

HOUSE BILL No. 4864

May 29, 2007, Introduced by Rep. Johnson and referred to the Committee on Appropriations.

A bill to amend 1937 PA 284, entitled

"An act to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act,"

by amending section 3 (MCL 287.123), as amended by 2004 PA 279.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. (1) A person desiring to act as a dealer, broker, or
- 2 agent shall file an application with the department for a license
- 3 to engage in the business of dealer, broker, or agent. The
- 4 application shall state the nature of the business, the mailing

address of the applicant, and the mailing address at or from which the business is to be conducted. If the applicant desires to operate a livestock yard where livestock is kept and sold at public or private sale, the application shall so state. The application may state additional information as requested by the director.

~~(2) Subject to subsection (5) and beginning October 1, 2003 through September 30, 2007~~ **SUBSECTIONS (4) AND (7)**, the department shall charge and collect the following fees for initial and renewal license applications, which shall be deposited into the general fund:

(a) Class I (livestock auction).....	\$ 400.00.
(b) Class II (collection point/buying station).....	\$ 250.00.
(c) Class III (horse auction).....	\$ 150.00.
(d) Class IV (dealer/broker/agent).....	\$ 50.00.

~~———— (3) Subject to subsection (5) and through September 30, 2003 or after September 30, 2007, the only fee the department shall charge and collect for the issuance and renewal of licenses under this section is a fee of \$5.00 for a dealer, broker, or agent license.~~

(3) THE DEPARTMENT SHALL DEPOSIT ADMINISTRATIVE FINES RECEIVED UNDER THIS ACT AND LICENSE FEES RECEIVED UNDER THIS SECTION INTO THE AGRICULTURE LICENSING AND INSPECTION FEES FUND CREATED IN SECTION 4 OF 1969 PA 287, MCL 287.334, TO BE USED PURSUANT TO APPROPRIATION BY THE DIRECTOR IN ADMINISTERING AND

1 CARRYING OUT THOSE DUTIES REQUIRED BY LAW UNDER THIS ACT.

2 (4) EVERY 3 YEARS, THE DEPARTMENT BY ORDER MAY ADJUST THE
3 FEE SCHEDULE IN SUBSECTION (2) BY AN AMOUNT DETERMINED BY THE
4 STATE TREASURER TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE
5 CHANGE IN THE DETROIT CONSUMER PRICE INDEX OVER THE 3-YEAR
6 PERIOD. AN ADJUSTMENT UNDER THIS SUBSECTION SHALL NOT EXCEED 5%
7 EVEN IF THE AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT
8 THE CUMULATIVE ANNUAL PERCENTAGE CHANGE OVER THE 3-YEAR PERIOD IS
9 MORE THAN 5%.

10 (5) ~~(4)~~ A licensee who buys or sells livestock by weight
11 shall employ a registered weighmaster to do all the weighing. The
12 duties, qualifications, and requirements for registration of
13 weighmasters shall be established by the director by promulgation
14 of a rule under section 9.

15 (6) ~~(5) Beginning the effective date of the amendatory act~~
16 ~~that added this subsection~~ **JULY 23, 2004**, the department shall
17 issue an initial or renewal dealer, broker, agent, livestock
18 auction, collecting point/buying station, and horse auction
19 license not later than 90 days after the applicant files a
20 completed application. Receipt of the application is considered
21 the date the application is received by any agency or department
22 of the state of Michigan. If the application is considered
23 incomplete by the department, the department shall notify the
24 applicant in writing, or make the information electronically
25 available, within 30 days after receipt of the incomplete
26 application, describing the deficiency and requesting the
27 additional information. The 90-day period is tolled upon

1 notification by the department of a deficiency until the date the
2 requested information is received by the department. The
3 determination of the completeness of an application does not
4 operate as an approval of the application for the license and
5 does not confer eligibility of an applicant determined otherwise
6 ineligible for issuance of a license.

7 (7) ~~(6)~~—If the department fails to issue or deny a license
8 within the time required by this section, the department shall
9 return the license fee and shall reduce the license fee for the
10 applicant's next renewal application, if any, by 15%. The failure
11 to issue a license within the time required under this subsection
12 does not allow the department to otherwise delay the processing
13 of the application, and that application, upon completion, shall
14 be placed in sequence with other completed applications received
15 at that same time. The department shall not discriminate against
16 an applicant in the processing of the application based upon the
17 fact that the license fee was refunded or discounted under this
18 subsection.

19 (8) ~~(7)~~—Beginning October 1, 2005, the director shall submit
20 a report by December 1 of each year to the standing committees
21 and appropriations subcommittees of the senate and house of
22 representatives concerned with agriculture issues. The director
23 shall include all of the following information in the report
24 concerning the preceding fiscal year:

25 (a) The number of initial and renewal applications the
26 department received and completed within the 90-day time period
27 described in subsection ~~(5)~~—(6).

