

# HOUSE BILL No. 4031

February 3, 1987, Introduced by Reps. Walberg, Hoffman and Griffin and referred to the Committee on Public Health.

A bill to amend section 12901 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 29 of the Public Acts of 1985, being section 333.12901 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 12901 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 29 of the Public Acts of 1985,  
3 being section 333.12901 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 12901. (1) As used in this part:

6       (a) "Food service establishment" means a fixed or mobile  
7 restaurant, coffee shop, cafeteria, short order cafe,  
8 luncheonette, grill, tearoom, sandwich shop, soda fountain,  
9 tavern, bar, cocktail lounge, nightclub, drive-in, industrial

1 feeding establishment, private organization serving the public,  
 2 rental hall, catering kitchen, delicatessen, theater, commissary,  
 3 or similar place in which food or drink is prepared for direct  
 4 consumption through service on the premises or elsewhere, and any  
 5 other eating or drinking establishment or operation where food is  
 6 served or provided for the public. Food service establishment  
 7 does not apply to any of the following:

8 (i) An inpatient food service operation located in a health  
 9 facility or agency subject to licensure under article 17.

10 (ii) Unless the establishment is carrying out operations  
 11 beyond the scope of its license, an establishment licensed and  
 12 inspected under any of the following acts:

13 <u>Year of Act</u>	<u>Public Act No.</u>	<u>Compiled Law Numbers</u>
14 1913	222	288.101 to 288.117
15 1963	244	289.321 to 289.336
16 1965	233	288.21 to 288.29a
17 1965	280	287.571 to 287.582
18 1968	298	288.321 to 288.334
19 1978	328	289.801 to 289.810

20 (iii) A motel that serves continental breakfasts only.

21 (iv) A food concession at a state or county fair.

22 (v) A charitable, religious, fraternal, or other nonprofit  
 23 organization operating a home-prepared baked goods sale or serv-  
 24 ing only home-prepared food in connection with its meetings or as  
 25 part of a fund raising event.

1       (vi) A CHARITABLE, RELIGIOUS, FRATERNAL, OR OTHER NONPROFIT  
2 ORGANIZATION WHICH SERVES OR PROVIDES FOOD FREE OF CHARGE TO  
3 PERSONS WHO ARE NOT MEMBERS OF THE GENERAL PUBLIC AND WHO MEET  
4 SPECIFIC ENTRY CRITERIA FOR THE FUNCTION AT WHICH THE FOOD IS  
5 SERVED OR PROVIDED.

6       (vii) ~~(vi)~~ A food establishment that is licensed and  
7 inspected under the food processing act of 1977, Act No. 328 of  
8 the Public Acts of 1978, being sections 289.801 to 289.810 of the  
9 Michigan Compiled Laws, even if the food establishment sells for  
10 consumption off the premises, in a volume incidental to the total  
11 volume of the food establishment, any of the following:

12       (A) Prepackaged food that is offered for sale in individual  
13 portions that do not require preparation in the food establish-  
14 ment except for temperature modification. As used in this sub-  
15 paragraph, "prepackaged food" means food that is prepared and  
16 packaged either at a facility inspected and approved by the  
17 United States department of agriculture or a facility that is  
18 licensed as a food processor under the food processing act of  
19 1977, Act No. 328 of the Public Acts of 1978.

20       (B) Food that is prepared at the food establishment, dis-  
21 played in bulk form for sale, and sold in quantities other than  
22 individual portions.

23       (C) Beverages, including, but not limited to, hot chocolate,  
24 coffee, tea, slush, and soda pop.

25       (D) Hand dipped ice cream.

26       (E) Rotisserie prepared hot dogs.

1 (F) Other foods as determined by the director or his or her  
2 representative, in conjunction with the director of the  
3 department of agriculture or his or her representative.

4 (viii) ~~(vii)~~ A bakery that is licensed and inspected under  
5 the food processing act of 1977, Act No. 328 of the Public Acts  
6 of 1978, even if the bakery sells hot or cold beverages or tem-  
7 perature modified bakery products, in a volume incidental to the  
8 total volume of business of the bakery.

9 (ix) ~~(viii)~~ An establishment otherwise within the scope of  
10 this act which is licensed and inspected by the department of  
11 agriculture, if the manner of licensing and inspection is mutu-  
12 ally agreed upon by the director and the director of the depart-  
13 ment of agriculture or their designated representatives.

14 (b) "Person" means a person as defined in section 1106 or a  
15 governmental entity.

16 (c) "Temporary food service establishment" means a food  
17 service establishment which operates at a fixed location for a  
18 temporary period of time, not to exceed 2 weeks, in connection  
19 with a carnival, circus, public exhibition, or similar transitory  
20 gathering.

21 (d) "Transitory food unit" means a food service establish-  
22 ment that operates from and is regularly transported by a motor  
23 vehicle, and which does not regularly return to a fixed food  
24 service establishment licensed by the department for servicing  
25 and maintenance.

26 (e) "Vending machine" means a self-service device offered  
27 for public use which, upon insertion of a coin or token, or by

1 other similar means, dispenses unit servings of food or beverages  
2 without the necessity of replenishing the device between each  
3 vending operation. The term does not mean a device which dis-  
4 penses only bottled or canned soft drinks; other packaged nonper-  
5 ishable foods or beverages; or bulk ball gum, nuts, and panned  
6 candies.

7 (f) "Vending machine location" means the room, enclosure,  
8 space, or area where 1 or more vending machines are installed and  
9 operated.

10 (2) In addition, article 1 contains general definitions and  
11 principles of construction applicable to all articles in this  
12 code.