

or she has completed similar questionnaires approved by the United States department of veterans affairs or the United States department of defense while under the control of the federal government.

(4) The officer or enlisted person is exempt from department-administered post-traumatic stress disorder and traumatic brain injury requirements if he or she has completed similar questionnaires approved by the United States department of veterans affairs or the United States department of defense while under the control of the federal government.

(5) An officer or enlisted person who has been discharged from the national guard, an active duty servicemember residing in Michigan, or a federal reservist residing in Michigan who has been deployed in operation Iraqi freedom or operation enduring freedom may take a department-administered post-traumatic stress disorder questionnaire and a traumatic brain injury questionnaire free of charge.

(6) The questionnaires shall be developed by the department with the assistance of any statewide associations specializing in traumatic brain injuries, the Ann Arbor veteran administration medical center, and the Michigan department of community health and shall be approved by the United States department of veterans affairs or the United States department of defense.

(7) All post-traumatic stress disorder and traumatic brain injury questionnaires shall be stored as electronic documents by the department.

(8) As used in this section, “department” means the department of military and veterans affairs.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 140]

(HB 5509)

AN ACT to amend 2003 PA 198, entitled “An act to provide insurance to farm produce producers against losses from the failure of grain dealers; to establish a farm produce insurance authority; to prescribe the powers and duties of the authority and its board; to establish a farm produce insurance fund; to provide for assessments on grain dealers; to prescribe certain powers and duties of certain state agencies and officers; to authorize the promulgation of rules; and to repeal acts and parts of acts,” by amending sections 3, 13, and 15 (MCL 285.313, 285.323, and 285.325).

The People of the State of Michigan enact:

285.313 Definitions.

Sec. 3. As used in this act:

(a) “Acknowledgment form” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(b) “Administrative expenses” means the costs described in section 9(2).

(c) “Authority” means the farm produce insurance authority created in section 5.

(d) “Board” means the board of directors of the authority described in section 7.

(e) “Claimant” means a producer who makes a claim for reimbursement from the fund under section 15.

(f) “Department” means the department of agriculture.

(g) “Depositor” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(h) “Director” means the director of the department or his or her designee.

(i) “Failure” of a licensee or grain dealer means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(j) “Farm produce” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(k) “Farm produce insurance program” or “program” means the program for reimbursement of claims described in this act.

(l) “Financial institution” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(m) “Financial loss” means the loss to a producer who is not paid in full for farm produce that the producer sold to a grain dealer and delivered under the terms of the sales contract, after deducting any outstanding charges against the farm produce.

(n) “Fund” means the farm produce insurance fund created in section 9.

(o) “Grain dealer” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(p) “Grain dealers act” means the grain dealers act, 1939 PA 141, MCL 285.61 to 285.88.

(q) “Licensee” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(r) “Net proceeds” means the sale price of farm produce, less usual and customary charges and costs of sale of the farm produce.

(s) “Participant” means a producer that has never requested a refund from the fund or a producer who has reentered the program under section 13(5).

(t) “Person” means an individual, corporation, limited liability company, partnership, association, cooperative organization, or other legal entity.

(u) “Price later agreement” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

(v) “Producer” means a person that owns, rents, leases, or operates a farm on land and who has an interest in and receives all or any part of the proceeds from the sale in Michigan of farm produce produced from the land to a grain dealer licensed under the grain dealers act.

(w) “Producer premium” means the amount of money charged to and collected from a producer under section 11.

(x) “Sale” means transfer of title.

(y) “Storage loss” means a loss to a depositor resulting from the failure of a licensee that has not fully satisfied its storage obligation to the depositor, net of any outstanding charges against the farm produce.

(z) “Valid claim” means a claim arising from a failure of a licensee that occurs after the effective date of this act, is found valid by the department, and is approved by the board, less all credits and offsets associated with farm produce sold in this state by a producer to the licensee.

(aa) “Warehouse receipt” means that term as defined in section 2 of the grain dealers act, MCL 285.62.

285.323 Producer premium; refund.

Sec. 13. (1) Subject to subsection (7), a producer that has paid, either directly or collected by a licensee, a producer premium may receive a refund of the producer premium from the fund by submitting a written demand for refund to the board, delivered personally or by first-class mail within 12 months after the producer paid the producer premium, or within a longer period granted by the board if it determines that good cause for an extension exists.

(2) A producer shall submit a demand for refund under subsection (1) on a demand for refund form developed by the board. The board shall make the form available to a licensee, producer, or member of the public upon request.

(3) If a producer is entitled to a refund of a producer premium under this section, the board shall pay the refund within 60 days of its receipt of the demand for refund.

(4) If producer premiums were assessed in the immediately preceding calendar year, the board shall by January 31 send a notice to each producer who requested a refund of a producer premium in any previous calendar year. The notice must inform the producer of the deadline for and method of submitting a demand for refund to the board under subsections (1) and (2) and the method for reentering the program under subsection (5).

(5) A producer that receives a refund of a producer premium under subsection (1) is not entitled to participation in the program or to receive any payment under this act unless it reenters the farm produce insurance program by meeting all of the following conditions:

(a) The producer submits a request for reentry into the farm produce insurance program to the board. The producer shall submit the request in the form required by the board and shall deliver the request to the board by hand or by certified mail, return receipt requested.

(b) The board reviews the producer’s request for reentry and approves the request.

(c) The producer pays into the fund all previous producer premiums refunded to the producer, and interest on the refunds as determined by the board.

(6) A producer that reenters the farm produce insurance program under subsection (5) is eligible for reimbursement of claims under the program for any failure that occurs at least 90 days after reentry.

(7) A producer is not eligible for a refund of a producer premium under this section if the producer has received reimbursement from the fund for a valid claim within the preceding 36 months.

285.325 Claim for reimbursement.

Sec. 15. (1) A producer that meets both of the following may submit a claim for reimbursement from the fund under this section:

(a) The producer is a participant at the time the producer submits the claim.

(b) The producer satisfies 1 of the following conditions:

(i) The producer possesses written evidence of ownership of farm produce that discloses a storage obligation of a licensee that has failed, including, but not limited to, a warehouse receipt, acknowledgment form, or settlement sheet.

(ii) The producer has surrendered warehouse receipts as part of a sale of farm produce to a licensee that failed not more than 21 days after the surrender of the warehouse receipts and the producer surrendering the warehouse receipts was not fully paid for the farm produce.

(iii) The producer possesses written evidence of the delivery and sale of farm produce or transfer of price later farm produce to a failed licensee, including, but not limited to, an

acknowledgment form, settlement sheet, price later agreement, or similar farm produce delivery contract, but the grain dealer did not pay the producer in full for the farm produce.

(2) If the department finds a claim made under subsection (1) is valid and the board approves of the valid claim, the board shall within 90 days of the board's approval pay the claimant the amount described in subsection (3) or (4) from the fund as compensation for the claim. The 90-day time period for payment may be extended if the board and claimant agree in a writing that describes the payment terms and schedule.

(3) A claimant that incurs a storage loss due to the failure of a licensee is entitled to payment under subsection (2) in an amount equal to 100% of the storage loss, less any producer premium that would have been due on the sale of the farm produce. The department shall determine the gross amount of the storage loss based upon local market prices on the date of failure. The department may consider any evidence submitted by the failed licensee or any claimants concerning the actual charges associated with stored farm produce.

(4) A claimant that incurs a financial loss due to the failure of a licensee is entitled to payment under subsection (2) in an amount equal to 90% of the financial loss. For farm produce that is sold in a transaction subject to the grain dealers act, the department shall determine the amount of the financial loss based on the value of the farm produce less any outstanding charges against the farm produce. If the farm produce has not been priced, the department shall establish the amount of the financial loss using the local market on the date of failure less any usual and customary charges associated with the sale of farm produce.

(5) A claim under subsection (2) of this section is valid only if it is made within 1 year after notice of the failure of the licensee is published in a newspaper of general circulation in each county in which a facility of the licensee is located.

(6) The board may require a claimant paid under this section for a valid claim to subrogate to the board or authority all the claimant's rights to collect on any bond issued under the grain dealers act or the United States warehouse act, 7 USC 241 to 256, and the claimant's rights to any other compensation arising from the failure of the licensee. If required to subrogate under this subsection, the claimant shall assign the claimant's interest in any judgment concerning the failure to the board or authority.

(7) The board shall deny the payment of a valid claim under this section if the board determines any of the following are met:

(a) The claimant as payee fails to present for payment a negotiable instrument issued as payment for farm produce within 90 days after the date the negotiable instrument is tendered to the claimant as payment for farm produce purchased by the licensee.

(b) The claimant has engaged in marketing practices that have contributed to the claimant's loss. The authority may consider whether the marketing practices are generally accepted marketing practices in this state in making its determination.

(c) The claimant has intentionally committed a fraud or violated this act in connection with the claim.

(8) If the department determines that a failure of a licensee has occurred, the board shall do all of the following:

(a) Determine the valid claims against the licensee and the amount of the valid claims.

(b) Authorize payment of money from the fund when necessary to pay claimants for valid claims as provided in this section.

(c) Deposit into the fund any proceeds of the remaining farm produce assets of a failed licensee to repay the fund for money paid to claimants, subject to any priority lien right a

holder of a mortgage, security interest, or other encumbrance may possess under any applicable law. The board shall not deposit into the fund an amount in excess of the sum of the principal amount of valid claims paid to claimants, plus interest for the period from the date a claimant was paid for a valid claim to the date that the remaining farm produce assets were received by the board under this subsection, at a per annum rate equal to the auction rate of 91-day discount treasury bills on the date the claimant was paid.

(d) If the amount in the fund and any amount the board borrows under subsection (9)(b) are insufficient to pay all valid claims, pay the amount available for payment proportionately among the valid claims approved by the board and pay the prorated amount to those claimants.

(9) If the department determines that a failure of a licensee has occurred, the board may do any of the following:

(a) Pursue any subrogation rights obtained from claimants under subsection (6).

(b) If the fund has insufficient money to pay the valid claims, borrow money as authorized under section 7(8)(j) for the payment of valid claims.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 141]

(SB 747)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1138.

The People of the State of Michigan enact:

380.1138 Pupil absent from school due to deployment or return from active duty of parent, legal guardian, or sibling; excused absence; definitions.

Sec. 1138. (1) If a pupil is absent from school for up to 1 full school day because his or her parent, legal guardian, or sibling is a service member being deployed on or returning from active duty, or if a pupil is absent from school for up to 2 full school days if the location of the deployment or return is more than 300 miles from the pupil’s home, the school officials of a public school shall consider that absence to be an excused absence. The board of a school

district or intermediate school district or board of directors of a public school academy shall ensure that their attendance policy is consistent with this section.

(2) This section does not prohibit a public school from considering an absence for a reason described in subsection (1) that is longer than the number of school days prescribed in subsection (1) to be an excused absence.

