

# HOUSE BILL No. 5155

October 14, 2003, Introduced by Rep. Whitmer and referred to the Committee on Agriculture and Resource Management.

A bill to amend 2000 PA 92, entitled  
"Food law of 2000,"  
by amending section 1109 (MCL 289.1109), as amended by 2002 PA  
487.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1109. As used in this act:

2       (a) "Genetically modified food" means a food that is derived  
3 from a genetically modified organism or from a plant or animal  
4 fed or treated with materials from a genetically modified  
5 organism. Genetically modified food includes a food product  
6 containing an ingredient from a genetically modified organism or  
7 a plant or animal fed or treated with materials from a  
8 genetically modified organism.

9       (b) "Genetically modified organism" means an organism whose  
10 genome has been altered using cellular and molecular methods for

1 **genetic modification that is not traditionally used to select**  
2 **beneficial genetic traits.**

3 (c) ~~-(a)-~~ "Imminent or substantial hazard" means a condition  
4 at a food establishment that the director determines requires  
5 immediate action to prevent endangering the health of people.

6 (d) ~~-(b)-~~ "Label" means a display of written, printed, or  
7 graphic matter upon the immediate container of any article and  
8 includes a requirement imposed under this act that any word,  
9 statement, or other information appearing on the display also  
10 appear on the outside container or wrapper of the retail package  
11 of the article or be easily legible through the outside container  
12 or wrapper.

13 (e) ~~-(c)-~~ "Labeling" means all labels and other written,  
14 printed, or graphic matter upon an article, any of its containers  
15 or wrappers, or accompanying the article.

16 (f) ~~-(d)-~~ "License limitation" means an action by which the  
17 director imposes restrictions or conditions, or both, on a  
18 license of a food establishment.

19 (g) ~~-(e)-~~ "License holder" means the entity that is legally  
20 responsible for the operation of the food establishment including  
21 the owner, the owner's agent, or other person operating under  
22 apparent authority of the owner possessing a valid license to  
23 operate a food establishment.

24 (h) ~~-(f)-~~ "Limited wholesale food processor" means a  
25 wholesale food processor that has \$25,000.00 or less in annual  
26 gross wholesale sales made or business done in wholesale sales in  
27 the preceding licensing year, or \$25,000.00 or less of the food

1 is reasonably anticipated to be sold for the current licensing  
2 year. Only the food sales from the wholesale food processor  
3 operation are used in computing the annual gross sales under this  
4 subdivision.

5 (i) ~~(g)~~ "Local health department" means that term as  
6 defined in section 1105 of the public health code, MCL 333.1105,  
7 and having those powers and duties as described in part 24 of the  
8 public health code, MCL 333.2401 to 333.2498.

9 (j) ~~(h)~~ "Misbranded" means food to which any of the  
10 following apply:

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

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

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

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

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

26 (vi) Any word, statement, or other labeling required by this  
27 act is not prominently placed on the label or labeling

1 conspicuously and in such terms as to render it likely to be read  
2 and understood by the ordinary individual under customary  
3 conditions of purchase and use.

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

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

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

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

23       (ix) It does not bear labeling clearly giving the common or  
24 usual name of the food, if one exists, and if fabricated from 2  
25 or more ingredients, the common or usual name of each ingredient  
26 except that spices, flavorings, and colorings, other than those  
27 sold as such, may be designated as spices, flavorings, and

1 colorings, without naming each and under other circumstances as  
2 established by rules regarding exemptions based upon  
3 practicality, potential deception, or unfair competition.

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

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

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

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

20 (xiv) **It is genetically modified food or comes from a**  
21 **genetically modified organism without being clearly labeled as**  
22 **such in a manner acceptable to the department.**

23 (k) ~~(i)~~ "Mobile food establishment" means a food  
24 establishment operating from a vehicle or watercraft that returns  
25 to a licensed commissary for servicing and maintenance at least  
26 once every 24 hours.

27 (l) ~~(j)~~ "Mobile food establishment commissary" means an

1 operation that is capable of servicing a mobile food  
2 establishment.

3       **(m)** ~~-(k)-~~ "Person" means an individual, sole proprietorship,  
4 partnership, corporation, **limited liability company**, association,  
5 or other legal entity.

6       **(n)** ~~-(l)-~~ "Pesticide chemical" means any substance that,  
7 alone, in chemical combination, or in formulation with 1 or more  
8 other substances, is a pesticide within the meaning of the  
9 federal insecticide, fungicide, and rodenticide act, chapter 125,  
10 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to  
11 136y, and is used in the production, storage, or transportation  
12 of raw agricultural commodities.

13       **(o)** ~~-(m)-~~ "Principal display panel" means that part of a  
14 label that is most likely to be displayed, presented, shown, or  
15 examined under normal and customary conditions of display for  
16 retail sale.

17       **(p)** ~~-(n)-~~ "Public health code" means 1978 PA 368, MCL  
18 333.1101 to 333.25211.