

HOUSE BILL NO. 258

INTRODUCED BY C. EDMUNDS, CONNELL

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A BILL FOR AN ACT ENTITLED: "AN ACT ADDING THE DEFINITION OF "DAY VISITOR" AS A CATEGORY OF PERSON WHO VISITS A GUEST RANCH AND MAY BE SERVED FOOD; EXEMPTING A GUEST RANCH THAT SERVES FOOD TO DAY VISITORS FROM THE DEFINITION OF A "FOOD SERVICE ESTABLISHMENT"; ~~AND~~ AMENDING SECTIONS 50-50-102 AND 50-51-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 50-50-102, MCA, is amended to read:

**"50-50-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.

(2) "Consumer" means a person who is a member of the public, takes possession of food, is not operating an establishment, and does not offer the food for resale.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Establishment" means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.

(5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.

(6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(7) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.



1 (b) The term does not include:

2 (i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in  
3 their unbroken, original containers;

4 (ii) a private organization serving food only to its members;

5 (iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat  
6 for the owner of the carcass for consumption by the owner or the owner's family, pets, or nonpaying guests; or

7 (iv) an establishment, as defined in 50-51-102, that serves food only to its registered guests and day  
8 visitors.

9 (8) "Local board of health" means a county, city, city-county, or district board of health.

10 (9) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local  
11 board of health, or the health officer's authorized representative.

12 (10) "Meat market" means an operation and buildings or structures in connection with it used to process,  
13 store, or display meat or meat products for retail sale to the public or for human consumption.

14 (11) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26  
15 U.S.C. 501.

16 (12) "Perishable food dealer" means an operation that is in the business of purchasing and selling  
17 perishable food to the public at retail.

18 (13) "Person" means a person, partnership, corporation, association, cooperative group, the state or a  
19 political subdivision of the state, or other entity.

20 (14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable  
21 of supporting:

22 (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or

23 (ii) the growth and toxin production of *Clostridium botulinum*.

24 (b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or  
25 heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

26 (c) The term does not include:

27 (i) an air-cooled, hard-boiled egg with intact shell;

28 (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C  
29 (75 degrees F);

30 (iii) a food with a water activity (aw) value of 0.85 or less;

1 (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and  
2 maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

3 (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and  
4 progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum*  
5 cannot occur.

6 (15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades,  
7 chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below  
8 when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.

9 (b) The term does not include:

10 (i) tomatoes or food products containing tomatoes; or

11 (ii) any other food substrate or product preserved by any method other than that described in subsection  
12 (15)(a).

13 (16) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's market  
14 in their natural state that are not packaged and labeled and are not:

15 (a) cooked;

16 (b) canned;

17 (c) preserved, except for drying;

18 (d) combined with other food products; or

19 (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

20 (17) "Regulatory authority" means the department, the local board of health, the local health officer, or  
21 the local sanitarian.

22 (18) "Retail" means the provision of food directly to the consumer.

23 (19) (a) "Retail food manufacturing establishment" means an operation and the buildings or structures  
24 used to manufacture or prepare food for sale or human consumption at retail.

25 (b) The term does not include:

26 (i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

27 (ii) slaughterhouses, meat packing plants, or meat depots; or

28 (iii) producers or harvesters of raw and unprocessed farm products.

29 (20) (a) "Water hauler" means a person engaged in the business of transporting water for human  
30 consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter

1 6.

2 (b) The term does not include a person engaged in the business of transporting water for human  
3 consumption that is used for individual family households and family farms and ranches."

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5 **Section 2.** Section 50-51-102, MCA, is amended to read:

6 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
7 apply:

8 (1) "Bed and breakfast" means a private, owner- or manager-occupied residence that is used as a  
9 private residence but in which:

10 (a) breakfast is served and is included in the charge for a guest room; and

11 (b) the number of daily guests served does not exceed 18.

12 (2) "Day visitor" means a guest who participates in guest ranch recreational HUNTING, HORSEBACK RIDING,  
13 FISHING, OR WORKING CATTLE activities and may be served food but does not stay overnight.

14 ~~(2)(3)~~ "Department" means the department of public health and human services provided for in  
15 2-15-2201.

16 ~~(3)(4)~~ "Establishment" means a bed and breakfast, hotel, motel, roominghouse, guest ranch, outfitting  
17 and guide facility, boardinghouse, or tourist home.

18 ~~(4)(5)~~ "Guest ranch" means a facility that:

19 (a) uses one or more permanent structures, one or more of which have running water, sewage disposal,  
20 and a kitchen;

21 (b) furnishes sleeping accommodations on advance reservations for a minimum stay;

22 (c) provides hunting, horseback riding, fishing, or a working cattle ranch experience to its guests and day  
23 visitors; and

24 (d) is a small establishment or a seasonal establishment.

25 ~~(5)(6)~~ "Hotel" or "motel" includes:

26 (a) a building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel,  
27 motel, inn, motor court, tourist court, or public lodginghouse;

28 (b) a place where sleeping accommodations are furnished for a fee to transient guests, with or without  
29 meals.

30 ~~(6)(7)~~ "Outfitting and guide facility" means a facility that:

1 (a) uses one or more permanent structures, one or more of which have running water, sewage disposal,  
2 and a kitchen;

3 (b) furnishes sleeping accommodations to guests;

4 (c) offers hunting, fishing, or recreational services in conjunction with the services of an outfitter or guide,  
5 as defined in 37-47-101; and

6 (d) is a small establishment or a seasonal establishment.

7 ~~(7)~~(8) "Person" includes an individual, partnership, corporation, association, county, municipality,  
8 cooperative group, or other entity engaged in the business of operating, owning, or offering the services of a bed  
9 and breakfast, hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or  
10 roominghouse.

11 ~~(8)~~(9) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are rented  
12 that provide sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or  
13 permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities  
14 or kitchens within each room, and whose occupants do not need professional nursing or personal-care services  
15 provided by the facility.

16 ~~(9)~~(10) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less  
17 than 120 days in a calendar year and offering accommodations to between 9 and 40 people on average a day.  
18 The average number of people a day is determined by dividing the total number of guests accommodated during  
19 the year by the total number of days that the establishment operated as a guest ranch or outfitting and guide  
20 facility during the year.

21 ~~(10)~~(11) "Small establishment" means a guest ranch or an outfitting and guide facility offering  
22 accommodations to between 9 and 24 people on average a day. The average number of people a day is  
23 determined by dividing the total number of guests accommodated during the year by the total number of days that  
24 the establishment operated as a guest ranch or outfitting and guide facility during the year.

25 ~~(11)~~(12) "Tourist home" means a private home or condominium that is not occupied by an owner or  
26 manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

27 ~~(12)~~(13) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
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29 **NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.**

30 - END -