(3) As used in this section:

(a) “Active duty” means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) “Armed forces” means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) “Michigan national guard” means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(d) “Service member” means a member of the armed forces, a reserve branch of the armed forces, or the Michigan national guard.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 142]

(HB 5102)

AN ACT to amend 1972 PA 239, entitled “An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties,” by amending section 23 (MCL 432.23), as amended by 2004 PA 272.

The People of the State of Michigan enact:

432.23 License as lottery sales agent; issuance; consideration of factors; receipt of completed application; issuance of certificate within certain period of time; report; nonassignable and nontransferable; bond; display of license; suspension or revocation; terminal placement; prohibited conduct; definitions.

Sec. 23. (1) The commissioner shall not issue a license to a person to engage in business exclusively as a lottery sales agent. Before issuing a lottery sales license, the commissioner shall consider factors such as the financial responsibility and security of the person and his or her business or activity, the accessibility of his or her place of business or activity to the public, the sufficiency of existing licenses to serve the public convenience, and the volume of expected sales.

(2) The commissioner shall issue an initial or renewal lottery sales license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the

commissioner determines that the application is incomplete, the commissioner shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the commissioner of a deficiency until the date the requested information is received by the commissioner. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(3) If the commissioner fails to issue or deny a lottery sales license within the time required by this section, the commissioner shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a lottery sales license within the time required under this section does not allow the commissioner to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The commissioner shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(4) The commissioner shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with gaming issues. The commissioner shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commissioner received and completed within the 90-day time period described in subsection (2).

(b) The number of applications denied.

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

(5) Notwithstanding any other provision of law, a person licensed as a lottery sales agent may sell lottery tickets and shares. A person lawfully engaged in nongovernmental business on state property may be licensed as a lottery sales agent.

(6) A lottery sales license is not assignable or transferable.

(7) A licensed agent or his or her employee may sell lottery tickets or shares only on the premises stated in the lottery sales license. A licensed agent who violates this subsection is, at the commissioner's discretion, subject to 1 or more of the following:

(a) Probation for not more than 2 years.

(b) A fine of not more than \$1,000.00.

(c) Removal of his or her lottery terminal.

(8) The commissioner may require a bond from a licensed agent in an amount provided in rules promulgated under this act.

(9) A licensed agent shall display his or her license or a copy of the license conspicuously in accordance with rules promulgated under this act.

(10) The commissioner may suspend or revoke the license of an agent who violates this act or a rule promulgated under this act.

(11) For purposes of terminal placement, the commissioner shall take into account with equal emphasis both of the following:

(a) The total instant game sales for the 3 months immediately preceding a market evaluation.

(b) The need to maximize net lottery revenues from the total number of terminals placed.

(12) A licensed lottery sales agent shall not offer to give or give any money or other thing of value to the holder of a lottery ticket or share for winning the lottery, other than the prize if payment of the prize by the agent is authorized by the commissioner.

(13) As used in this section:

(a) “Completed application” means an application complete on its face and submitted with any applicable licensing fees and 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 this state.

(b) “Person” means an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, or other person acting in a fiduciary or representative capacity who is appointed by a court, or any combination of individuals. Person includes a department, commission, agency, or instrumentality of the state, including a county, city, village, or township and an agency or instrumentality of the county, city, village, or township.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 143]

(HB 4557)

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” by amending section 435 (MCL 206.435), as added by 2007 PA 133.

The People of the State of Michigan enact:

206.435 Contribution designations; duration; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant

act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) For the 2010 tax year and each tax year after the 2010 tax year, the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

(d) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(e) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(f) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(g) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437, 438, and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after the effective date of the amendatory act that added this section shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

This act is ordered to take immediate effect.
Approved May 28, 2008.
Filed with Secretary of State May 28, 2008.

[No. 144]**(HB 5174)**

AN ACT to allow certain active duty service members to terminate motor vehicle leases; to provide for the rights and responsibilities of the lessees and lessors to those terminated motor vehicle leases; to provide for the powers and duties of certain state officials; to prescribe civil sanctions and provide penalties; and to provide for the disposition of civil fines.

The People of the State of Michigan enact:

445.1011 Short title.

Sec. 1. This act shall be known and may be cited as the “military personnel motor vehicle leasing act”.

445.1012 Definitions.

Sec. 2. As used in this act:

(a) “Active duty” means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) “Armed forces” means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) “Lessee” means that term as defined in section 1 of 1990 PA 169, MCL 445.991.

(d) “Lessor” means that term as defined in section 1 of 1990 PA 169, MCL 445.991.

(e) “Michigan national guard” means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(f) “Motor vehicle” means that term as defined in section 1 of 1990 PA 169, MCL 445.991.

(g) “Motor vehicle lease” means a lease contract as that term is defined in section 1 of 1990 PA 169, MCL 445.991.

(h) “Service member” means a member of the armed forces, a reserve branch of the armed forces, or the Michigan national guard.

445.1013 Termination of motor lease by service member or spouse; requirements.

Sec. 3. A service member who is deployed on active duty for a period of 180 days or more, or the spouse of that service member, may terminate any motor vehicle lease that meets all of the following requirements:

(a) The motor vehicle lease is entered into on or after the effective date of this act.

(b) The motor vehicle lease is executed by or on behalf of the service member as a lessee.

(c) The motor vehicle lease is executed before the service member is deployed on active duty.

445.1014 Termination of motor vehicle lease; effectiveness.

Sec. 4. A termination of the motor vehicle lease under section 3 is effective on the date all of the following are met:

(a) The service member who is deployed on active duty, or the service member’s spouse, provides the lessor by certified mail, return receipt requested, a written notice of the service member’s intention to terminate the lease, a copy of the military or gubernatorial orders

calling the service member to active duty, and a copy of any orders further extending the service member's period of active duty.

(b) The motor vehicle subject to the motor vehicle lease is returned to the custody or control of the lessor within 15 days after the delivery of the written notice under subdivision (a).

445.1015 Termination of motor vehicle lease; payments; charges; refund of advance payments.

Sec. 5. (1) If a motor vehicle lease is terminated under this act, the lessee shall pay any past due lease payments owed to the lessor as of the effective date of the termination and a pro rata share of any current lease payments owed as of that effective date.

(2) If a motor vehicle lease is terminated under this act, the lessor may not impose an early termination charge for that termination. However, the lessee shall pay any taxes, court costs, title or registration fees, and any other obligation and liability of the lessee under the terms of the lease, including, but not limited to, reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid as of the effective date of the termination.

(3) If a motor vehicle lease is terminated under this act, the lessor shall refund to the lessee any lease amounts paid in advance for a period after the effective date of the termination of that motor vehicle lease, within 30 days after the effective date of the lease's termination.

445.1016 Civil action; equitable relief; civil fine.

Sec. 6. (1) Before the effective date of a motor vehicle lease termination under this act, the lessor may bring a civil action and, if appropriate, obtain equitable relief from all or part of the lessor's obligations to the lessee under this act.

(2) In addition to any other penalty that may be provided by law, the attorney general may file a civil action in which the court may impose on a lessor that violates this act a civil fine of not more than \$1,000.00 for each violation. Money recovered under this subsection shall be forwarded to the state treasurer for deposit into the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 145]

(HB 5085)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 82101, 82105, and 82114 (MCL 324.82101, 324.82105, and 324.82114), section 82101 as amended by 2005 PA 175, section 82105 as amended by 2005 PA 271, and section 82114 as added by 1995 PA 58, and by adding sections 82105a, 82105b, and 82116a.

The People of the State of Michigan enact:

324.82101 Definitions.

Sec. 82101. As used in this part:

(a) “Conviction” means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

(b) “Dealer” means any person engaged in the sale, lease, or rental of snowmobiles as a regular business, other than an auctioneer as that term is defined in section 2901 of the occupational code, 1980 PA 299, MCL 339.2901.

(c) “Former section 15a” means section 15a of former 1968 PA 74, as constituted prior to May 1, 1994.

(d) “Highly restricted personal information” means an individual’s photograph or image, social security number, digitized signature, and medical and disability information.

(e) “Highway or street” means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.

(f) “In-kind contributions” means services and goods as approved by the department that are provided by a grant recipient toward completion of a department-approved local snowmobile program under section 82107.

(g) “Law of another state” means a law or ordinance enacted by any of the following:

(i) Another state.

(ii) A local unit of government in another state.

(iii) Canada or a province or territory of Canada.

(iv) A local unit of government in a province or territory of Canada.

(h) “Long-term incapacitating injury” means an injury that causes a person to be in a comatose, quadriplegic, hemiplegic, or paraplegic state, which state is likely to continue for 1 year or more.

(i) “Operate” means to ride in or on and be in actual physical control of the operation of a snowmobile.

(j) “Operator” means any person who operates a snowmobile.

(k) “Owner” means any of the following:

(i) A person who holds the legal title to a snowmobile.

(ii) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(iii) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

(l) “Peace officer” means any of the following:

(i) A sheriff.

(ii) A sheriff’s deputy.

(iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(iv) A village or township marshal.

(v) An officer of the police department of any municipality.

(vi) An officer of the Michigan state police.

(vii) The director and conservation officers employed by the department.

(viii) A law enforcement officer who is certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, as long as that officer is policing within his or her jurisdiction.

(m) “Personal information” means information that identifies an individual, including an individual’s driver identification number, name, address not including zip code, and telephone number, but does not include information on snowmobile operation or equipment-related violations or civil infractions, operator or snowmobile registration status, accidents, or other behaviorally-related information.

(n) “Probate court or family division disposition” means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(o) “Prosecuting attorney”, except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

(p) “Recreational snowmobile trail improvement subaccount” means the recreational snowmobile trail improvement subaccount of the snowmobile account created in section 82110.

(q) “Right-of-way” means that portion of a highway or street less the roadway and any shoulder.

(r) “Roadway” means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

(s) “Shoulder” means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(t) “Snowmobile” means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(u) “Snowmobile account” means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(v) “Snowmobile registration fee subaccount” means the snowmobile registration fee subaccount of the snowmobile account created in section 82111.

(w) “Zone 1” means all of the Upper Peninsula.

(x) “Zone 2” means all of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of River road in Muskegon county; thence due east to the westerly terminus of River road; thence north and east along the center line of the River road to its intersection with highway M-120; thence northeasterly and easterly along the center line of highway M-120 to the junction of highway M-20; thence easterly along the center line of M-20 to its junction with US-10 at the Midland-Bay county line; thence easterly along the center line of the “business route” of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line;

thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of the river to its junction with Saginaw Bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the Dominion of Canada.

(y) “Zone 3” means all of that part of the Lower Peninsula south of the line described in subdivision (x).

324.82105 Application for registration; form; information to be included in application; fee; issuance of certificate of registration and decal; contents, size, legibility, and inspection of certificate; surety bond; issuance, duration, and renewal of certificate and registration decal; display of decal; destroying record of certificate.

