public and private investment, or demonstrate a significant potential to increase tourism or attract or retain businesses or residents.

(3) No payment shall be made under part 1 except upon application submitted in accordance with MCACA published regulations and procedures, which shall ensure both of the following:

(a) Artistic excellence and artistic merit are the criteria by which applications will be judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the people of this state.

(b) Criteria clearly indicate that obscenity is without artistic merit, is not protected speech, and will not be funded by a grant from appropriations under part 1.

(4) The MCACA shall provide for fair, equitable, and efficient distribution of funds granted through the regional regranting program. The MCACA shall provide for an annual assessment of grant management and distribution of mini-grant awards by designated regional regranting agencies and review the methodology employed.

(5) The MCACA shall continue and expand its efforts to encourage and support nonprofit arts and cultural organizations to transition from solely volunteer-based organizations to professionally directed operations. Criteria for support include the requirement of collaboration between these organizations and other community organizations.



(6) The department shall withhold undistributed grant payments from a grant recipient who violates the requirements for funding in subsection (3) and may disqualify the grant recipient from award of future grants for a period of not more than 3 years.

### **Grant awards; categories.**

Sec. 402. The MCACA may award grants to counties, cities, villages, townships, community foundations and organizations in the following categories:

(a) Anchor organization program for organizations that serve regional and statewide audiences. Anchor organizations shall demonstrate a commitment to education, to mentoring smaller organizations, and to reaching underserved audiences.

(b) Arts projects program.

(c) Arts and learning program.

(d) Artists in residence for education program.

(e) Arts organization development program.

(f) Capital improvement program.

(g) Local arts agencies services program.

(h) Regional regranting program.

(i) Partnership program.

(j) Rural arts and cultural program.

(k) Cultural projects program.

(l) Historical society projects program.

(m) Discretionary grants program.

(n) Cultural and ethnic heritage centers and museums.

### **Funding limitation; execution of grant agreement.**

Sec. 403. (1) From the state funds appropriated in part 1 for arts and cultural grants, no 1 organization may receive more than 15% of this funding.

(2) The MCACA shall make every effort to provide total grant awards in the anchor organization program at a level not to exceed 70% of the total amount appropriated for arts and cultural grants.

(3) As documented in the audit report that is submitted as part of the grant application process, the total of all grants awarded to any organization receiving grants within the anchor organization program may not exceed 15% of their “total unrestricted revenues, gains, and other support”, as defined by the financial accounting standards board in the accounting standards for not-for-profit organizations or equivalent accounting standards for other types of eligible organizations.

(4) Before any amount appropriated for arts and cultural grants in part 1 may be expended for a grant to an eligible recipient, the department shall execute a grant agreement with the recipient. The grant agreement shall identify the projects funded, specify the category in section 402 under which the grant is awarded, and include the prohibitions and sanctions identified in section 401(3) and (6).

### **Grant applicants; requirements.**

Sec. 404. Grant applicants must meet and adhere to the following requirements:

(a) Each applicant shall pay a nonrefundable application fee of \$300.00 or 3% of the desired grant amount, whichever is less. Application fees shall be deposited in the history, arts, and libraries fund established in section 216. The department may use the application fee to offset its direct and indirect costs.

(b) An applicant for a grant under the anchor organization program shall submit with the application the applicant's most recent annual audit report which states their "total unrestricted revenues, gains, and other support", as defined by the financial accounting standards board in the accounting standards for not-for-profit organizations or equivalent accounting standards for other types of eligible organizations. The audit report must cover an audit period that ends within 18 months of the date of the application.

(c) Each applicant shall identify proposed matching funds from local and/or private sources on a minimum of a dollar-for-dollar basis. The match may include the reasonable value of services, materials, and equipment as allowed under the federal internal revenue code for charitable contributions.

### **Reports to be provided by grant recipient.**

Sec. 405. Each grant recipient shall provide the MCACA with the following:

(a) Proof of the entire amount of the matching funds, services, materials, or equipment by the end of the award period.

(b) Within 30 days following the end of the grant period, a final report that includes the following:

(i) Project revenues and expenditures including grant matching fund amounts.

(ii) Number of patrons attracted or benefiting during the grant period.

(iii) A narrative summary of each project and its outcome.

(c) By April 7 of the grant year, each recipient of a grant greater than \$100,000.00 shall submit an interim report that includes the items identified in subdivision (b).

### **Reports.**

Sec. 406. (1) The department shall make the following reports:

(a) A report identifying the website location that contains a list of all grant recipients, sorted by county. This report shall be provided to each legislator within 1 business day of the announcement of annual awards by the MCACA.

