

MICHIGAN AGRICULTURAL PROCESSING ACT (EXCERPT)
Act 381 of 1998

289.823 Processing operation as public or private nuisance.

Sec. 3.

(1) A processing operation shall not be found to be a public or private nuisance if the processing operation alleged to be a nuisance conforms to generally accepted fruit, vegetable, dairy product, meat, and grain processing practices as determined by the Michigan commission of agriculture. The Michigan commission of agriculture shall annually review and revise, as determined necessary, the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

(2) Until the Michigan commission of agriculture establishes the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices, a processing operation shall not be found to be a public or private nuisance in an action brought in a court of competent jurisdiction if the director of the department of agriculture has determined that the processing operation is in compliance with this act as described in section 4(3).

(3) A processing operation shall not be found to be a public or private nuisance if the processing operation existed before a change in the use or occupancy of land within 1 mile of the boundaries of the land upon which the processing operation is located and, before that change in use or occupancy of land, the processing operation would not have been found to be a nuisance. The determination of the circumstances described in this subsection or subsection (1) or (2) is considered to be a finding as a matter of law and creates a rebuttable presumption that the processing operation is operating under generally accepted practices or that the processing operation is not a public or private nuisance.

(4) A processing operation that is in conformance with subsection (1) or (2) shall not be found to be a public or private nuisance as a result of any of the following:

- (a) A change in ownership or size.
- (b) Temporary cessation or interruption of processing.
- (c) Adoption of new technology.
- (d) A change in type of fruit, vegetable, dairy, meat, or grain product being processed.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005