Sec. 82105. (1) Before operating a snowmobile requiring registration in this state, the owner shall apply for registration with the department of state on forms provided by the department of state. If the snowmobile was purchased from a retail dealer in this state, application for initial registration shall be made with the dealer at the point of sale. The dealer shall issue a temporary registration permit in a form received from and approved by the department of state that is valid for 15 days after the date of sale. Each retail dealer shall submit applications for registrations and fees to the department of state not less than once each week. The application shall include the new owner’s name, signature, and bona fide residence address and the names and addresses of holders of any security interest in the snowmobile and its accessories in the order of priority. The application shall be accompanied by a fee of \$22.00. Upon receipt of the application in approved form, the department of state shall enter the application upon its records and issue to the applicant a certificate of registration and decal. The certificate of registration shall contain the number awarded to the snowmobile, the name and address of the owner, the name and address of the holders of secured interests, and other information the department of state considers necessary. The certificate of registration shall be pocket-size, shall accompany the vehicle, shall be legible, and shall be made available for inspection upon demand by a peace officer.

(2) If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth more than \$2,500.00, before registering the snowmobile and issuing a certificate of registration, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the snowmobile as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser of the snowmobile and their successors in interest against any expense, loss, or damage, including reasonable attorney fees, incurred as a result of the issuance of a certificate of registration for the snowmobile or any defect in the right, title, or interest of the applicant in the snowmobile. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the snowmobile is no longer registered in this state and the current valid certificate of registration is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth \$2,500.00 or less, the secretary of state shall require the applicant to certify that the applicant is the owner of the snowmobile and entitled to register the snowmobile.

(3) The certificate of registration and registration decal authorizes the operation of the snowmobile for a 3-year period that begins on October 1 and expires on September 30 of the third year. The certificate of registration and registration decal may be renewed by payment of a fee of \$22.00 beginning July 1 of the expiration year. The registration decal shall be displayed as prescribed by rule promulgated by the department of state.

(4) The department of state may destroy a record of a certificate of registration 7 years after expiration of the certificate.

324.82105a Fees; delinquency; penalty; deposit and use of collected penalties.

Sec. 82105a. (1) If a check, draft, or electronic payment of a required fee is not paid on its first presentation, the fee is delinquent as of the date the check, draft, or electronic payment was tendered. The person tendering the check, draft, or electronic payment remains liable for the payment of each fee and any penalty.

(2) The department of state may suspend the operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, of the person tendering the check, draft, or electronic payment for a snowmobile registration if the department of state determines a fee prescribed in this section has not been paid and remains unpaid after reasonable notice or demand.

(3) If a fee is delinquent 15 days after the department of state has given notice to a person who tendered the check, draft, or electronic payment, a \$25.00 penalty shall be assessed and collected in addition to the fee.

(4) Except as otherwise provided in this part, the penalties collected under this section shall be deposited in the general fund and used first to defray the administrative costs of the department of state required by the registration provisions of this part. Any money not required for administration of the registration provisions of this part shall be credited each year to the recreational snowmobile trail improvement fund.

324.82105b Cancellation, suspension, revocation, or refusal to issue snowmobile registration; conditions.

Sec. 82105b. The department of state may cancel, suspend, revoke, or refuse to issue a snowmobile registration if any of the following occur:

(a) The applicant has failed to furnish all required information or reasonable additional information requested by the department of state.

(b) The required fees have not been paid.

(c) The applicant is not entitled to a snowmobile registration under this part.

(d) The department of state issued the registration in error.

(e) The application contains a false or fraudulent statement.

(f) The department of state has reasonable grounds to believe that the snowmobile was stolen or embezzled.

324.82114 Destruction, abandonment, sale, or transfer of snowmobile; change of address; notice; surrender of certificate; cancellation of certificate; destruction of record; recording new address; return of certificate to owner; application by transferee for new certificate; fee; operation without certificate prohibited; duplicate certificate; replacement registration decal.

Sec. 82114. (1) The owner of a snowmobile shall notify the department of state within 15 days if the snowmobile is destroyed or abandoned, or is sold, or an interest in the snowmobile is transferred either wholly or in part to another person, or if the owner's address no

longer conforms to the address appearing on the certificate of registration. The notice shall consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided. If the surrender of the certificate of registration is by reason of the snowmobile being destroyed or abandoned, the department of state shall cancel the certificate of registration and enter that fact in the records of the department of state, and the number may be then reassigned. The department of state may destroy the record of a surrendered certificate of registration 10 years after its surrender.

(2) If the surrender of the certificate of registration is by reason of a change of address on the part of the owner, the new address shall be recorded by the department of state and a certificate of registration bearing that information shall be returned to the owner.

(3) The transferee of a snowmobile registered under this part, within 15 days after acquiring the snowmobile, shall apply to the department of state for issuance of a new certificate of registration for the snowmobile, giving the previous registration number of the snowmobile and proof of payment or satisfaction of any security interest shown on the previous owner's certificate of registration or department of state's records. The application shall include the new owner's name, signature, and bona fide residence address and the names and addresses of the holders of security interests in the snowmobile and its accessories in the order of their priority, and shall be accompanied by the fee prescribed in section 82105. Upon receipt of the application and fee, the department of state shall issue a new certificate of registration for the snowmobile to the new owner. Unless the application is made and the fee paid within 15 days of transfer of ownership, the snowmobile is without certificate of registration, and a person shall not operate the snowmobile until a valid certificate of registration is issued.

(4) If a certificate of registration is lost, mutilated, or illegible, the owner of the snowmobile shall obtain a duplicate of the certificate of registration upon application and payment of a fee of \$5.00.

(5) If a valid registration decal is lost, mutilated, or illegible, the owner of the snowmobile may obtain a replacement registration decal upon submission of proof of registration and payment of a fee of \$5.00.

324.82116a Alteration, removal, or defacement of vehicle number; application for special identifying number; missing vehicle number; replacement; fee.

Sec. 82116a. (1) The owner of a snowmobile whose vehicle number has been altered, removed, or defaced, including the owner of a snowmobile who intends to register the snowmobile as an assembled snowmobile, shall apply, in a form prescribed by the department of state, to the department of state for a special identifying number accompanied by an application for a certificate of registration and the required fees. The owner shall furnish information satisfying the department of state that he or she is the owner, upon receipt of which the department of state shall assign a special identifying number for the snowmobile, preceded by a symbol indicating this state. The department of state shall maintain a record of assigned special identifying numbers. The special identifying number shall be applied to the snowmobile as directed by the department of state. The special number shall be regarded as the identifying number of the snowmobile.

(2) The owner of a snowmobile whose vehicle number is missing shall apply, in a form prescribed by the department of state, to the department of state for a replacement vehicle number accompanied by a \$10.00 fee. The owner shall furnish information satisfying the department of state that he or she is the owner of the snowmobile upon receipt of which the department of state shall assign a replacement vehicle number that shall be applied to the snowmobile as directed by the department of state. The department of state shall note on the registration record for that snowmobile that a replacement vehicle number was issued for that snowmobile.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2009.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 146]**(HB 5274)**

AN ACT to amend 1965 PA 285, entitled “An act to license and regulate private detectives and investigators; to provide for certain powers and duties for certain state agencies and local officials; to provide for the imposition for certain fees; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 10, 14, 16, 17, 19, 20, 22, 24, 27, and 29 (MCL 338.821, 338.822, 338.823, 338.824, 338.825, 338.826, 338.827, 338.828, 338.830, 338.834, 338.836, 338.837, 338.839, 338.840, 338.842, 338.844, 338.847, and 338.849), the title and sections 1, 2, 3, 4, 5, 6, 7, 10, 14, 16, 17, 20, 22, 24, and 27 as amended by 2002 PA 474.

The People of the State of Michigan enact:

TITLE

An act to license and regulate professional investigators; to provide for certain powers and duties for certain state agencies and local officials; to provide for the imposition for certain fees; to protect the general public against unauthorized, unlicensed and unethical operations by professional investigators; to provide for immunity for certain persons under certain circumstances; to provide for penalties and remedies; and to repeal acts and parts of acts.

338.821 Short title.

Sec. 1. This act shall be known and may be cited as the “professional investigator licensure act”.

338.822 Definitions.

Sec. 2. As used in this act:

(a) “Certified public accountant” means a person licensed as a certified public accountant under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(b) “Computer forensics” means the collection, investigation, analysis, and scientific examination of data held on, or retrieved from, computers, computer networks, computer storage media, electronic devices, electronic storage media, or electronic networks, or any combination thereof.

(c) “Department” means the Michigan department of labor and economic growth.

(d) “Insurance adjuster” means a person other than a professional investigator who, for a consideration, engages in the activities described in subdivision (e) in the course of adjusting or otherwise participating in the disposal of claims under or in connection with a policy of insurance. Insurance adjuster includes any of the following:

(i) A person who is employed on a salary basis by an insurance company.

(ii) A person, firm, partnership, company, limited liability company, or corporation who acts for insurance companies solely in the capacity of an independent claim adjuster while performing within that capacity.

(iii) A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(e) “Investigation business” means a business that, for a fee, reward, or other consideration, engages in business or accepts employment to furnish, or subcontracts or agrees to make, or makes an investigation for the purpose of obtaining information with reference to any of the following:

(i) Crimes or wrongs done or threatened against the United States or a state or territory of the United States, or any other person or legal entity.

(ii) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person.

(iii) The location, disposition, or recovery of lost or stolen property.

(iv) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or property.

(v) Securing evidence to be used before a court, board, officer, or investigating committee.

(vi) The prevention, detection, and removal of surreptitiously installed devices designed for eavesdropping or observation, or both.

(vii) The electronic tracking of the location of an individual or motor vehicle for purposes of detection or investigation.

(viii) Computer forensics to be used as evidence before a court, board, officer, or investigating committee.

(f) “Licensee” means a person licensed under this act.

(g) “Professional engineer” means a person licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, as a professional engineer.

(h) “Professional investigator” means a person, other than an insurance adjuster who is on salary and employed by an insurance company, who for a fee, reward, or other consideration engages in the investigation business.

338.823 License required; investigation of prohibited activities; civil or criminal action; violation; penalty.

Sec. 3. (1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of professional investigator for hire, fee, or reward, and shall not advertise his or her business to be that of professional investigator or of a professional investigator agency without first obtaining a license from the department. A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license as a professional investigator from the department.

(2) The department, the attorney general, the Michigan state police, or a local law enforcement agency, on its own initiative or at the request of any other person or legal entity, may investigate allegations of a person or legal entity engaging in activities regulated under this act without being appropriately licensed or exempt from licensure under this act. The entity conducting the investigation shall report its findings to the attorney general and county prosecuting attorney having jurisdiction in the location within which the alleged violator is engaged in business. The attorney general or county prosecuting attorney may bring an appropriate civil or criminal action in a court of competent jurisdiction to enjoin any person or legal entity that has engaged or is about to engage in any activity regulated by this act without being appropriately licensed or exempt from licensure under this act. Such an injunction may be issued without proof of actual damage sustained by any person or legal entity. Issuance of an injunction shall not prevent criminal prosecution of a violator. In addition to issuing the injunction, the court may impose a civil violation fine not to exceed \$25,000.00. A person or other legal entity who reports to the department, a local law enforcement agency, a county prosecuting attorney, or the attorney general regarding an allegation of unlicensed activity is immune from tort liability for making the report.