(b) A report to the senate and house of representatives appropriations subcommittees, the state budget office, and the fiscal agencies, within 30 days after the MCACA announces the annual grant awards, that includes all of the following:

(i) A listing of each applicant.

(ii) The county of residence of the applicant.

(iii) The amount requested.

(iv) The amount awarded.

(v) The grant category under which an applicant applied.

(vi) A summary of projects funded for each recipient.

(vii) The expected number of patrons for an applicant during the grant period.

(viii) The amount of matching funds proposed by each applicant.

(ix) A listing containing the applicant, county of residence of the applicant, and amount awarded for any regranted funds in the preceding fiscal year.

(c) An annual report to the appropriations subcommittees, the state budget office, and the fiscal agencies is due when materials are first distributed by the MCACA seeking grant applications for the subsequent fiscal year. The report shall contain the following:

(i) The MCACA guidelines for awarding grants.

(ii) A summary of any changes in the program guidelines from the previous fiscal year.

(2) The council shall report to the chairpersons of the senate and house of representatives appropriations subcommittees on history, arts, and libraries by August 1 all unexpended or unencumbered discretionary grant funding that is available. The council shall not redistribute any unexpended or unencumbered grant funds during the fiscal year without a 10-day notice to the chairpersons of the senate and house of representatives appropriations subcommittees on history, arts, and libraries.

## **MICHIGAN HISTORICAL PROGRAM**

### **Funds for historic site preservation grants as work project; lapse; purpose; grant agreement; cost; completion date.**

Sec. 501. The federal funds appropriated in part 1 for the historic site preservation grants are for work projects and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure until the projects for which the funds were reserved have been completed or are terminated. The purpose of these work projects is the identification, designation, and preservation of historic resources. The method used will be to solicit applications, score applications based upon established criteria, and award subgrants. The department shall execute a grant agreement with each recipient. The total cost is \$85,000.00, and the tentative completion date is September 30, 2008.

### **Funds collected under MCL 399.6, 399.7, and 399.7a.**

Sec. 502. Funds collected by the department under sections 6, 7, and 7a of 1913 PA 271, MCL 399.6, 399.7, and 399.7a, are appropriated to the department for the purposes for which they were received, are allocated for expenditure upon receipt and may be carried forward for expenditure in subsequent fiscal years.

### **Museum store; administration.**

Sec. 503. For the purposes of administering the museum store as provided in section 7a of 1913 PA 271, MCL 399.7a, the department is exempt from section 261 of the management and budget act, 1984 PA 431, MCL 18.1261.

### **Michigan freedom trail commission.**

Sec. 505. From the funds appropriated in part 1 for historical administration and services, \$25,000.00 shall be allocated to support the operations of the Michigan freedom trail commission as specified in section 4 of the Michigan freedom trail commission act, 1998 PA 409, MCL 399.84. These funds shall be used to reimburse commission members, to pay for necessary contractual services of the commission, and to hire not more than 1.0 FTE position in the department's Michigan historical center to support commission operations.

### **Auctions, sales, or transfers of artifacts.**

Sec. 506. Proceeds in excess of costs incurred in the conduct of auctions, sales, or transfers of artifacts no longer considered suitable for the collections of the state historical museum are appropriated to the department and may be expended upon receipt for additional material for the collection. The department shall notify the chairpersons, vice chairpersons, and minority vice chairpersons of the senate and house of representatives appropriations subcommittees on history, arts, and libraries 1 week prior to any auctions or sales.

**Michigan history magazine subscriber list; availability to historical society of Michigan.**

Sec. 507. Unless prohibited by law, the department shall make available to the historical society of Michigan the use of the Michigan history magazine subscriber list, or a portion of the Michigan history magazine subscriber list, at a cost not to exceed the actual expense incurred for providing a single mailing.

**LIBRARY OF MICHIGAN****Receipt of state aid by subregional library.**

Sec. 601. In order to receive subregional state aid as appropriated in part 1 to the library of Michigan, a subregional library's fiscal agency must agree to maintain local funding support at the same level in the current fiscal year as in the fiscal agency's preceding fiscal year. If a reduction in expenditures equally affects all agencies in a local unit of government that is the subregional library's fiscal agency, that reduction shall not be interpreted as a reduction in local support and shall not disqualify a subregional library from receiving state aid under part 1. If a reduction in income affects a library cooperative or district library that is a subregional library's fiscal agency or a reduction in expenditures for the subregional library's fiscal agency, a reduction in expenditures for the subregional library shall not be interpreted as a reduction in local support and shall not disqualify a subregional library from receiving state aid under part 1.

