



HOUSE BILL No. 5802

September 14 1994 Introduced by Reps Bobier Horton Weeks Voorhees Goschka
Lowe Yokich and Bodem 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- 107 of the Public Acts of 1992, 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 107 of the Public Acts of 1992,
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) "Bed and breakfast" means a private residence that
7 offers sleeping accommodations to transient tenants in 14 or
8 fewer rooms for rent, is the innkeeper's residence in which the
9 innkeeper resides while renting the rooms to transient tenants,

1 serves breakfasts at no extra cost to its transient tenants
2 ~~and~~ has a smoke detector in proper working order in every
3 sleeping room, and a fire extinguisher in proper working order on
4 every floor

5 (b) Continental breakfast" means the serving of only nonpo-
6 tentially hazardous food, such as a roll, pastry or doughnut,
7 fruit juice hot beverage, or individual portions of milk and
8 items incidental to these foods

9 (c) Food service establishment' means a fixed or mobile
10 restaurant coffee shop, cafeteria, short order cafe, luncheon-
11 ette, grill, tearoom, sandwich shop, soda fountain, tavern, bar,
12 cocktail lounge, nightclub, drive-in, industrial feeding estab-
13 lishment, private organization serving the public, rental hall,
14 catering kitchen, delicatessen, theater commissary, or similar
15 place in which food or drink is prepared for direct consumption
16 through service on the premises or elsewhere, and any other
17 eating or drinking establishment or operation where food is
18 served or provided for the public Food service establishment
19 does not ~~apply to~~ INCLUDE any of the following

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

22 (ii) Unless the establishment is carrying out operations
23 beyond the scope of its license, an establishment licensed and
24 inspected under any of the following acts

<u>1 Year of Act</u>	<u>Public Act No</u>	<u>Compiled Law Numbers</u>
2 1913	222	288 101 to 288 117
3 1963	244	289 321 to 289 336
4 1965	233	288 21 to 288 29a
5 1965	280	287 571 to 287 582
6 1968	298	288 321 to 288 334
7 1978	328	289 801 to 289 810
8 (111) A motel that serves continental breakfasts only		
9 (11v) A food concession at a state or county fair		
10 (v) A charitable, religious, fraternal, or other nonprofit		
11 organization operating a home-prepared baked goods sale or serv-		
12 ing only home-prepared food in connection with its meetings or as		
13 part of a fund raising event		
14 (v1) A food establishment that is licensed and inspected		
15 under the food processing act of 1977, Act No 328 of the Public		
16 Acts of 1978, being sections 289 801 to 289 810 of the Michigan		
17 Compiled Laws, even if the food establishment sells for consump-		
18 tion off the premises, in a volume incidental to the total volume		
19 of the food establishment any of the following		
20 (A) Prepackaged food that is offered for sale in individual		
21 portions that do not require preparation in the food establish-		
22 ment except for temperature modification As used in this sub-		
23 paragraph, "prepackaged food" means food that is prepared and		
24 packaged either at a facility inspected and approved by the		
25 United States department of agriculture or a facility that is		
26 licensed as a food processor under the food processing act of		
27 1977, Act No 328 of the Public Acts of 1978		

1 (B) Food that is prepared at the food establishment
2 displayed in bulk form for sale and sold in quantities other
3 than individual portions

4 (C) Beverages, including but not limited to, hot chocolate,
5 coffee, tea, slush, and soda pop

6 (D) Hand dipped ice cream

7 (E) Rotisserie prepared hot dogs

8 (F) Other foods as determined by the director or his or her
9 ~~representative~~ DESIGNEE, in conjunction with the director of
10 the department of agriculture or his or her ~~representative~~
11 DESIGNEE

12 (vii) A bakery that is licensed and inspected under ~~the~~
13 ~~food processing act of 1977,~~ Act No 328 of the Public Acts of
14 1978, even if the bakery sells hot or cold beverages or tempera-
15 ture modified bakery products in a volume incidental to the total
16 volume of business of the bakery

17 (viii) An establishment otherwise within the scope of this
18 act that is licensed and inspected by the department of agricul-
19 ture if the manner of licensing and inspection is mutually agreed
20 upon by the director and the director of the department of agri-
21 culture or their designated representatives

22 (ix) A bed and breakfast that has 8 or fewer sleeping rooms,
23 including sleeping rooms occupied by the innkeeper, 1 or more of
24 which are available for rent to transient tenants

25 (x) A bed and breakfast that has at least 9 but fewer than
26 15 rooms for rent if the bed and breakfast serves continental
27 breakfasts only

1 (x1) A temporary food service establishment using only
2 single service articles and serving only food or beverages that
3 do not come within the definition of potentially hazardous food
4 or beverage As used in this subparagraph, "potentially hazard-
5 ous food or beverage' means any food that consists in whole or
6 in part, of milk or milk products, eggs, meat, poultry, fish,
7 shellfish, edible crustacea or other ingredients, including syn-
8 thetic ingredients, in a form capable of supporting rapid and
9 progressive growth of infectious or toxigenic microorganisms
10 The term does not include clean, whole, uncracked odor-free
11 shell eggs or foods that have a pH level of 4.6 or below or a
12 water activity (aw) value of 0.85 or less

13 (x11) A COMMERCIAL FISHING GUIDE SERVICE THAT SERVES LUNCH
14 TO A PARTY OF NOT MORE THAN 12 CLIENTS ON OR ADJACENT TO A BODY
15 OF WATER, RIVER OR STREAM WHILE PURSUING, CAPTURING, CATCHING,
16 KILLING TAKING OR ATTEMPTING TO TAKE FISH AS USED IN THIS
17 SUBPARAGRAPH COMMERCIAL FISHING GUIDE SERVICE MEANS A SERVICE
18 PROVIDED FOR A FEE OR OTHER CONSIDERATION OF VALUE, REGARDLESS OF
19 WHETHER THE FEE OR CONSIDERATION IS PAID DIRECTLY OR INDIRECTLY,
20 TO ASSIST ANOTHER PERSON IN PURSUING, CAPTURING, CATCHING, KIL-
21 LING, TAKING, OR ATTEMPTING TO TAKE FISH

22 (d) Transient tenant means a person who rents a room in a
23 bed and breakfast for fewer than 30 consecutive days

24 (e) Person means a person as defined in section 1106 or a
25 governmental entity

1 (f) Temporary food service establishment means a food
 2 service establishment that operates at a fixed location for a
 3 temporary period of time not to exceed 2 weeks

4 (g) "Transitory food unit" means a food service establish-
 5 ment that operates from and is regularly transported by a motor
 6 vehicle, and that does not regularly return to a fixed food serv-
 7 ice establishment licensed by the department for servicing and
 8 maintenance

9 (h) "Vending machine means a self-service device offered
 10 for public use that, upon insertion of a coin, token, card key
 11 or paper currency, dispenses unit servings of food or beverages
 12 without the necessity of replenishing the device between each
 13 vending operation Vending machine does not include

14 (1) A device that dispenses only bottled or canned soft
 15 drinks other packaged nonperishable foods or beverages or bulk
 16 ball gum, nuts, and panned candies

17 (11) A water-dispensing machine that is located inside a
 18 food establishment that is licensed under ~~the food processing~~
 19 ~~act of 1977,~~ Act No 328 of the Public Acts of 1978 ~~, being~~
 20 ~~sections 289-801 to 289-810 of the Michigan Compiled Laws~~

21 (1) "Vending machine location means the room, enclosure,
 22 space, or area in which 1 or more vending machines are installed
 23 and operated

24 (2) In addition, article 1 contains general definitions and
 25 principles of construction that apply to all articles in this
 26 code