(3) A person violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or by a penal fine of not more than \$5,000.00, or both.

338.824 Exemptions from act.

Sec. 4. This act does not apply to any of the following:

(a) A person employed exclusively and regularly by an employer in connection with the affairs of the employer only and there exists a bona fide employer-employee relationship for which the employee is reimbursed on a salary basis.

(b) An officer or employee of the United States, this state, or a political subdivision of this state while that officer or employee is engaged in the performance of his or her official duties except that such officer or employee does not include a professional investigator hired or employed under contract by the United States, this state, or a political subdivision of this state.

(c) The business of obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit.

(e) An attorney admitted to practice in this state in performing his or her duties as an attorney at law.

(f) A collection agency or finance company licensed to do business under the laws of this state or any employee of a collection agency or finance company while acting within the scope of his or her employment when making an investigation incidental to the business of the agency, including an investigation of the location of the debtor or his or her assets and property in which the client has an interest or upon which the client has a lien.

(g) An insurance adjuster who is employed on a salary basis by an insurance company or a person, firm, partnership, company, limited liability company, or corporation that acts for an insurance company solely in the capacity of claim adjuster. A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(h) A professional engineer acting within the scope of his or her licensed professional practice who does not perform investigative services, including, but not limited to, surveillance activities or other activities outside of the scope of his or her licensed professional practice.

(i) A certified public accountant acting within the scope of his or her licensed professional practice who does not perform investigative services, including, but not limited to, surveillance activities or other activities outside of the scope of his or her licensed professional practice.

(j) A bail agent authorized under section 167b of the Michigan penal code, 1931 PA 328, MCL 750.167b, while performing his or her duties as a bail agent.

338.825 License; issuance, duration.

Sec. 5. (1) The department, upon application and after making a determination that the applicant is qualified, shall issue the applicant a license to conduct business as a professional investigator for a period of 3 years from date of issuance.

(2) Upon the issuance of a license under this act to conduct business as a professional investigator, the applicant is not required to obtain any other license from any municipality or political subdivision of this state.

338.826 License; qualifications; reciprocal agreements.

Sec. 6. (1) The department shall issue a license to conduct business as a professional investigator if satisfied that the applicant is a person, or if a firm, partnership, company, limited liability company, or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

- (a) Is a citizen of the United States.
- (b) Is not less than 25 years of age.
- (c) Has a high school education or its equivalent.
- (d) Has not been convicted of a felony, or a misdemeanor involving any of the following:
 - (i) Dishonesty or fraud.
 - (ii) Unauthorized divulging or selling of information or evidence.
 - (iii) Impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.
 - (iv) Illegally using, carrying, or possessing a dangerous weapon.
 - (v) Two or more alcohol related offenses.
 - (vi) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
 - (vii) An assault.
- (e) Has not been dishonorably discharged from a branch of the United States military service.
- (f) For a period of not less than 3 years has been or is any of the following on a full-time basis:
 - (i) Lawfully engaged in the professional investigation business as a licensee, registrant, or investigative employee in another state.
 - (ii) Lawfully engaged in the investigation business as an investigative employee of the holder of a license to conduct a professional investigation agency.
 - (iii) An investigator, detective, special agent, intelligence specialist, parole agent, probation officer, or certified police officer employed by any government executive, military, judicial, or legislative agency, or other public authority engaged in investigative or intelligence activities. This subdivision does not include individuals employed by educational or charitable institutions who are solely engaged in academic, consulting, educational, instructional, or research activities. In the case of the experience requirement under this subparagraph for

an applicant demonstrating experience as a probation officer or parole agent, the department shall consider any application filed on or after January 1, 2005 for eligibility regarding that experience.

(iv) A graduate of an accredited institution of higher education with a baccalaureate or postgraduate degree in the field of police administration, security management, investigation, law, criminal justice, or computer forensics or other computer forensic industry certificated study that is acceptable to the department.

(v) Lawfully engaged in the investigation business as a full-time proprietary or in-house investigator employed by a business or attorney, or as an investigative reporter employed by a recognized media outlet, acceptable to the department. This subdivision does not include individuals employed by educational or charitable institutions who are solely engaged in academic, consulting, educational, instructional, or research activities.

(g) Has posted with the department a bond or insurance policy provided for in this act.

(2) In the case of a person, firm, partnership, company, limited liability company, or corporation now doing or seeking to do business in this state, the manager shall comply with the qualifications of this section.

(3) Beginning July 1, 2010, a law enforcement officer, as that term is defined in section 2 of the commission of law enforcement standards act, 1965 PA 203, MCL 28.602, shall not be issued a new or renewal license and shall not be employed and working in an investigative capacity by, or authorized to operate in a capacity as, a professional investigator unless the law enforcement officer obtains and produces, in a manner acceptable to the department, any 1 of the following:

(a) Written permission to act as a professional investigator from the current chief of police, county sheriff, or other official having executive authority and responsibility over the law enforcement matters in that jurisdiction if the law enforcement officer does not work under the authority of a chief of police or county sheriff.

(b) A copy of the law enforcement officer's jurisdiction's published policies and procedures allowing off-duty employment, which policies and procedures include the prohibition of the off-duty use of investigative tools or equipment, or both, provided exclusively for law enforcement and indicate that the off-duty employment as a professional investigator is not considered in conflict with employment as a law enforcement officer.

(c) A copy of the collective bargaining agreement of the law enforcement officer's jurisdiction.

(4) This act does not prevent a licensee from acting as a professional investigator outside of this state to the extent allowed by that other state under the laws of that state.

(5) The department may enter into reciprocal agreements with other states that have professional investigator qualification laws to allow a professional investigator license or registration to be used by that licensee or registrant within the jurisdiction of either this state or another state. The reciprocal agreement shall be limited to only allow professional investigators to continue investigations that originate in the investigator's home state and that require investigation in another state. The department may enter into a reciprocal agreement if the other state meets all of the following conditions:

(a) Issues a professional investigator identification card with an expiration date printed on the card.

(b) Is available to verify the license or registration status for law enforcement purposes.

(c) Has disqualification, suspension, and revocation standards for licenses and registrations.

(d) Requires the applicant for a license or registration as a professional investigator to submit to a criminal history records check pursuant to applicable state and federal law.

(6) Each reciprocal agreement shall, at a minimum, include the following provisions:

(a) A requirement that the professional investigator possess a professional investigator license or registration in good standing from his or her home state.

(b) A requirement that the professional investigator shall be time-limited to a maximum of 30 days per case while conducting an investigation in this state, or a lesser amount of time if required to comply with the reciprocity statutes or regulations of the other state.

(c) A requirement that the professional investigator from the other state not solicit any business in this state while conducting investigations in this state.

338.827 Application for license; notarized statement as to qualifications; investigation of applicant.

Sec. 7. (1) The department shall prepare a standard uniform application. The applicant shall obtain notarized reference statements from at least 5 reputable citizens who swear that they have known the applicant and his or her qualifications for a period of at least 5 years and believe that the applicant is honest, of good character, and competent. The individual providing the reference shall not be related or connected to the person so certifying by blood or marriage.

(2) Upon receipt of the application, application processing fee, and license fee as described in section 9, the department shall investigate as to the applicant's qualifications for licensure.

338.828 Application for license by corporation; contents; copy of incorporation certificate.

Sec. 8. If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and such other description as will indicate the location of the bureau, agency, subagency, office or branch office for which the license is desired, and shall be accompanied by a duly certified copy of a certificate of incorporation.

338.830 License; suspension or revocation; grounds; additional sanctions; surrendering license and identification card; noncompliance as misdemeanor.

Sec. 10. (1) The department may suspend or revoke a license issued under this act if the department determines that the licensee or licensee's manager, if an individual, or if the licensee is a person other than an individual, that an officer, director, partner, or its manager, has done any of the following:

(a) Made false statements or given false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated this act or any rule promulgated under this act.

(c) Been convicted of a felony or misdemeanor involving dishonesty or fraud, unauthorized divulging or selling of information or evidence.

(d) Been convicted of impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(e) Been convicted of illegally using, carrying, or possessing a dangerous weapon.

(f) In the case of a law enforcement officer issued a license under the conditions contained in section 6(3), violated the policies and procedures governing off-duty employment.

(2) In addition to the suspension or revocation provisions available to the department under subsection (1), the department may do 1 or more of the following regarding a licensee or a licensee's manager, if an individual, or if the licensee is a person other than an individual, an officer, director, partner, member, or its manager, who violates this act or a rule or order promulgated or issued under this act:

- (a) Place a limitation on a license.
- (b) Deny a renewal of a license.
- (c) Issue an order of censure.
- (d) Issue an order of probation.
- (e) Impose a requirement that restitution be made.

(3) Upon notification from the department of the suspension or revocation of the license, the licensee, within 24 hours, shall surrender to the department the license and his or her identification card. Failure to surrender the license in compliance with this subsection is a misdemeanor.

338.834 Identification card; issuance; form and contents; maintenance, custody, and control; duplicates.

Sec. 14. (1) Upon issuing a license, the department shall also issue an identification card to the principal license holder or, if the agency is a partnership, to each partner or, if the license holder is a corporation or limited liability company, to each resident officer, manager, or member.

(2) The identification card issued under subsection (1) shall be in such form and contain such information as may be prescribed by the department and is recallable by the department for the same reasons as the license.

(3) The department shall only issue 1 identification card for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not lease, loan, sell, or otherwise permit unauthorized persons or employees to use it. This subsection does not prevent each agency from issuing its own identification cards, if approved as to form and content by the department, to its respective employees. The individual identification card shall not bear the seal of the state or the designation of professional investigator, but the identification card may designate the employee as an investigator or operator and may state that the person is employed by a licensee of the department and the state of Michigan.

(4) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original license or identification card.

338.836 Display of unauthorized badge, shield, identification card, or license; violation; penalties.

Sec. 16. (1) A person shall not possess or display a badge or shield that purports to indicate that the holder is a private detective, private investigator, or professional investigator.

(2) A licensee may request authorization to provide employee identification cards only upon the express authorization of the department as to format and content.

(3) A person shall not display any badge, shield, identification card, or license that might mislead the public into thinking that the holder is a licensed professional investigator.

(4) A person who violates this section is guilty of a misdemeanor and any unauthorized badge, shield, identification card, or license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

338.837 Licensees; employment of assistants; records; false statements; fingerprints.

Sec. 17. (1) A licensee may employ as many persons as considered necessary to assist in his or her work of professional investigator and in the conduct of the business. At all times during the employment, the licensee shall have direct involvement in the day-to-day activities and is accountable for the good conduct in the business of each person so employed.

