

HOUSE BILL NO. 6447

November 18, 2020, Introduced by Rep. Koleszar and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 297g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 297g. (1) As used in this section, "gluten-free" means
2 that term as used in 21 CFR 101.91.

3 (2) A person that, with intent to defraud, does any of the
4 following is guilty of a misdemeanor:

1 (a) Sells or exposes for sale in any place where food products
2 are sold for consumption on or off the premises any article of
3 food, food product, meat, or meat preparation, and falsely
4 represents it to be gluten-free, by use of that term or any similar
5 term indicating that the food is gluten-free, whether the article
6 of food, food product, meat, or meat preparation is raw or prepared
7 for human consumption, by a direct statement orally, or in writing,
8 that is reasonably calculated to deceive or lead a reasonable
9 person to believe that a representation is being made that the food
10 is gluten-free.

11 (b) Falsely represents a food product or the contents of a
12 package or container to be constituted and prepared as gluten-free
13 by having or permitting to be inscribed on the food product,
14 package, or container the term "gluten-free" or any similar term
15 indicating that the food is gluten-free.

16 (c) Exposes for sale in any show window or place of business
17 both gluten-free and nongluten-free food or food products, or
18 gluten-free or nongluten-free meat or meat preparations, that are
19 raw or prepared for human consumption, and fails to identify each
20 kind of food or food product, or meat or meat preparation, as
21 gluten-free or nongluten-free.

22 (3) Possession of nongluten-free food or meat in any place of
23 business advertising the sale of gluten-free food only is
24 presumptive evidence that the person in possession exposes the
25 nongluten-free food or meat for sale with intent to defraud.

26 (4) A person that does any of the following is guilty of a
27 misdemeanor:

28 (a) Willfully marks, stamps, tags, brands, labels, or in any
29 other way or by any other means of identification represents as

1 gluten-free, or causes to be marked, stamped, tagged, branded,
2 labeled, or represented as gluten-free, food or food products that
3 are not gluten-free, or are not so prepared.

4 (b) Willfully removes, defaces, obliterates, covers, alters,
5 or destroys, or causes to be removed, defaced, obliterated,
6 covered, altered, or destroyed any mark, stamp, tag, brand, label,
7 or other means of identification affixed to a food or food product
8 to indicate that the food or food product is gluten-free.

9 (c) Knowingly sells, disposes of, or possesses for the purpose
10 of resale to any person as gluten-free either of the following:

11 (i) A food or food product to which the person has not affixed
12 a mark, stamp, tag, brand, label, or other means of identification
13 employed to indicate that the food or food product is gluten-free.

14 (ii) A food or food product to which a mark, stamp, tag, brand,
15 label, or other means of identification has been fraudulently
16 affixed.

17 (d) Knowingly prepares, distributes, sells, or exposes for
18 sale any article of food, food product, meat, or meat preparation
19 represented to be gluten-free, by use of that term or any similar
20 term indicating that the food is gluten-free, that does not conform
21 to a disclosure posted by that person in the person's place of
22 business that describes the basis upon which that representation is
23 made. A person does not violate this subdivision if it is shown by
24 a preponderance of the evidence that the person relied in good
25 faith upon the representations of a manufacturer, processor,
26 packer, or distributor that the article of food, food product,
27 meat, or meat preparation is gluten-free.

28 (5) The department of agriculture and rural development shall
29 investigate and inspect the sale of food products represented to be

1 gluten-free and shall enforce this section. The department of
2 agriculture and rural development shall promulgate rules for the
3 enforcement and administration of this section in accordance with
4 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
5 to 24.328.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.