

HOUSE BILL No. 5572

March 6, 1990, Introduced by Reps. London, Walberg, Randall, Allen, Kulchitsky, Bandstra, Johnson, Rocca, Law, Bankes, Strand, Sikkema and Jaye 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. 209 of the Public Acts of 1988, 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. 209 of the Public Acts of 1988,
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, and
2 has a smoke detector in proper working order in every sleeping
3 room and a fire extinguisher in proper working order on every
4 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 such 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 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 (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 CHARITABLE, RELIGIOUS, FRATERNAL, OR OTHER NONPROFIT
 15 ORGANIZATION THAT SERVES OR PROVIDES FOOD FREE OF CHARGE TO PER-
 16 SONS WHO ARE NOT MEMBERS OF THE GENERAL PUBLIC AND WHO MEET SPE-
 17 CIFIC ENTRY CRITERIA FOR THE FUNCTION AT WHICH THE FOOD IS SERVED
 18 OR PROVIDED.

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

25 (A) Prepackaged food that is offered for sale in individual
 26 portions that do not require preparation in the food
 27 establishment except for temperature modification. As used in

1 this subparagraph, "prepackaged food" means food that is prepared
2 and packaged either at a facility inspected and approved by the
3 United States department of agriculture or a facility that is
4 licensed as a food processor under the food processing act of
5 1977, Act No. 328 of the Public Acts of 1978.

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

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

11 (D) Hand dipped ice cream.

12 (E) Rotisserie prepared hot dogs.

13 (F) Other foods as determined by the director or his or her
14 representative, in conjunction with the director of the depart-
15 ment of agriculture or his or her representative.

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

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

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

4 (xi) ~~(x)~~ A bed and breakfast that has at least 9 but fewer
5 than 15 rooms for rent, if the bed and breakfast serves continen-
6 tal breakfasts only.

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

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

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

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

26 (g) "Transitory food unit" means a food service
27 establishment that operates from and is regularly transported by

1 a motor vehicle, and which does not regularly return to a fixed
2 food service establishment licensed by the department for servic-
3 ing and maintenance.

4 (h) "Vending machine" means a self-service device offered
5 for public use which, upon insertion of a coin or token, or by
6 other similar means, dispenses unit servings of food or beverages
7 without the necessity of replenishing the device between each
8 vending operation. The term does not mean a device which dis-
9 penses only bottled or canned soft drinks; other packaged nonper-
10 ishable foods or beverages; or bulk ball gum, nuts, and panned
11 candies.

12 (i) "Vending machine location" means the room, enclosure,
13 space, or area where 1 or more vending machines are installed and
14 operated.

15 (2) In addition, article 1 contains general definitions and
16 principles of construction applicable to all articles in this
17 code.