(2) A licensee shall keep adequate and complete records of all persons he or she employs, which records shall be made available to the department upon request and to police authorities if the police authorities offer legitimate proof for the request in connection with a specific need.

(3) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation shall be sufficient cause for the suspension or revocation of the license. Any person falsely stating or representing that he or she is or has been a professional investigator or employed by a professional investigator agency is guilty of a misdemeanor.

(4) A licensee shall not knowingly employ any person who does not meet the requirements of this act.

(5) The licensee shall cause fingerprints to be taken of all prospective employees, which fingerprints shall be submitted to the department and the federal bureau of investigation for processing and approval.

(6) The fingerprints required to be taken under subsection (5) may be taken by a law enforcement agency or any other person determined by the department to be qualified to take fingerprints. The licensee shall submit a fingerprint processing fee to the department in accordance with section 3 of 1935 PA 120, MCL 28.273, as well as any costs imposed by the federal bureau of investigation.

338.839 Carrying deadly weapon; license required.

Sec. 19. Any person licensed as a professional investigator, or in the employ of a professional investigator agency, is not authorized to carry a deadly weapon unless he is so licensed in accordance with the present laws of this state.

338.840 Divulging of information; willful sale of or furnishing false information; penalty; privileged communications; notice and hearing.

Sec. 20. (1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his or her employer or former employer, or as the employer shall direct, except as he or she may be required by law, any information acquired by him or her during his or her employment in respect to any of the work to which he or she shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who willfully makes a false report to his or her employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager, or employee of a licensee who willfully furnishes false information to clients, or who willfully sells, divulges, or otherwise discloses to other than clients, except as may be required by law, any information acquired during employment by the client is guilty of a misdemeanor and is subject to summary suspension of license and revocation of license upon satisfactory proof of the offense to the department. Any communications, oral

or written, furnished by a professional or client to a licensee, or any information secured in connection with an assignment for a client, is considered privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

(3) Suspension, revocation, denial, or other action against a licensee or applicant for a license as described in section 10 shall be accompanied by notice and an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

338.842 Advertising; contents; discontinuing misleading advertising; notice.

Sec. 22. (1) An advertisement by a licensee soliciting or advertising for business shall contain his or her name and address as they appear in the records of the department.

(2) A licensee shall, on notice from the department, discontinue any advertising or the use of any advertisement, seal, or card, that the department determines to be misleading to the public. Failure to comply with such an order is cause for suspension or revocation of the license.

(3) Unless licensed under this act, a person shall not advertise his or her business to be that of a professional investigator regardless of the name or title actually used.

338.844 Record of business transaction and reports; retention.

Sec. 24. (1) Each person, partnership, firm, company, limited liability company, or corporation licensed and operating under this act shall make a complete written record of the business transactions and reports made in connection with the operation of the agency.

(2) A professional investigator agency that receives or generates a written or electronic report shall keep the report on file in the office of the professional investigator for at least 2 years unless the file is returned to the client or agent.

338.847 Death of licensee; carrying on business; notice to department; sale of business.

Sec. 27. (1) Upon the death of a licensee, the business of the decedent may be carried on for a period of 90 days by any of the following:

(a) In the case of an individual licensee, the surviving spouse, or if there is none, the personal representative of the estate of the decedent.

(b) In the case of a partner, the surviving partners.

(c) In the case of an officer of a firm, company, association, limited liability company, or corporation, the officers.

(2) Within 10 days following the death of a licensee, the department shall be notified by a person described in subsection (1) in writing. The notification shall state the name of the person legally authorized to carry on the business of the deceased.

(3) Upon the authorization of the department, the business may be carried on for a further period of time when necessary to complete any investigation or assist in any litigation pending at the death of the decedent.

(4) This section does not authorize the solicitation or acceptance of any business after the death of the decedent except as otherwise provided by this act.

(5) This section shall not be construed to restrict the sale of a professional investigator business if the vendee qualifies for a license under the provisions of this act.

338.849 Application of act as to license applications and renewals.

Sec. 29. The requirements of this act as to license applications shall apply to all professional investigators, except those who already have been granted a license under prior laws of this state. The requirements as to renewal of license certificates shall apply to all professional investigators licensed under this act or any prior law of this state.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

[No. 147]**(HB 5585)**

AN ACT to amend 2001 PA 267, entitled “An act to define and regulate milk, cream, frozen desserts, and related foods and by-products of those foods under certain circumstances; to prescribe certain powers and duties of certain state agencies and officers; to prohibit the sale of unclean and unsanitary milk and manufactured dairy products and their use in the manufacture of food products; to prohibit unclean and unsanitary conditions of milk and milk processing establishments; to establish production and handling standards of sanitary milk and dairy products for manufacturing and manufactured dairy products; to regulate the sale and transportation of milk and dairy products for manufacturing purposes; to issue licenses and permits to certain persons and provide for the revocation or suspension of licenses and permits under certain circumstances; to impose certain fees; to require certain security devices under certain circumstances; to establish inspection requirements; to promulgate rules; to set certain standards for milk and dairy products, processing, and pasteurization; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending sections 10, 11, 12, 13, 15, 16, 17, 70, 90, 110, 110a, 111, 113, 114, 115, 116, 119, 125, 130, 131, 136, 137, 139, 140, 142, 143, 152, and 159 (MCL 288.570, 288.571, 288.572, 288.573, 288.575, 288.576, 288.577, 288.630, 288.650, 288.670, 288.670a, 288.671, 288.673, 288.674, 288.675, 288.676, 288.679, 288.685, 288.690, 288.691, 288.696, 288.697, 288.699, 288.700, 288.702, 288.703, 288.712, and 288.719), section 110a as added by 2004 PA 282.

The People of the State of Michigan enact:

288.570 Definitions; A.

Sec. 10. As used in this act:

(a) “Adulterated” means food or milk products to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food or milk product is not considered adulterated if the quantity of that substance in the food or milk product does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 512 of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) “Advertise” or “advertisement” means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or is likely to induce, directly or indirectly, the purchase of milk or milk products.

(c) “Approved laboratory” means a laboratory that has been evaluated by the department and is approved to perform tests on manufacturing milk and milk products.

(d) “Approved sample container” means a presterilized, suitable nontoxic single service container of adequate size that complies with the requirements of standard methods.

(e) “Audited financial statement” means a fiscal year end financial statement prepared by a certified public accountant according to generally accepted accounting principles.

(f) “Aseptic processing and packaging” means the filling of a commercially sterilized cooled product into presterilized containers followed by aseptic hermetical sealing with a presterilized closure, in an atmosphere free of microorganisms.

288.571 Definitions; B, C.

Sec. 11. As used in this act:

(a) “Bulk milk hauler/sampler” means any person who collects official samples and may transport raw milk from a farm and/or raw milk products to or from a dairy plant, receiving station, or transfer station and has in his or her possession a license or permit to sample such products.

(b) “Bulk milk pickup tanker” means a vehicle including a truck, tank, and those appurtenances necessary for its use used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a dairy plant, receiving station, or transfer station.

(c) “Butter” means the product usually known as butter that is made exclusively from wholesome milk or cream, or both, with or without common salt, and with or without additional coloring matter and containing not less than 80% by weight of milk fat.

(d) “Cash payments”, regarding the producer security requirements of this act, means a payment in cash or by check, money order, wire transfer, or draft for a sale in which the title to farm milk is transferred.

(e) “Cheese” means natural cheeses, processed cheeses, blended cheeses, cheese foods, cheese spreads, nonstandard cheese products, and related foods described in 21 CFR part 133.

(f) “CIP” or “cleaned-in-place” means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation.

(g) “Commercial sterility of thermally processed food” means the condition achieved under either of the following circumstances:

(i) By the application of heat which renders the food free of microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution and viable microorganisms, including spores, of public health significance.

(ii) By the control of water activity and the application of heat, which renders the food free of microorganisms capable of reproduction in the food under normal nonrefrigerated conditions of storage and distribution.

- (h) “Cream” means any of the following:
- (i) Light cream containing not less than 18% but not more than 30% milkfat.
 - (ii) Whipping cream containing more than 30% but less than 36% milkfat.
 - (iii) Heavy cream containing more than 36% milkfat.
 - (iv) Cream obtained from cheese whey only if sold or labeled as whey cream.

288.572 Definitions; D.

Sec. 12. As used in this act:

(a) “Dairy animal” means any domesticated lactating mammal, including a cow, goat, sheep, water buffalo, or other hooved mammal, which is managed and milked to obtain milk for human consumption.

(b) “Dairy farm” means any place or premises where 1 or more dairy animals are kept for milking purposes, and from which a part or all of the milk is provided, sold, or offered for sale.

(c) “Dairy plant” or “milk plant” means any place, premises, or establishment where milk or dairy products are collected, handled, processed, stored, pasteurized, aseptically processed, packaged, or prepared for distribution.

(d) “Dairy product”, “manufactured dairy product”, or “milk product” means products that include, but are not limited to, evaporated milk, condensed skim milk, condensed milk, condensed buttermilk, condensed milk solids, concentrate milk, nonfat dry milk, dry milk, dry cream, dry whey, dry buttermilk, butter, buttermilk, cheese, cheese products, ice cream, sherbet, frozen desserts, dairy confections, or novelties, related dairy products with butter fat or milk solids substitutions, filtered milk components, infant formula manufactured with dairy ingredients, whey, whey cream, and other products for human consumption not regulated under the grade A milk law of 2001 or as determined appropriate by the director.

(e) “Department” means the Michigan department of agriculture.

(f) “Director” means the director of the Michigan department of agriculture or his or her designee.

(g) “Distributor” means a person other than a producer or processor who offers for sale, holds for sale, or sells at wholesale milk or dairy products. A distributor’s facilities include warehousing, refrigerated storage, and refrigerated distribution vehicles.

(h) “Dry milk product” means a product resulting from the drying of milk or a dairy product.

(i) “Dryer” means equipment that dries milk or a dairy product.

288.573 Definitions; F to L.

Sec. 13. As used in this act:

(a) “Farm tank” means the farm bulk milk tank, milk tank truck, or silo used for the storage or cooling of milk, or both, before pickup and transport from the farm.

(b) “Federal act” means the federal food, drug, and cosmetic act, 21 USC 301 to 321, 331 to 360dd, 360hh to 376, and 378 to 399.

(c) “First receiving point” means the dairy plant where the milk is first received for processing and manufacturing. First receiving point for producer security requirements does not include receiving stations and transfer stations.

(d) “Food law of 2000” means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(e) “Food service establishment” means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

(ii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(iii) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.

(iv) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.

(f) “Freezer” means mechanical equipment used to lower the temperature of a mix while, at the same time, incorporating air into the mix.

