

HOUSE BILL No. 5830

May 29, 1990, Introduced by Reps. Randall, London, Ostling and Giese and referred to the Committee on Public Health.

A bill to amend sections 12901 and 12904 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 sections 333.12901 and 333.12904 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 12901 and 12904 of Act No. 368 of the
2 Public Acts of 1978, as amended by Act No. 209 of the Public Acts
3 of 1988, being sections 333.12901 and 333.12904 of the Michigan
4 Compiled Laws, are amended 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:

25 <u>Year of Act</u>	<u>Public Act No.</u>	<u>Compiled Law Numbers</u>
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1	1913	222	288.101 to 288.117
2	1963	244	289.321 to 289.336
3	1965	233	288.21 to 288.29a
4	1965	280	287.571 to 287.582
5	1968	298	288.321 to 288.334
6	1978	328	289.801 to 289.810

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

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

9 (v) A charitable, religious, fraternal, or other nonprofit
10 organization operating a ~~home prepared~~ HOME PREPARED baked
11 goods sale or serving ~~only home prepared~~ food in connection
12 with its meetings or ~~as part of a fund raising event~~ AT AN
13 EVENT AT WHICH ONLY MEMBERS ARE SERVED OR AT A MEAL SERVED IN
14 CONNECTION WITH A FUNERAL. IF FOOD PREPARED ON THE PREMISES IS
15 SERVED ALONG WITH HOME PREPARED FOOD UNDER THIS SUBPARAGRAPH, THE
16 HOME PREPARED FOOD SHALL BE SEPARATED FROM THE FOOD PREPARED ON
17 THE PREMISES AND LABELED AS HOME PREPARED, AND SHALL NOT BE COM-
18 BINED WITH FOOD PREPARED ON THE PREMISES FOR PURPOSES OF STORAGE
19 OR PREPARATION.

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

26 (A) Prepackaged food that is offered for sale in individual
27 portions that do not require preparation in the food

1 establishment except for temperature modification. As used in
2 this subparagraph, "prepackaged food" means food that is prepared
3 and packaged either at a facility inspected and approved by the
4 United States department of agriculture or a facility that is
5 licensed as a food processor under the food processing act of
6 1977, Act No. 328 of the Public Acts of 1978.

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

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

12 (D) Hand dipped ice cream.

13 (E) Rotisserie prepared hot dogs.

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

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

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

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

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

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

18 Sec. 12904. (1) A person shall not operate a food service
19 establishment, transitory food unit, temporary food service
20 establishment, or vending machine location in this state without
21 a license issued by the department. This part does not apply to
22 an establishment ~~which~~ THAT complies with section 20132(3),
23 except as provided in that section.

24 (2) Application for the license shall be ~~upon the forms~~ ON
25 A FORM PROVIDED BY THE DEPARTMENT and shall contain the reason-
26 able information required by the department. The application for
27 license shall be accompanied by the fees prescribed in section

1 12906. Application for a license shall be submitted to the local
2 health department having jurisdiction prior to May 1 each year.
3 The local health department shall forward the applications to the
4 department with appropriate recommendations.

5 (3) A license, other than a license for a temporary food
6 service establishment, shall expire at midnight on April 30 each
7 year. A temporary food service establishment shall be issued a
8 license for the period of time the establishment will be operated
9 at a specified location.

10 (4) When separate areas for food service or preparation are
11 located in 1 building and are operated under 1 management, the
12 arrangement shall be considered as 1 establishment and only 1
13 license shall be required. If multiple vending machine locations
14 are operated by the same person within the jurisdiction of the
15 local health department, a single license application for those
16 vending machine locations may be permitted.

17 (5) The current license for a food service establishment,
18 transitory food unit, or temporary food service establishment
19 shall be posted in a conspicuous place in the establishment to
20 which the license applies. In the case of vending machines, the
21 name and address and telephone number of the current vending
22 machine location operator shall be conspicuously displayed on
23 each vending machine.

24 (6) The owner or operator of a food service establishment
25 shall notify the local health department before there is a change
26 of ownership of the food service establishment. A license issued
27 under this part is not transferable as to person or place.

1 (7) If food is prepared in a food service establishment
2 licensed pursuant to this part and the food is transported from
3 the establishment to a fixed, temporary serving location, the
4 serving location is not required to be separately licensed and
5 shall be considered an extension of the establishment if the food
6 is transported and served by employees of the establishment and
7 if no food preparation is conducted at the fixed, temporary serv-
8 ing location.

9 (8) A CHARITABLE, RELIGIOUS, FRATERNAL, OR OTHER NONPROFIT
10 ORGANIZATION THAT OBTAINS A LICENSE AS A TEMPORARY FOOD SERVICE
11 ESTABLISHMENT MAY SERVE HOME PREPARED FOOD IN ADDITION TO FOOD
12 THAT IS PREPARED ON THE PREMISES OF THE TEMPORARY FOOD SERVICE
13 ESTABLISHMENT IF THE HOME PREPARED FOOD IS SEPARATED FROM THE
14 FOOD PREPARED ON THE PREMISES, LABELED AS HOME PREPARED, AND IS
15 NOT COMBINED WITH FOOD PREPARED ON THE PREMISES FOR PURPOSES OF
16 STORAGE OR PREPARATION.

17 (9) A CHARITABLE, RELIGIOUS, FRATERNAL, OR OTHER NONPROFIT
18 ORGANIZATION THAT OBTAINS A LICENSE AS A FOOD SERVICE ESTABLISH-
19 MENT MAY SERVE HOME PREPARED FOOD IN ADDITION TO FOOD THAT IS
20 PREPARED ON THE PREMISES OF THE FOOD SERVICE ESTABLISHMENT IF THE
21 HOME PREPARED FOOD IS SEPARATED FROM THE FOOD PREPARED ON THE
22 PREMISES, IS LABELED AS HOME PREPARED, AND IS NOT COMBINED WITH
23 FOOD PREPARED ON THE PREMISES FOR PURPOSES OF STORAGE OR
24 PREPARATION.