



**House
Legislative
Analysis
Section**

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**REPEAL OF FARM PRODUCTS
COMMISSION**

**House Bill 4513 as introduced
First Analysis (5-1-01)**

**Sponsor: Rep. Wayne Kuipers
Committee: Agriculture and Resource
Management**

THE APPARENT PROBLEM:

On June 22, 1999 the Senate Majority Leader established the Senate Law Revision Task Force to review state statutes and recommend for repeal those laws that “to reasonable modern minds [were] clearly arcane or irrelevant to life in modern Michigan.” According to the task force’s December 16, 1999 report, “Inherent in [the task force’s] mission was the belief that arcane and/or irrelevant statutes that remained enforceable were detrimental to the public welfare” for three reasons: (1) “Michigan residents must be free from the threat of the state arbitrarily enforcing arcane and/or irrelevant laws”; (2) “Residents must never be required to be aware of and abide by laws that no reasonable person could ever know were extant, let alone enforceable”; and (3) “Governmental resources—especially precious law enforcement resources—should not be squandered perpetuating and/or imposing arcane and/or irrelevant laws upon residents.”

In its report, the task force made a series of recommendations to repeal specific laws and sections of laws judged to be arcane and/or irrelevant. One recommendation led to the proposal of Senate Bill 1082, which would have amended the language of Public Act 184 of 1913 to reflect the previous transfer of the powers, duties, and functions of the dairy and food commissioner to the Department of Agriculture. During the discussion of Senate Bill 1082, which the House did not vote on, it was suggested that the legislature consider repealing the act altogether.

THE CONTENT OF THE BILL:

House Bill 4513 would repeal Public Act 184 of 1913. The act requires any commission merchant of farm produce within the State of Michigan to apply for and secure a license from the Department of Agriculture. (A “commission merchant” is a broker who agrees to sell farm produce, often after consolidating the produce of several farmers, for a

fee.) P.A. 184 of 1913 establishes procedures for investigating applicants, specifies legitimate grounds for refusing applications and revoking licenses, and acknowledges the applicant’s or licensee’s right to judicial review in the event of refusal or revocation of a license. The law also defines certain acts committed by commission merchants of farm produce (e.g., imposing false charges, intending to defraud or deceive, and price fixing) as misdemeanors. The repeal of the act would allow commission merchants of farm produce to conduct their business without a license.

MCL 445.331 to 445.341

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Few individuals, groups, or businesses in modern Michigan meet the relevant definition of “commission merchant”; it should be noted that the law excludes cooperative organizations from the licensing provision of the act and exempts retailers and auctioneers from the act altogether. According to the Department of Agriculture, only \$210 was collected last year in licensing fees. Moreover, the law is redundant insofar as commission merchants may currently be—and, even with repeal of the act, would likely be—prosecuted under contract laws. The Department of Agriculture believes that there is no longer any justification for charging and receiving licensing fees since law is essentially “duplicative and obsolete.” The small number of commission merchants highlights arcane and irrelevant nature of the law.

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Further, the law only applies to commission merchants “whose principal place of business shall be located in any *city* in this state.” Technically, there is nothing preventing a commission merchant from conducting business outside of a city and thus avoiding compliance with the law. Compliance with the law, under the circumstances, seems to be somewhat arbitrary.

POSITIONS:

The Department of Agriculture supports the bill. (4-25-01)

The Michigan Farm Bureau has no official position on the bill. (4-25-01)

Analyst: J. Caver

■ 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.