(g) “Frozen desserts” means desserts made from dairy products described in 21 CFR part 135, the mixes, and other similar frozen dairy products that include, but are not limited to, frozen yogurt, soft serve ice cream, and quiescently frozen confections unless otherwise specified by the department.

(h) “Grade A milk law of 2001” means the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(i) “Imminent or substantial health hazard” means a determination by the director of either or both of the following:

(i) A condition that exists at a dairy farm or dairy plant requiring immediate action to prevent endangering the public health or safety.

(ii) A milk or dairy product may be unwholesome or unsafe.

(j) “Label” means a display of written, printed, or graphic matter upon the immediate container of any article conforming to a requirement imposed under this act that any word, statement, or other information appearing on the label also appears on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(k) “Labeling” means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers or accompanying the article.

288.575 Definitions; M.

Sec. 15. As used in this act:

(a) “Misbranded” means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

(ii) It is offered for sale under the name of another food.

(iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word “imitation” and immediately thereafter the name of the food imitated.

(iv) Its container is so made, formed, or filled as to be misleading.

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the

quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(vii) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(viii) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(ix) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 USC 343.

(xii) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(b) “Mix” means ice cream mix, yogurt mix, sherbet mix, and any other unfrozen pasteurized liquid mixture which is to be manufactured into a frozen dessert including a liquid mixture intended for processing into quiescently frozen confections.

288.576 Definitions; O to R.

Sec. 16. As used in this act:

(a) “Offering for sale” means selling, offering to sell, holding for sale, preparing for sale, trading, bartering, offering as a gift as an inducement for sale of, and advertising for sale in any media.

(b) “Other security” means a mutually acceptable producer security agreement, acceptable to the director, approved and signed by the milk buyer and all milk sellers selling milk to that milk buyer.

(c) “Person” means an individual, partnership, company, limited liability company, cooperative, association, firm, trustee, educational institution, state or local government unit, or corporation.

(d) “Processor” means the owner or operator of a dairy plant.

(e) “Producer” means a person who owns or operates a dairy farm and sells or distributes milk produced on that farm including a person who markets milk on behalf of a producer pursuant to a marketing agreement.

(f) “Receiving station” means any place, premise, or establishment where raw milk is received, collected, handled, stored, or cooled and is prepared for further transporting.

(g) “Registered name” means either a name that is registered as “doing business as” at the county clerk’s office in the county in which the producer or processor resides or that is registered with the state of Michigan as a legal entity registered to do business within the state under an assumed name. Registered name includes, but is not limited to, incorporations, corporations, limited liability companies, limited liability partnerships, and similar entities.

(h) “Rerun” means a frozen dessert that is not placed in its final container immediately after passing through the freezing process and is intended to be melted and reprocessed or refrozen.

(i) “Retail” means selling or offering for sale dairy products directly to a consumer.

(j) “Retail food establishment” means an operation that sells or offers to sell food directly to a consumer. Retail food establishment includes both a retail grocery and a food service establishment but does not include a food processing plant.

288.577 Definitions; S to W.

Sec. 17. As used in this act:

(a) “Sample transfer instrument” means any of the following:

(i) Individually wrapped, sterile, single-service sampling tubes.

(ii) Stainless steel metal dippers, with long handles having capacities of 10 ml. or greater.

(iii) Sampling devices approved by the director.

(b) “Sanitary standards” means the dairy equipment construction standards or accepted dairy system operating practices formulated by 1 of the following:

(i) 3-A sanitary standards committees representing the international association for food protection, the United States public health service, the United States department of agriculture, and the dairy industry committee.

(ii) If sanitary standards are not available for a particular piece of equipment, general sanitary construction standards for dairy equipment formulated by the United States department of agriculture or the food and drug administration.

(iii) The equipment or practice approved by the director on a case-by-case basis.

(c) “Sanitizing” means the application of any effective method or sanitizing agent in compliance with the federal act to a clean surface for the destruction of pathogens and other organisms as far as is practicable.

(d) “Scheduled process” means the aseptic process selected by the processor as adequate under the conditions of manufacture for a given product to be free of viable microorganisms having a public health significance as well as microorganisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions. Scheduled process includes an aseptic process that may be in excess of that necessary to ensure destruction of microorganisms of public health significance but at least equivalent to the process established by a competent processing authority to achieve commercial sterility under 21 CFR part 113.

(e) “Standard methods” means the sixteenth edition of “Standard Methods for the Examination of Dairy Products”, published by the American public health association, dated 1992, incorporated by reference.

(f) “Sterilization or aseptic processing” means the complete destruction of living organisms by 1 of the following methods:

(i) Heating a container and its contents to a temperature between 212°F (100°C) to 280°F (138°C) for a period of time established by the scheduled process or by the department.

(ii) Creating a continuous product flow above a temperature of 280°F (138°C) for a period of time established by the scheduled process or by the department.

(iii) Employing a process described in subdivision (i) or (ii), and following packaging of the sterilized product, applying a heat treatment approved by the department.

(g) “Sterilized or aseptic milk and dairy products” means products hermetically sealed in a container and thermally processed or otherwise processed so as to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution and free of viable microorganisms including spores of public health significance.

(h) “Transfer station” means any place, premises, or establishment where milk or dairy products are transferred directly from 1 milk tank truck to another.

(i) “Verified financial statement” means a financial statement that contains a notarized statement, signed and sworn to by an authorized representative of the dairy plant, attesting that the financial statement is correct.

(j) “Wholesale” means selling or offering to sell dairy products to retailers, jobbers, or distributors rather than directly to a consumer.

288.630 Prohibited acts; standards; compliance.

Sec. 70. (1) A person shall not directly, through an agent, or on behalf of another person sell or offer for sale, furnish, or possess or control with intent to sell or offer for sale, or furnish an unsanitary, adulterated, or misbranded milk or dairy product to a person or a processor.

(2) Dairy products made or sold in Michigan shall comply with the requirements of this act and the standards as follows:

Chemical, Physical, Bacteriological, and Temperature Standards

MANUFACTURING GRADE RAW MILK FOR PASTEURIZATION (NOT FOR FROZEN DESSERTS) INCLUDING ULTRAFILTRATION OR REVERSE OSMOSIS RAW MILK CONCENTRATE	Temperature	Bulk milk cooled to 45°F (7°C) or less within 2 hours after milking and maintained thereat. Provided that the blend temperature after the first and subsequent milkings does not exceed 50°F (10°C). Can milk not to exceed 60°F (16°C) if used for cheese making; if delivered to the plant within 2 hours of milking, no temperature limit.
	Bacterial limits	Not to exceed 500,000 per ml (milk for cheese not to exceed

		750,000 per ml). Not to exceed 1,000,000 per ml as commingled milk prior to pasteurization.
	Somatic cell count	Not to exceed 1,000,000 per ml.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with raw milk.
	Sediment	Not to exceed a USDA no. 3 standard following procedures from standard methods for the examination of milk and milk products.
	Freezing point	-0.530°H maximum.
RAW MILK FOR FROZEN DESSERTS	Temperature	Bulk milk cooled to 45°F (7°C) or less within 2 hours after milking and maintained thereat. Provided, that the blend temperature after the first and subsequent milkings does not exceed 50°F (10°C).
	Bacterial limits	Not to exceed 100,000 per ml for individual supplies, not to exceed 300,000 per ml commingled.
	Somatic cell counts	Not to exceed 750,000 per ml.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with raw milk.
	Sediment	Not to exceed a USDA no. 3 standard following procedures from standard methods for the examination of milk and milk products.
	Freezing point	-0.530°H maximum.
PASTEURIZED CONDENSED MILK AND CONDENSED SKIM MILK	Temperature	Cooled to 45°F (7°C) [50°F (10°C) if 45% or more solids] or less, or heated to 145° (63°C) or greater and maintained thereat unless the product is being dried within 4 hours after condensing.
	Bacterial limits	Not to exceed 30,000 per gram.

	Coliform count	Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with condensed milk and condensed skim milk.
DRY WHOLE MILK, EXTRA GRADE	No more than:	
	Butterfat	Not less than 26% or more than 40%.
	Moisture	4.50%.
	Solubility index	1.0 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 50,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/gram spray process; 22.5 roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry whole milk.
	DMCC count	Less than 100,000,000 per gram.
DRY WHOLE MILK, STANDARD GRADE	No more than:	
	Butterfat	Not less than 26% or more than 40%.
	Moisture	5.00%.
	Titratable acidity	0.15%.
	Solubility index	1.5 ml spray process; 15.0 ml roller process.
	Bacterial limit	Not to exceed 100,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	22.5 per gram spray process; 32.5 per gram roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry, whole milk.
	DMCC count	Less than 100,000,000 per gram.

NONFAT DRY MILK,
EXTRA GRADE

	No more than:	
	Butterfat	1.25%.
	Moisture	4.00%.
	Titratable acidity	0.15%.
	Solubility index	1.2 ml (2.0 ml high-heat, max) spray process; 15.0 ml roller process.
	Bacterial limit	Not to exceed 10,000 per gram spray or 50,000 per gram roller process.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/gram spray; 22.5/gram roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	DMCC count	Less than 100,000,000 per gram.

NONFAT DRY MILK,
STANDARD GRADE

	No more than:	
	Butterfat	1.50%.
	Moisture	5.00%.
	Titratable acidity	0.17%.
	Solubility index	2.5 ml spray process; 15.0 ml roller process.
	Bacterial estimate	75,000/gram spray; 100,000/gram roller process.
	Coliform count	10 per gram.
	Scorched particles disc B	22.5/gram spray; 32.5/gram roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	DMCC count	Less than 100,000,000 per gram.

INSTANT NONFAT
DRY MILK, EXTRA
GRADE

	No more than:	
	Butterfat	1.25%.
	Moisture	4.50%.
	Titratable acidity	0.15%.
	Solubility index	1.0 ml.
	Bacterial limit	Not to exceed 10,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0/gram.

	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with nonfat dry milk.
	Dispersibility	85.0%.
	DMCC count	Less than 40,000,000 per gram.
WHEY FOR CONDENSING	Temperature	Maintained at a temperature of 45°F (7°C) or less, or 135°F (57°C) or greater, except for acid-type whey with a titratable acidity 0.40% or above, or a pH of 4.6 or below.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with whey.
PASTEURIZED CONDENSED WHEY AND WHEY PRODUCTS	Temperature	Cooled to 50°F (10°C) or less during crystallization, within 72 hours of condensing.
	Coliform count	Not to exceed 10 per gram.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with condensed whey.
DRY WHEY, EXTRA GRADE	Bacterial limit	Not to exceed 30,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Milkfat content	Not to exceed 1.5%.
	Moisture content	Not to exceed 5.0%.
	Scorched particle content	Not to exceed 15.0%.
DRY WHEY, DRY WHEY PRODUCTS	Bacterial limit	Not to exceed 50,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Butterfat	Not more than 1.50%.
	Moisture	Not more than 5%.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry whey and dry whey products.
DRY BUTTERMILK AND DRY BUTTERMILK PRODUCTS, EXTRA GRADE	Butterfat	4.5% min.
	Moisture	4.0% max.
	Titratable acidity	0.10-0.18%.