**Library services serving blind and persons with disabilities; release of funds.**

Sec. 602. The funds appropriated in part 1 for a subregional library shall not be released until a budget for that subregional library has been approved by the department for expenditures for library services directly serving the blind and persons with disabilities.

**Public enrichment foundation and Michigan friends of education; distribution of funds.**

Sec. 607. The funds appropriated in part 1 for book distribution centers shall be distributed equally to the public enrichment foundation and the Michigan friends of education.

**MACKINAC ISLAND STATE PARK COMMISSION****Mackinac Island state park commission, historic projects division, revenue bond fund for infrastructure improvements; appropriation.**

Sec. 701. There is appropriated \$200,000.00 from the Mackinac Island State Park operations fees fund to the Mackinac Island state park commission, historic projects division, revenue bond fund for infrastructure improvements.

This act is ordered to take immediate effect.

Approved October 31, 2007.

Filed with Secretary of State October 31, 2007.

**[No. 118]**

**(SB 234)**

AN ACT to make appropriations for the department of labor and economic growth and certain other state purposes for the fiscal year ending September 30, 2008; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

*The People of the State of Michigan enact:*

PART 1

LINE-ITEM APPROPRIATIONS

**Appropriations; department of labor and economic growth.**

Sec. 101. The amounts listed in this part are appropriated for the department of labor and economic growth, subject to the conditions set forth in this act, for the fiscal year ending September 30, 2008, from the funds identified in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF LABOR AND ECONOMIC GROWTH**

APPROPRIATION SUMMARY:

Full-time equated unclassified positions .....	58.5	
Full-time equated classified positions .....	4,282.5	
<b>GROSS APPROPRIATION .....</b>		<b>\$ 1,301,230,700</b>
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers.....		34,472,800
<b>ADJUSTED GROSS APPROPRIATION .....</b>		<b>\$ 1,266,757,900</b>
Federal revenues:		
Total federal revenues .....		820,712,500
Special revenue funds:		
Total local revenues.....		15,884,700
Total private revenues.....		5,314,300
Total other state restricted revenues .....		378,843,700
State general fund/general purpose .....		\$ 46,002,700

**Departmental administration.**

**Sec. 102. DEPARTMENTAL ADMINISTRATION**

Full-time equated unclassified positions .....	58.5	
Full-time equated classified positions .....	179.0	
Unclassified salaries .....		\$ 5,349,400
Executive director programs—53.0 FTE positions.....		6,622,100
Regulatory efficiency improvements/backlog reduction initiative ...		475,600
Property management .....		10,519,200
Rent.....		17,015,600
Worker’s compensation .....		1,381,000
Special project advances .....		940,000
HR optimization charges.....		259,700
Administrative services—126.0 FTE positions.....		13,059,500
<b>GROSS APPROPRIATION .....</b>		<b>\$ 55,622,100</b>

For Fiscal Year  
Ending Sept. 30,  
2008

Appropriated from:	
Interdepartmental grant revenues:	
IDG from department of community health.....	\$ 300,000
Federal revenues:	
DOE-OEERE, multiple grants .....	9,300
DED-OSERS, rehabilitation services, vocational rehabilitation of state grants .....	4,902,300
DOL-ETA, unemployment insurance.....	13,570,600
DOL-ETA, workforce investment act.....	882,100
DOL, federal funds.....	2,334,500
DOL, multiple grants for safety and health .....	776,900
Federal revenues .....	578,000
HHS, temporary assistance for needy families.....	347,000
HHS, titles XVIII and XIX .....	34,100
Special revenue funds:	
Private - special project advances .....	940,000
Local revenues .....	131,300
Bank fees .....	540,800
Boiler fees .....	254,000
Construction code fund.....	1,071,700
Consumer finance fees.....	177,600
Contingent fund, penalty and interest account.....	861,400
Contingent fund, regular penalty and interest .....	4,100
Corporation fees.....	5,132,100
Credit union fees.....	350,800
Elevator fees .....	268,600
Fees and collections/asbestos .....	76,200
Fire service fees .....	792,500
Insurance licensing and regulation fees .....	1,910,800
Insurance regulatory fees .....	1,098,400
Land sales fees.....	15,000
Licensing and regulation fees.....	822,600
Liquor license revenue .....	100,000
Liquor purchase revolving fund.....	5,536,700
Manufactured housing commission fees.....	263,600
Michigan state housing development authority fees and charges....	4,021,500
Motor carrier fees.....	185,200
Public utility assessments .....	2,171,300
Private occupational school license fees .....	14,000
Rehabilitation services fees .....	90,300
Safety education and training fund .....	572,100
Second injury fund .....	257,000
Securities fees .....	2,409,700
Self-insurers security fund.....	87,300
Silicosis and dust disease fund .....	111,300
Tax tribunal fees.....	189,300
State general fund/general purpose .....	\$ 1,430,100