1 (b) The number of applications denied.

2 (c) The number of applicants not issued a license within the
3 90-day time period and the amount of money returned to licensees
4 and registrants under subsection ~~(6)~~-(7).

5 (9) ~~(8)~~—The application for that license and bond shall be
6 submitted to the director on or before October 1 of each year.
7 Each license issued under this section shall be for a period of 1
8 year commencing October 1 and ending the following September 30.

9 (10) ~~(9)~~—Each dealer, broker, or agent operating or
10 conducting a livestock auction shall file with his or her
11 application for a license a surety bond effective during the
12 period for which the license is issued. The surety bond shall be
13 issued by a surety company registered in this state to indemnify
14 persons from whom livestock is purchased or for whom livestock is
15 sold or other security and in such amounts, form, and sufficiency
16 as approved by the director. The amount of the bond shall be an
17 amount equal to the amount of gross dollar volume of livestock
18 business conducted during the average week of the previous
19 licensing year by the applicant, but in no case less than
20 \$1,500.00. If the average gross weekly livestock business
21 conducted by the applicant during the previous licensing year was
22 greater than \$25,000.00, the bond shall be increased above
23 \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part
24 thereof above \$25,000.00 on the average gross dollar-volume of
25 weekly livestock business conducted during the previous year. A
26 licensee who owns or operates more than 1 livestock yard or
27 livestock auction may file 1 bond in an amount determined by the

1 formula described in this subsection. Any dealer, broker, or
2 agent operating or conducting a livestock yard or livestock
3 auction who has filed a surety bond for the livestock yard or
4 livestock auction and indemnifies persons from whom livestock is
5 purchased or for whom livestock is sold in accordance with the
6 terms of any federal act is exempt from the bonding requirements
7 of this subsection provided the bond is equivalent in amount to
8 that which would be required by this act. The bond shall be for a
9 dealer or broker and his or her agents in which the department is
10 the obligee for the benefit and purpose of protecting all persons
11 selling or consigning livestock to the licensed dealer, broker,
12 or agent against the licensed dealer's, broker's, or agent's
13 failure to pay amounts due on livestock purchased by or consigned
14 to them.

15 (11) ~~(10)~~—Each licensee shall keep records and shall
16 furnish, upon request, information concerning his or her
17 purchases and sales as may be required by the director for the
18 purpose of establishing the amount of bond required under
19 subsection ~~(9)~~—(10). The director, in fixing the amount of the
20 bond, shall take into consideration the dollar volume of
21 livestock business and other information furnished by the dealer,
22 broker, or his or her agent. If a dealer, broker, or agent did
23 not operate a livestock auction the previous licensing year, the
24 bond shall be for an amount as shall be established by the
25 director after consideration of all information available on the
26 probable weekly gross dollar volume of business to be conducted
27 by the dealer, broker, or agent during the licensing year.

1 (12) ~~(11)~~—If during any licensing year the bond filed by any
2 licensee becomes less than required by this act because of an
3 increase in gross dollar volume of livestock sales, the director
4 may issue an order requiring the licensee to file an additional
5 bond to cover the increase in gross dollar volume of livestock
6 sales. Failure to comply with the orders of the director is
7 grounds for suspension or revocation of license. A bond shall be
8 conditioned upon the faithful performance of the licensee's
9 duties as a dealer or broker and on the provisions of law
10 relating to the purchase of livestock by the dealer or broker and
11 for the payment by the dealer or broker of all livestock
12 purchased by or consigned to the dealer or broker as a dealer or
13 broker in livestock.

14 (13) ~~(12)~~—A license issued under this section allows the
15 holder to conduct the business of dealer or broker at or from the
16 place named in the application. A legal entity engaged in the
17 business of transporting livestock or negotiating or soliciting
18 the transportation or transfer of livestock that is not engaged
19 in the buying, selling, reselling, exchanging, negotiating, or
20 soliciting the sale, resale, or exchange of livestock must obtain
21 a license under this section but is not required to comply with
22 bonding provisions of this section.

23 (14) ~~(13)~~—A dealer, broker, or agent shall keep adequate
24 records of the producers' proceeds account in compliance with
25 section 3a and of all sales and purchases for a period of 2 years
26 in the manner required by the director. The records shall be open
27 to reasonable inspection by the department.

(15) ~~(14)~~—A dealer, broker, or agent shall notify the director of a change of address within 5 days after that change. Any change in ownership of any livestock auction or market shall be reported to the director within 5 days by the licensee. Each dealer or broker shall file with the director on January 1 of each year a sworn statement of average weekly sales and a statement showing the number and kinds of livestock purchased and sold during the previous year.

(16) ~~(15)~~—As used in this section: ~~—"completed"~~

(A) **"COMPLETED** application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

(B) **"DETROIT CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT AREA FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.**