	Solubility index	1.25 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 20,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	15.0 mg spray process; 22.5 mg roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry buttermilk and dry buttermilk products.
DRY BUTTERMILK AND DRY BUTTERMILK PRODUCTS, STANDARD GRADE	Butterfat	4.5% min.
	Moisture	5.0% max.
	Titratable acidity	0.10-0.20%.
	Solubility index	2.0 ml spray process; 15.0 roller process.
	Bacterial limit	Not to exceed 75,000 per gram.
	Coliform count	Not to exceed 10 per gram.
	Scorched particles disc B	22.5 mg spray process; 32.5 mg roller process.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with dry buttermilk and dry buttermilk products.
BUTTER, WHIPPED BUTTER	Percent butterfat	Not less than 80%.
	Temperature	Maintained at a temperature of 45°F (7°C) or less, when in storage.
	Proteolytic count	Not more than 50 per gram.
	Yeast and mold	Not more than 10 per gram.
	Coliform count	Not more than 10 per gram.
	Keeping quality	Satisfactory after 7 days at 70°F (21°C).
	PASTEURIZED MILK, CREAM, FLUID DAIRY PRODUCTS FOR FROZEN DESSERTS	Bacterial limit
Coliform count		Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
Storage temp		No higher than 45°F (7°C).

FROZEN DESSERT MIX	Bacterial limit	30,000 per ml.
	Coliform count	Not to exceed 10 per gram. Provided, that in the case of bulk milk transport tank shipments shall not exceed 100 per ml.
	Storage temp	No higher than 45°F (7°C). (Sterile or aseptic mix has no storage temperature requirement.)
FROZEN DESSERTS	Bacterial limit	30,000 per ml.
	Coliform count	Not to exceed 10 per ml (20 per gram for chocolate, fruit, nuts, or other bulky flavored frozen desserts).
	Storage temp	No higher than 32°F (0°C).
	Butterfat	Per standards listed in 21 C.F.R. 135.
STERILIZED OR ASEPTIC PRODUCTS	Bacterial limit	Refer to 21 CFR 113.3(e)(1).
	Temperature	None.
	Yeast and mold	No viable yeast or mold spores.
	Drug residues	No positive results on drug residue detection methods which have been found to be acceptable for use with aseptically processed milk and milk products.
PRIVATE WATER SUPPLIES FOR DAIRY FARMS AND DAIRY PLANTS; RECIRCULATED COOLING WATER (SWEET WATER); GLYCOL FOR COOLING	Coliform count	Less than 1.1 per 100 ml as MPN or equivalent method less than 1 per 100 ml.
CONDENSATE RECOVERY WATER (COW WATER)	Total plate count	Not to exceed 500 per ml.
	Chemical oxygen demand	Not to exceed 12 mg per L.
	Turbidity	Not to exceed 5 units.

288.650 Inspecting, sampling, and investigating conditions; authority of director and department.

Sec. 90. (1) The director, after proper identification, is authorized and shall have the power to enter all dairy farms, dairy plants, single service manufacturing facilities, milk tank truck cleaning facilities, receiving stations, transfer stations, dairy product distribution facilities, vehicles used to transport milk and milk products or single service manufacturers

under its jurisdiction, for the purpose of inspecting, sampling, and investigating conditions relating to the enforcement of this act.

(2) The department shall, at a minimum, inspect all dairy farms every 12 months and dairy plants, receiving stations, and transfer stations every 6 months, or at time intervals as specified by the director.

288.670 License or permit.

Sec. 110. (1) A person shall not do any of the following without being licensed under this act or the grade A milk law of 2001:

- (a) Produce milk that is offered for sale.
- (b) Collect milk samples for regulatory purposes.
- (c) Operate a milk transportation company that owns or operates a can milk truck.

(d) Process, label, or sell milk or manufactured dairy products, except that a person operating a retail food establishment is exempt from licensure under this act if he or she complies with section 111 and is licensed under the food law of 2000. This subdivision does not prevent the sale at wholesale or retail at a retail food establishment licensed under the food law of 2000 of milk or milk products that are packaged in final consumer packages at a facility licensed under this act.

- (e) Wash milk tank trucks.

(2) A person licensed under the grade A milk law of 2001 and engaged in activities regulated under that act and activities regulated under this act is exempt from licensure under this act.

(3) A person licensed under the grade A milk law of 2001 or this act shall comply with the requirements of this act, where applicable, and is subject to the penalties set forth in this act, where applicable.

(4) The director may issue a temporary license or permit for activities regulated under this act.

(5) State agencies operating dairy facilities under a memorandum of understanding with the department are not required to be licensed or permitted, or to provide producer security under this act, but are otherwise required to be in compliance with this act.

(6) An applicant for an initial manufacturing grade dairy farm permit shall complete education on drug residue avoidance control measures acceptable to the director before receiving the permit.

(7) An applicant for an initial license as a dairy plant shall apply to the department on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy plant is a person not an individual, the name of each officer and director, and partner, member, or owner owning in excess of 35% of equity or stock.

(b) The location of the dairy plant to which the statement pertains and the name of the responsible person who may be contacted at that location.

(c) The anticipated value of greatest milk receipts the dairy plant expects to receive during a consecutive 30-day period within the licensing period.

(d) A list of producers, including names, mailing addresses, and department producer permit number, with whom the dairy plant intends to do business except that not later than 90 days after becoming licensed for the first time, the dairy plant shall send an updated list to the department.

(e) The name of the financial institution through which milk checks are to be issued to producers.

(8) A dairy plant shall annually renew a license issued under this act by applying to the department at least 30 days prior to the expiration of the existing license. The anniversary date of a license for a dairy plant that is providing a financial statement as a security device shall be 130 days after the close of the licensee's fiscal year. The dairy plant shall apply for renewal of a license on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy plant is a person not an individual, the name of each officer and director, and partner, member, or owner owning in excess of 35% of equity or stock.

(b) The location of the dairy plant to which the statement pertains and the name of the responsible person who may be contacted at that location.

(c) The greater of either the value of greatest milk receipts that the dairy plant received within a consecutive 30-day period during its last license year or the greatest milk receipts that the dairy plant is anticipated to receive during a consecutive 30-day period within the licensing period.

(d) A complete list of producers, including names, mailing addresses, and department producers permit number, with whom the dairy plant is doing business.

(e) The name of the financial institution through which milk checks are issued to producers.

(9) Each dairy plant shall pay a \$50.00 annual licensing or permitting fee.

(10) Each receiving station or transfer station shall be licensed or permitted either as part of a dairy plant or as a stand-alone facility. Each stand-alone facility will be licensed or permitted at a rate of \$50.00 per year. License renewal shall take place on June 30 every year.

(11) Each milk tank truck cleaning facility shall be licensed or permitted under this act either as part of a dairy plant, receiving station or transfer station, or as a stand-alone milk tank truck cleaning facility, or under the grade A law of 2001. Any milk tank truck cleaning facility that washes the milk contact surfaces of milk tank trucks used to haul grade A milk shall be licensed under the grade A law of 2001. Each stand-alone facility will be licensed or permitted at a rate of \$50.00 per year. License renewal shall take place on June 30 every year.

(12) Each single service containers and closures manufacturer shall be licensed or permitted under this act either as part of a dairy plant or as a stand-alone manufacturer. Each stand-alone facility will be licensed at a rate of \$50.00 per year. License renewal shall take place on June 30 every year.

(13) A person shall not pick up manufacturing grade milk in a farm pickup milk tank from a farm bulk milk tank without a hauler/sampler license issued by the department under the grade A law of 2001. Each milk tank truck or can milk truck shall be licensed or permitted under this act or as required under the grade A milk law of 2001 at a rate of \$10.00 per year. License or permit renewal shall take place on June 30 every year.

(14) The director may issue a temporary license or permit if the director determines that issuance of the license or permit will not be detrimental to the protection of the public health, safety, or welfare or will not cause an imminent threat of financial loss to producers.

(15) A political subdivision of the state shall not levy special license fees or taxes on 1 or more of the persons or businesses described in this section except for taxes or fees that are generally levied on persons or businesses other than dairy plants and dairy plant operators.

(16) The director shall examine the books, records, and accounts of a dairy plant if the dairy plant has not responded to requests from the director regarding a security device described in sections 117, 118, and 119. All examinations of books, records, and accounts required under this subsection shall be made within this state.

(17) All applicants for a permit or license must complete an application provided by the department and meet the minimum requirements of this act or the grade A law of 2001, and rules promulgated under this act.

(18) Any fees, assessments, civil or administrative fines, and money from any other source collected by the department under this act shall be deposited into the dairy and food safety fund created in section 4117 of the food law of 2000, MCL 289.4117.

(19) The department may impose a late fee of \$10.00 for a renewal application for each business day the application is late. The total late fee shall not exceed \$100.00. The department shall not issue or renew a license until any fees and fines have been paid. A hearing is not required regarding the department's refusal to issue or renew a license under this subsection except as allowed under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may charge a convenience fee and collect from the applicants any additional costs associated with the method of fee payment for the license or permit fees described in this section and section 110a, not to exceed the costs to the department.

288.670a Receipt of completed application for initial or renewal license; issuance of license within certain time period; report; "completed application" defined.

Sec. 110a. (1) The department shall issue an initial or renewal license or permit for regulated activities described in section 110 other than a manufacturing grade dairy farm or a bulk milk hauler/sampler, not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or permit.

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

(3) Beginning October 1, 2005, the director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agricultural and food issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (1).

(b) The number of applications denied.

(c) The number of applicants not issued a license or permit within the 90-day time period and the amount of money returned to licensees and permittees under subsection (2).

(4) As used in this section, “completed application” means an application complete on its face and submitted with any applicable licensing or permit fees and fines 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. Under appropriate circumstances, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory inspection.

288.671 Milk products manufactured at retail food establishments; exemption.

Sec. 111. Milk products manufactured at retail food establishments licensed under the food law of 2000 are exempt from this act if both of the following conditions are met:

(a) All ingredients contained in these products comply with the requirements of the food law of 2000.

(b) The milk products manufactured are not sold wholesale or to another business entity.

288.673 Noncompliance with act or rule; revocation or suspension of license or permit; administrative fine; notice; findings; operation of business or activity; reinstatement.

Sec. 113. (1) The director may revoke or suspend the license or permit of a licensee or permittee issued under this act or impose an administrative fine under section 125 for failure to comply with the requirements of this act or a rule promulgated under this act. A license or permit may be revoked or suspended according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall notify in writing each producer with whom a dairy plant does business regarding the pendency of the administrative action not less than 5 days before the date of the formal hearing set under subsection (1).

