



**House  
Legislative  
Analysis  
Section**

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## BED AND BREAKFASTS

### House Bills 5638 and 5639 with committee amendments First Analysis (3-13-96)

**Sponsor: Rep. Allen Lowe**  
**Committee: Tourism and  
Recreation**

#### ***THE APPARENT PROBLEM:***

Bed and breakfast establishments (B&Bs) have long been a popular form of accommodation for travelers in Europe, and have gained rapidly in popularity during the past decade in Michigan. According to a Michigan State University extension office specialist who studies the subject, there are now approximately 400 B&Bs in the state. B&Bs are exempt from state standards that regulate hotels and food service businesses, such as the Public Health Code's food preparation licensing requirements, and are treated as a permanent residence - rather than a hotel -- under the State Construction Code Act, provided that they rent out no more than a specific number of rooms, and serve no meals, other than breakfast. However, the demand has grown in some areas of the state to expand the services provided by B&Bs to match those now established in Europe. There, "farm vacations" -- where visitors live and partake of all their meals on a farm and also have access to activities such as cross-country skiing -- are popular. Reportedly, the trend has spread to other states, such as Wisconsin, Illinois, and Indiana. Legislation has been introduced that would make such activities available to B&B guests in Michigan.

#### ***THE CONTENT OF THE BILLS:***

House Bills 5638 and 5639 would amend the Public Health Code and the State Construction Code Act, respectively, to permit bed and breakfast establishments (B&Bs) to offer meals other than breakfast, and to increase the number of rooms that a bed and breakfast may rent while being exempt from regulation as a "food service establishment." Currently, under the Public Health Code, a B&B establishment is defined as a private residence that is also an innkeeper's residence, with sleeping accommodations for rent to "transient tenants" (defined under the code as people who rent a room for fewer than 30 consecutive days). The number of rooms allowed in a B&B includes sleeping rooms occupied by the innkeeper. A bed and breakfast is exempt from regulation under the code as a "food

service establishment" either if it has eight or fewer rooms for rent, or if it has between nine and fifteen rooms for rent and serves only "continental breakfast," which is defined under the code as "the serving of only nonpotentially hazardous food such as a roll, pastry, or doughnut, fruit juice, hot beverage, or individual portions of milk and items incidental to such foods." House Bill 5638 would amend the code (MCL 333.12901) to extend the licensing exemption to a B&B that had ten or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper. The continental breakfast exemption would apply to establishments that had between eleven and fifteen rooms. The bill would also specify that a bed and breakfast with ten or fewer sleeping rooms could serve meals other than breakfasts.

Under the State Construction Code Act, a bed and breakfast is considered a single family residential structure, and may not be treated as a hotel or other facility that serves transient tenants. This provision is effective throughout the state, without local modification, notwithstanding the exemption provisions in the code that allow local governments to exempt themselves from parts of the code. The provision applies only to B&Bs constructed before July 13, 1987 and renovated to become a bed and breakfast after July 13, 1987 (the effective date of the act that established these provisions). The provisions do not apply to an establishment constructed after July 13, 1987. House Bill 5639 (MCL 125.1504b) would amend the code to delete the restriction as to the date of construction; thus, the provision treating B&Bs as single family residential structures would apply regardless of the date of construction or renovation. The bill would also amend the definition of "bed and breakfast" to conform to the provisions of House Bill 5638.

#### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency estimates that the bills would have no impact on state funds. (3-12-96)

House Bills 5638 and 5639 (3-13-96)

**ARGUMENTS:*****For:***

Bed and breakfast establishments occupy a unique niche in the tourism industry. They allow their owners to enter into small business opportunities; offer less expensive alternatives to traditional hotel or motel operations; and promote the restoration or preservation of homes and farms with historic significance by making it economically possible for owners to live in and maintain them. Michigan's bed and breakfast industry has experienced dramatic growth during the past decade, but it faces increasingly diverse demands and needs to change in order to compete with such establishments in other states. The provisions of the bills would facilitate further growth by allowing them to provide additional meals. This would be especially beneficial for guests who desire to spend time in an area that has no restaurants close at hand. In addition, the bill would increase the number of rooms that a B&B is allowed to rent -- a requirement that would allow large historic homes and farms to make full use of all their rooms.

***Against:***

While encouraging the B&B industry is an excellent idea, the bills raise some questions. While proponents of the bills argue that incidents of food contamination occur more often at restaurants than in B&Bs, the wisdom of exempting B&Bs with ten or fewer rooms for rent from food service regulations is questionable. This would mean that a B&B could serve meals to as many as twenty guests at a sitting, without having to abide by the sanitation and safety requirements that other food service establishments face. An exemption of this kind would pose a potential risk to the public, however small.

**POSITIONS:**

A member of the Harrisville Chamber of Commerce, who is also the owner of the Springport Inn B&B in Harrisville, testified before the House Tourism and Recreation Committee in support of the bills (3-12-96):

Representative of the following testified in support of the bills (3-12-96):

\*The Michigan Farm Bureau

\*The National Federation of Independent Business (NFIB)

\*The Department of Public Health has no position on the bills. (3-12-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.