

SECOND REGULAR SESSION

HOUSE BILL NO. 2382

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), SATER,
CUNNINGHAM AND COOPER (Co-sponsors).

5434L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 196.085, RSMo, and to enact in lieu thereof one new section relating to use of poisonous or deleterious substances in food.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 196.085, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 196.085, to read as follows:

196.085. **1.** Any poisonous or deleterious substance added to any food [except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of subdivision (2) of section 196.070; but when such substance is so required or cannot be so avoided, the department of health and senior services shall promulgate regulations limiting the quantity therein or thereon to such extent as the department finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of subdivision (2) of section 196.070. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of subdivision (1) of section 196.070. In determining the quantity of such added substance to be tolerated in or on different articles of food, the department shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.] , **as defined in section 196.190, including by exposure to pathogens or contaminants conveyed or introduced by those shipping or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 storage structures commonly referred to as pallets shall be prohibited and shall be deemed
18 an unsafe practice subject to the application of section 196.070. Upon confirmation of such
19 exposure or contamination, any provider of such pallets may be prohibited by injunction
20 from the sale, rental, or usage of any such pallets until such time as such provider submits
21 proof of having resolved the issues of such exposure and contamination. The department
22 of health and senior services shall promulgate rules necessary for the protection of human
23 health and safety in regards to any such circumstances.

24 2. Any pallet utilized for the transportation, distribution, or storage of food
25 products intended for human consumption shall be treated by methods such as to
26 effectively eliminate pathogens, and tested for the presence of potential contaminants
27 absorbed or introduced into or onto such pallet, including pesticides, preservatives,
28 sealants, paints, or other materials which are harmful to human health, unless such
29 materials are currently subject to a federal agreement regulating usage in pallets.

30 3. No person or entity shall sell, offer for sale, rent, distribute, or otherwise supply
31 pallets containing formaldehyde, including formaldehyde found in pallets made in whole
32 or in part from composite wood products, to any person or entity in this state for handling,
33 sorting, storing, shipping, or transporting food or food grade goods.

34 4. Any waste material from such contaminated pallets shall be disposed in strict
35 accordance with the solid waste and hazardous waste laws of this state as provided in
36 chapter 260.

37 5. Any pallet or pallet waste material shall be recycled to the maximum extent
38 possible for those materials which do not create a hazard to human health by such
39 recycling.

40 6. Beginning January 1, 2011, the department of agriculture, in consultation with
41 the departments of conservation and natural resources, shall provide a report to the
42 speaker of the house of representatives and president pro tem of the senate evaluating
43 methods of preventing the importation of invasive pests in or on wood pallets. Such report
44 shall include any methods, costs, and benefits of commercially available treatments which
45 may prevent such threat to the health, environment, and economy of this state. Following
46 submission of the report, any entity which knowingly provides such pallets into Missouri
47 commerce with reckless disregard for the potential to infest or reinfest Missouri lands,
48 forests, or crops with an invasive pest or pests damaging to the health, environment, and
49 economy of this state may be held liable for damages caused by such pest.

50 7. Beginning January 1, 2011, any pallet utilized for the storage, transportation, or
51 distribution of food products for human consumption shall be listed under Underwriters

52 **Laboratories Inc. Standards for safety UL 2335, standards for fire tests of storage pallets,**
53 **in effect as of December 31, 2009.**

54 **8. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
55 **created under the authority delegated in this section shall become effective only if it**
56 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
57 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
58 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
59 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
60 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
61 **shall be invalid and void.**

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