



HOUSE BILL No. 5638

February 27, 1996, Introduced by Reps. Lowe, Gernaat, DeLange, Perricone, Bodem, Randall, Dalman, Horton, Hammerstrom, Hill, McBryde, McManus, Llewellyn, Voorhees, London, DeMars, Anthony, Cropsey, Green, Pitoniak and Jersevic and referred to the Committee on Tourism and Recreation.

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. 102 of the Public Acts of 1995, 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. 102 of the Public Acts of 1995,
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 AND, IN THE CASE OF A BED AND BREAKFAST
2 DESCRIBED IN SUBDIVISION (C)(ix), OTHER MEALS, at no extra cost
3 to its transient tenants, has a smoke detector in proper working
4 order in ~~every~~ EACH sleeping room, and a fire extinguisher in
5 proper working order on ~~every~~ EACH floor.

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

10 (c) "Food service establishment" means a fixed or mobile
11 restaurant, coffee shop, cafeteria, short order cafe, luncheon-
12 ette, grill, tearoom, sandwich shop, soda fountain, tavern, bar,
13 cocktail lounge, nightclub, drive-in, industrial feeding estab-
14 lishment, private organization serving the public, rental hall,
15 catering kitchen, delicatessen, theater, commissary, or similar
16 place in which food or drink is prepared for direct consumption
17 through service on the premises or elsewhere, and any other
18 eating or drinking establishment or operation where food is
19 served or provided for the public. Food service establishment
20 does not include ~~any~~ 1 OR MORE of the following:

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

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

26

<u>1</u>	<u>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 (iii) A motel that serves continental breakfasts only.

9 (iv) 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 (vi) 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~~ 1 OR MORE 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 Act No. 328 of the Public Acts
 27 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 designee, in conjunction with the director of the department of
10 agriculture or his or her designee.

11 (vii) A bakery that is licensed and inspected under Act
12 No. 328 of the Public Acts of 1978, even if the bakery sells hot
13 or cold beverages or temperature modified bakery products in a
14 volume incidental to the total volume of business of the bakery.

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

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

23 (x) A bed and breakfast that has at least 9 but fewer than
24 15 rooms for rent, if the bed and breakfast serves continental
25 breakfasts only.

26 (xi) A temporary food service establishment using only
27 single service articles and serving only food or beverages that

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

11 (xii) A commercial fishing guide service that serves lunch
12 to a party of not more than 12 clients on or adjacent to a body
13 of water, river, or stream while pursuing, capturing, catching,
14 killing, taking, or attempting to take fish. As used in this
15 subparagraph, "commercial fishing guide service" means a service
16 provided for a fee or other VALUABLE consideration, ~~of value,~~
17 regardless of whether the fee or OTHER VALUABLE consideration is
18 paid directly or indirectly, to assist another person in pursu-
19 ing, capturing, catching, killing, taking, or attempting to take
20 fish.

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

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

25 (f) "Temporary food service establishment" means a food
26 service establishment that operates at a fixed location for a
27 temporary period of time not to exceed 2 weeks.

1 (g) "Transitory food unit" means a food service
2 establishment that operates from and is regularly transported by
3 a motor vehicle, and that does not regularly return to a fixed
4 food service establishment licensed by the department for servic-
5 ing and maintenance.

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

11 (i) A device that dispenses only bottled or canned soft
12 drinks; other packaged nonperishable foods or beverages; or bulk
13 ball gum, nuts, and panned candies.

14 (ii) A water-dispensing machine that is located inside a
15 food establishment that is licensed under Act No. 328 of the
16 Public Acts of 1978.

17 (i) "Vending machine location" means the room, enclosure,
18 space, or area in which 1 or more vending machines are installed
19 and operated.

20 (2) In addition, article 1 contains general definitions and
21 principles of construction that apply to all articles in this
22 code.