

# HOUSE BILL No. 4106

February 1, 2005, Introduced by Reps. Kathleen Law, Hopgood, Condino, Tobocman, Bieda, Gaffney, Plakas, Alma Smith, Donigan, Byrnes, Hood, Gonzales, Vagnozzi and Clack and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1945 PA 72, entitled

"An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts,"

by amending sections 6 and 9 (MCL 286.256 and 286.259).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6. ~~The commissioner of agriculture is hereby authorized~~  
2           ~~to make such rules and regulations and establish such quarantines~~  
3           ~~as he shall deem necessary for the proper enforcement of this act,~~  
4           ~~and all orders, rules and regulations promulgated by the~~  
5           ~~commissioner of agriculture pursuant to the act shall have the~~

1 ~~force and effect of law.~~ TO IMPLEMENT OR ENFORCE THIS ACT, THE  
2 DIRECTOR OF AGRICULTURE MAY ISSUE ORDERS OR MAY PROMULGATE RULES  
3 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,  
4 MCL 24.201 TO 24.328.

5 Sec. 9. ~~Any person who shall violate any of the provisions of~~  
6 ~~this act, shall be adjudged guilty of a misdemeanor, and upon~~  
7 ~~conviction be fined not less than \$25.00 or more than \$100.00 for~~  
8 ~~each and every offense, or by imprisonment in the county jail for a~~  
9 ~~period of not to exceed 90 days, or by both such fine and~~  
10 ~~imprisonment at the discretion of the court; and the amount~~  
11 ~~collected in fines shall be paid to the commissioner of agriculture~~  
12 ~~and by the commissioner of agriculture turned into the state~~  
13 ~~treasury and be used to help to defray the expenses of the~~  
14 ~~enforcement of this act, in addition to the regular annual~~  
15 ~~appropriation for the state department of agriculture. All rules~~  
16 ~~and regulations shall be issued and promulgated in accordance with~~  
17 ~~the provisions of Act No. 88 of the Public Acts of 1943.~~

18 (1) A PERSON, OTHER THAN A PERSON WHO IS REQUIRED TO BE  
19 LICENSED UNDER THE INSECT PEST AND PLANT DISEASE ACT, 1931 PA 189,  
20 MCL 286.201 TO 286.226, WHO VIOLATES THIS ACT OR A RULE PROMULGATED  
21 OR ORDER ISSUED UNDER THIS ACT IS RESPONSIBLE FOR A STATE CIVIL  
22 INFRACTION AND SHALL BE FINED NOT LESS THAN \$1,000.00 OR MORE THAN  
23 \$10,000.00. HOWEVER, IF THE PERSON VOLUNTARILY REPORTED THE  
24 VIOLATION TO THE DEPARTMENT BEFORE IT WAS OTHERWISE KNOWN TO THE  
25 DEPARTMENT OR THE PERSON HAD REASON TO BELIEVE THE VIOLATION WAS  
26 ABOUT TO BECOME KNOWN TO THE DEPARTMENT, THE PERSON SHALL BE FINED  
27 NOT MORE THAN \$500.00.

1           (2) IF A PERSON WHO IS REQUIRED TO BE LICENSED UNDER THE  
2 INSECT PEST AND PLANT DISEASE ACT, 1931 PA 189, MCL 286.201 TO  
3 286.226, VIOLATES THIS ACT OR A RULE PROMULGATED OR ORDER ISSUED  
4 UNDER THIS ACT, THE DIRECTOR OF AGRICULTURE SHALL IMPOSE ON THE  
5 PERSON AN ADMINISTRATIVE FINE OF NOT LESS THAN \$1,000.00 OR MORE  
6 THAN \$10,000.00. HOWEVER, IF THE PERSON VOLUNTARILY REPORTED THE  
7 VIOLATION TO THE DEPARTMENT BEFORE IT WAS OTHERWISE KNOWN TO THE  
8 DEPARTMENT OR THE PERSON HAD REASON TO BELIEVE THE VIOLATION WAS  
9 ABOUT TO BECOME KNOWN TO THE DEPARTMENT, THE DIRECTOR OF  
10 AGRICULTURE SHALL IMPOSE ON THE PERSON AN ADMINISTRATIVE FINE OF  
11 NOT MORE THAN \$500.00. UPON THE REQUEST OF THE PERSON AGAINST WHOM  
12 AN ADMINISTRATIVE FINE IS IMPOSED, THE DIRECTOR OF AGRICULTURE  
13 SHALL CONDUCT AN EVIDENTIARY HEARING UNDER THE ADMINISTRATIVE  
14 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. IF THE  
15 PERSON FAILS TO PAY THE ADMINISTRATIVE FINE, BOTH OF THE FOLLOWING  
16 APPLY:

17           (A) THE DIRECTOR OF AGRICULTURE SHALL NOTIFY THE ATTORNEY  
18 GENERAL AND THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO  
19 RECOVER THE ADMINISTRATIVE FINE.

20           (B) THERE IS SUFFICIENT CAUSE FOR THE DIRECTOR TO SUSPEND THE  
21 PERSON'S LICENSE UNDER SECTION 13 OF THE INSECT PEST AND PLANT  
22 DISEASE ACT, 1931 PA 189, MCL 286.213.

23           (3) A PERSON WHO DOES EITHER OF THE FOLLOWING IS GUILTY OF A  
24 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
25 FINE OF NOT MORE THAN \$250,000.00, OR BOTH:

26           (A) KNOWINGLY VIOLATES THIS ACT OR A RULE PROMULGATED OR ORDER  
27 ISSUED UNDER THIS ACT.

1           (B) INTENTIONALLY VIOLATES THIS ACT OR A RULE PROMULGATED OR  
2 ORDER ISSUED UNDER THIS ACT FOR THE PURPOSE OF CAUSING DAMAGE TO  
3 NATURAL RESOURCES OR AGRICULTURAL, SILVICULTURAL, OR HORTICULTURAL  
4 PRODUCTS OR RESOURCES IN THIS STATE.

5           (4) A PERSON WHO VIOLATES THIS ACT OR A RULE PROMULGATED OR  
6 ORDER ISSUED UNDER THIS ACT IS LIABLE FOR ANY DAMAGES TO NATURAL  
7 RESOURCES OR AGRICULTURAL, SILVICULTURAL, OR HORTICULTURAL PRODUCTS  
8 OR RESOURCES RESULTING FROM THE VIOLATION, INCLUDING, BUT NOT  
9 LIMITED TO, COSTS INCURRED TO PREVENT OR MINIMIZE SUCH DAMAGES.