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**Office of financial and insurance services.**

**Sec. 103. OFFICE OF FINANCIAL AND INSURANCE**

**SERVICES**

Full-time equated classified positions .....	288.0		
Administration—21.0 FTE positions .....		\$	4,162,400
Policy conduct and consumer assistance—86.0 FTE positions .....			14,177,900
Financial evaluation—181.0 FTE positions .....			27,073,000
GROSS APPROPRIATION .....		\$	45,413,300
Appropriated from:			
Federal revenues:			
Federal regulatory project revenue .....			50,400
Special revenue funds:			
Bank fees .....			7,469,200
Consumer finance fees .....			4,891,500
Credit union fees .....			5,404,000
Deferred presentment service transaction fees .....			1,307,400
Insurance continuing education fees .....			903,400
Insurance licensing and regulation fees .....			3,912,600
Insurance regulatory fees .....			19,231,000
Multiple employer welfare arrangement .....			72,300
Securities fees .....			2,171,500
State general fund/general purpose .....		\$	0

**Public service commission.**

**Sec. 104. PUBLIC SERVICE COMMISSION**

Full-time equated classified positions .....	170.0		
Administration, planning and regulation—159.0 FTE positions .....		\$	21,797,600
Energy office—9.0 FTE positions .....			5,342,100
Children's protection registry administration—2.0 FTE positions ..			271,200
GROSS APPROPRIATION .....		\$	27,410,900
Appropriated from:			
Federal revenues:			
DOE-OEERE, multiple grants .....			4,828,100
DOT-RSPA, gas pipeline safety .....			984,900
Special revenue funds:			
Private - oil overcharge .....			30,000
Children's protection registry fund .....			271,200
Motor carrier fees .....			2,220,100
Public utility assessments .....			18,076,600
Video franchise assessments .....			1,000,000
State general fund/general purpose .....		\$	0

**Liquor control commission.**

**Sec. 105. LIQUOR CONTROL COMMISSION**

Full-time equated classified positions .....	152.0		
Management support services—28.0 FTE positions .....		\$	3,403,100
Liquor licensing and enforcement—124.0 FTE positions .....			12,175,000
GROSS APPROPRIATION .....		\$	15,578,100

For Fiscal Year  
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Appropriated from:

Special revenue funds:

Liquor license revenue .....	\$	6,362,200
Liquor purchase revolving fund.....		9,215,900
State general fund/general purpose .....	\$	0

**Michigan state housing development authority.**

**Sec. 106. MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

Full-time equated classified positions .....	266.0	
Payments on behalf of tenants .....		\$ 140,000,000
Housing and rental assistance program—266.0 FTE positions .....		37,256,600
GROSS APPROPRIATION .....		\$ 177,256,600

Appropriated from:

Federal revenues:

HUD, lower income housing assistance program .....		140,000,000
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Special revenue funds:

Michigan state housing development authority fees and charges .....		37,256,600
State general fund/general purpose .....	\$	0

**Occupational regulation.**

**Sec. 107. OCCUPATIONAL REGULATION**

Full-time equated classified positions .....	421.0	
Boiler inspection program—25.0 FTE positions .....		\$ 2,764,400
Fire marshal program—5.0 FTE positions.....		448,200
Fire fighters training council—8.0 FTE positions.....		1,743,400
Fire safety program funding—44.0 FTE positions .....		4,333,300
Code enforcement—120.0 FTE positions .....		13,036,700
Commercial services—156.0 FTE positions.....		17,651,200
Elevator inspection program—30.0 FTE positions .....		2,938,800
Local manufactured housing communities inspections .....		250,000
Manufactured housing and land resources program— 22.0 FTE positions.....		3,191,800
Property development group—11.0 FTE positions.....		1,569,400
GROSS APPROPRIATION .....		\$ 47,927,200

Appropriated from:

IDG from department of community health, inspection contract.....		68,500
IDG from department of state police, homeland security.....		754,300
FEMA .....		28,000
DOT.....		47,000
HHS, titles XVIII and XIX .....		700,000
Accountancy enforcement fund .....		103,600
Boiler fee revenue .....		3,166,300
Construction code fund.....		12,930,600
Corporation fees.....		5,857,900
Elevator fees .....		3,313,000
Fire alarm fees.....		99,000
Fire service fees .....		1,706,600



