



# HOUSE BILL No. 4571

March 14, 1995, Introduced by Reps. Bobier and Jamian and referred to the Committee on Health Policy.

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</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 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       (xi) 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       (xii) 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 (i) 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 (ii) 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 (i) "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.