	For Fiscal Year Ending Sept. 30, 2008
Homeowner construction lien recovery fund.....	\$ 1,537,900
Licensing and regulation fees.....	10,050,100
Mobile home code fund.....	2,771,800
Michigan boxing fund.....	45,000
Property development fees.....	282,900
Real estate appraiser continuing education fund.....	47,000
Real estate education fund.....	272,100
Remonumentation fees.....	709,500
Security business fund.....	314,600
State general fund/general purpose.....	\$ 3,121,500

**Michigan occupational safety and health administration.**

**Sec. 108. MICHIGAN OCCUPATIONAL SAFETY AND**

**HEALTH ADMINISTRATION**

Full-time equated classified positions.....	229.0	
Occupational safety and health—229.0 FTE positions.....	\$ 26,198,200	
GROSS APPROPRIATION.....	\$ 26,198,200	
Appropriated from:		
Federal revenues:		
DOL, multiple grants for safety and health.....		12,197,000
Special revenue funds:		
Corporation fees.....		2,279,600
Fees and collections/asbestos.....		863,300
Licensing and regulation fees.....		1,174,800
Safety education and training fund.....		7,848,700
Securities fees.....		1,834,800
State general fund/general purpose.....	\$	0

**Bureau of worker’s and unemployment compensation.**

**Sec. 109. BUREAU OF WORKER’S AND UNEMPLOYMENT**

**COMPENSATION**

Full-time equated classified positions.....	1,251.0	
Administration—96.6 FTE positions.....	\$ 9,896,800	
Board of magistrates and appellate commission—		
19.4 FTE positions.....		3,270,900
Wage and hour division—35.0 FTE positions.....		3,090,100
Insurance funds administration—28.0 FTE positions.....		4,590,200
Supplemental benefit fund.....		820,000
Unemployment programs—1,002.7 FTE positions.....		94,340,500
Advocacy assistance program.....		1,500,000
Special audit and collections program—34.0 FTE positions.....		2,879,700
Training program for agency staff—2.1 FTE positions.....		1,807,300
Expanded fraud control program—33.2 FTE positions.....		3,184,900
GROSS APPROPRIATION.....	\$	125,380,400
Appropriated from:		
Federal revenues:		
DOL-ETA, employment and training administration.....		677,400
DOL-ETA, unemployment insurance.....		93,347,500
Federal Reed act funds.....		4,487,500

For Fiscal Year  
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Special revenue funds:

Corporation fees.....	\$	2,346,200
Contingent fund, regular penalty and interest account.....		14,459,400
Licensing and regulation fees.....		789,700
Second injury fund .....		2,471,200
Securities fees .....		2,346,900
Self-insurers security fund.....		1,168,300
Silicosis and dust disease fund .....		950,700
Worker's compensation administrative revolving fund .....		2,335,600
State general fund/general purpose .....	\$	0

**State office of administrative hearings and rules.**

**Sec. 110. STATE OFFICE OF ADMINISTRATIVE**

**HEARINGS AND RULES**

Full-time equated classified positions.....	163.0	
Administrative hearings and rules—163.0 FTE positions .....		\$ 21,788,000
GROSS APPROPRIATION .....		\$ 21,788,000

Appropriated from:

Interdepartmental grant revenues:

IDG from department of community health.....	1,704,200
IDG from department of corrections .....	3,801,800
IDG from department of education .....	1,064,200
IDG from department of environmental quality.....	522,000
IDG from department of human services .....	3,338,000
IDG from department of management and budget.....	42,000

Federal revenues:

DOL-ETA, unemployment insurance.....	6,336,700
DOL, multiple grants for safety and health .....	202,700

Special revenue funds:

Construction code fund.....	292,900
Corporation fees.....	365,700
Insurance regulatory fees .....	347,000
Licensing and regulation fees.....	1,074,000
Liquor purchase revolving fund.....	119,800
Manufactured housing commission fees.....	143,300
Public utility assessments .....	1,272,800
Safety education and training fund .....	195,600
Securities fees .....	888,600
Tax tribunal fees .....	76,700
State general fund/general purpose .....	\$ 0

**Information technology.**

**Sec. 111. INFORMATION TECHNOLOGY**

Information technology services and projects.....	\$	42,799,100
GROSS APPROPRIATION .....	\$	42,799,100

Appropriated from:

Federal revenues:

DOL-ETA, unemployment insurance.....	21,091,700
DOL, multiple grants for safety and health .....	273,700