(3) The director may revoke or suspend a license or permit issued under this act, or impose an administrative fine pursuant to section 125, upon determining that the licensee or permittee has done 1 or more of the following:

(a) Failed to provide supplementary or interim information or information required to be supplied to the department under this act or information requested by the director under this article.

(b) Failed to provide a security device in the amount and manner required by the director under this article.

(c) Knowingly provided false or fraudulent information or made a material misrepresentation on an application.

(d) Knowingly provided false or fraudulent information or made a material misrepresentation in response to a request for information by the department.

(e) Failed to pay a producer in the manner provided for in section 115.

(f) In the case of a dairy plant, failed to provide a security device described in article 11.

(g) Adulterated or caused to be adulterated milk or dairy products.

(h) Knowingly possessed, sold, offered for sale, or purchased any milk or milk product for use in a human food product that has been condemned under this act.

(i) Failed to provide the required number of milk quality sample results as established by the department.

(j) Failed to correct violations of this act noted on inspection reports after being given written instructions to correct the violations in a reasonable length of time.

(k) Failed to pay a final civil or administrative fine issued under this act.

(l) Violated this act or a rule promulgated under this act.

(4) A person whose license or permit has been suspended, revoked, or denied shall immediately discontinue operation of the business or activity for which the license or permit was issued.

(5) A person whose license or permit has been suspended or revoked is not eligible for reinstatement of the license or permit until the director determines that all violations have been corrected.

288.674 Summary suspension of license or permit; findings; compliance and reinstatement; order.

Sec. 114. (1) The director may summarily suspend a license or permit issued under this act upon determining that the licensee or permittee had done 1 or more of the following:

(a) Offered for sale or sold milk or dairy products from diseased animals, or otherwise considered abnormal, that has been incorporated with milk or dairy products from normal healthy animals.

(b) Offered for sale or sold milk or dairy products that are not pasteurized according to the requirements set forth in section 137, except as allowed in section 138, or that are suspected of being contaminated with any substance considered by the department to be an imminent or substantial health hazard.

(c) Offered for sale or sold milk or dairy products from production, transportation, packaging, or storage facilities that have such an accumulation of trash, rubbish, dirt, insects, vermin, human or animal wastes, or spoiled milk or dairy products that precludes the reasonable protection of the milk or dairy products from contamination.

(d) Offered for sale or sold milk or dairy products produced in equipment with a significant portion of the milk contact surfaces covered with an accumulation of residues that were left after having gone through a cleaning regimen and that are thick enough that they may be easily scraped to form a body of solids.

(e) Offered for sale or sold milk or dairy products stored in a container of unapproved construction.

(f) Received or picked up milk or dairy products stored in a container of unapproved construction.

(g) Offered for sale or sold milk or dairy products produced from dairy animals with a majority of the milking herd with an excessive accumulation of manure on the flanks, bellies, or udders that precludes the reasonable protection of the milk from contamination during the milking process.

(h) Offered for sale or sold milk or dairy products that was of inadequate volume to properly agitate after the first milking.

(i) Offered for sale or sold milk or dairy products produced with excessive sediment.

(j) Interfered with inspection conducted by the department.

(k) Maintained dead animals on the premises in a manner inconsistent with 1982 PA 239, MCL 287.651 to 287.683.

(l) Maintained a minimum of 3 of the last 5 official bacteria counts illegal.

(m) Maintained a minimum of 3 of the last 5 official somatic cell counts illegal.

(n) Maintained a minimum of 3 of the last 5 official milk or dairy product cooling temperatures illegal.

(o) Failed to provide milk or dairy products free of violative drug residues based on tests approved by the United States food and drug administration.

(p) Offered for sale or sold milk or milk products that present an imminent health hazard due to improper or unknown storage temperature.

(q) Offered for sale or sold milk or milk products that present an imminent health hazard due to improper allergen labeling.

(r) Any other condition that creates an imminent or substantial threat to the public health, safety, or welfare.

(2) If the director summarily suspends a license or permit under subsection (1), the licensee or permittee shall be allowed a minimum of 72 hours to demonstrate compliance and obtain reinstatement of the license or permit before scheduling an administrative hearing.

(3) If the department has provided notice to a licensee or permittee as required by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and subsequently determines that summary suspension of the license or permit is necessary to prevent an imminent threat of financial loss to 1 or more producers with whom the licensee or permittee does business, the director may summarily suspend the license or permit. The director shall incorporate the determination in his or her order of summary suspension. The summary suspension may be ordered effective on the date specified in the order or the date of service upon the licensee, whichever is later, and is effective during the proceedings unless rescinded or otherwise modified. The department shall promptly commence and determine the proceedings.

288.675 Purchasing milk for resale or manufacture into another product; payment to producer; manner and dates; violation; issuance of check.

Sec. 115. (1) A person purchasing milk for resale or manufacture into another product shall pay the producer in a manner and on dates as mutually agreed to by the producers, the dairy plant, and the department. The department shall revoke or deny a license issued under this act for a violation of this subsection.

(2) A dairy plant that produces manufactured dairy products shall not issue a check to the producer unless the name of the person issuing the check is noted on the check.

288.676 Condition to issuance and maintenance of license; security required; exemption.

Sec. 116. The department shall revoke or deny a license for a dairy plant that produces manufactured dairy products if the licensee or applicant fails to provide 1 of the security devices required as a condition to issuance and maintenance of a license. As a condition to issuance and maintenance of a license, a dairy plant that produces manufactured dairy products shall provide 1 or more of the security devices described in section 117, 118, or 119. Milk plants that receive milk only from dairy farms under the same sole proprietorship, the same registered partnership, or the same corporate ownership having the same registered name as the milk plant are exempt from the requirements of this section.

288.679 Cash prepayments.

Sec. 119. A licensee or applicant for licensure as a dairy plant not providing a security device under section 117 or 118 shall provide an agreement in which the dairy plant pre-pays for its milk supply by means of cash payments before or at the time the milk is received at the plant.

288.685 Selling milk found positive for violative drug residues; sanctions and administrative fines.

Sec. 125. (1) The director shall impose upon a producer who violates this act by selling or offering for sale milk which has been found positive for violative drug residues on a test performed pursuant to sections 131 and 132 the following sanctions and administrative fines and provide notice and the opportunity for an administrative hearing:

(a) The following in the case of a first violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine equal to the lost value of the milk on the entire contaminated load and any costs associated with the disposition of that load. The administrative fine shall be paid directly to the milk buyer. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets their own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load. If the producer's violative shipment did not cause partial or total loss of a load of milk as determined by an approved drug residue test, the producer shall pay an administrative fine of \$50.00 to the department. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check.

(b) The following in the case of a second violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine equal to the lost value of the milk on the entire contaminated load and any costs associated with the disposition of that load. The administrative fine shall be paid directly to the milk buyer. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets their own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load. If the producer's violative shipment did not cause partial or total loss of a load of milk as determined by an approved drug residue test, the producer shall pay an administrative fine of \$200.00 to the department. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check.

(iii) The producer will be required to test all milk prior to shipment with a drug residue test acceptable to the director for a minimum of 12 months and must retain records of these tests for a minimum of 18 months.

(iv) The producer will be required to maintain complete drug treatment records for all lactating or near lactating dairy animals for a minimum of 12 months and must retain records of these treatments for a minimum of 18 months.

(c) The following in the case of a third or any additional violative drug residue within a 12-month period:

(i) The producer's milk shall not be offered for sale until a subsequent sample of the producer's milk tests negative for violative drug residues at an approved laboratory.

(ii) The producer shall pay an administrative fine equal to the lost value of the milk on the entire contaminated load and any costs associated with the disposition of that load. The administrative fine shall be paid directly to the milk buyer. The department shall be provided with written notification of the payment. Written notification shall also be provided to the department of the date and location of the disposal of the entire contaminated load. Where a producer markets its own load of milk, the producer shall provide written notification to the department of the date and location of the disposal of the entire contaminated load. If the producer's violative shipment did not cause partial or total loss of a load of milk as determined by an approved drug residue test, the producer shall pay an administrative fine of \$500.00 to the department. The milk buyer may pay the administrative fine, if a like amount has been deducted from the producer's milk check.

(iii) The suspension of the producer's permit for a period not to exceed 60 days after notice and the opportunity for an administrative hearing before the department.

(iv) The producer will be required to test all milk prior to shipment with a drug residue test acceptable to the director for a minimum of 12 months and must retain records of these tests for a minimum of 18 months.

(v) The producer will be required to maintain complete drug treatment records for all lactating or near lactating dairy animals for a minimum of 12 months and must retain records of these treatments for a minimum of 18 months.

(2) The director may accept verification, on forms acceptable to the director, from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements and may verify the information.

(3) The disposal method and location of disposal for violative drug residue milk on the milk tank truck shall be immediately reported to the director, by the party making the disposal, on forms provided by and acceptable to the director.

(4) The director shall investigate the cause of the violative drug residue and shall discuss drug residue avoidance control measures with the violative producer.

(5) Selling or offering for sale milk which has been found violative for drug residues is determined by either of the following criteria:

(a) When milk is picked up from a milk producer by a milk tank truck and not commingled with milk from other producers, the milk becomes subject to possible drug residue penalties at the point the milk tank truck leaves the farm with the milk.

(b) When milk is picked up from a milk producer by a milk tank truck and commingled with milk from other producers, it becomes subject to possible drug residue penalties at the point of commingling.

(6) Section 124 applies to a producer who violates this act by selling or offering for sale milk which tests positive for violative drug residues on a test performed pursuant to sections 131 and 132 only under the following circumstances:

(a) The producer fails to pay the administrative fine required by subsection (1) in compliance with subsections (8) and (9).

(b) The producer has been fined under subsection (1) within the preceding 12-month period 3 or more times.

(7) After notice and an opportunity for an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a license or permit issued under this act for any violation of this act or a rule promulgated under this act. Except as otherwise provided for under subsection (1), upon finding that a person violated a provision of this act or rule promulgated under this act, the

director may impose an administrative fine of not more than \$1,000.00 and the actual costs of the investigation of the violation.

(8) The administrative fines imposed under subsection (1) or (7) shall be paid to the department within 10 days after notification of the violation or within 10 days after notification of adverse findings following a hearing or appeal, or both. The administrative fines received by the department under this section shall be deposited into the dairy and food safety fund as provided for in section 110(18).

(9) Failure to pay a load contamination or any other administrative fine imposed under this section within 120 days without making acceptable arrangements for payment of the fine may result in license revocation or permit suspension or court action, following notice and the opportunity for an administrative hearing.

(10) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in court of competent jurisdiction to recover the fine.

(11) A decision of the director under this section is subject to judicial review as provided by law.

(12) This section does not require the director to issue an administrative fine or initiate court action for minor violations of this act whenever the department believes that the public interest will be adequately served under the circumstances by a suitable written notice or warning.

288.690 Milk for human consumption; compliance with requirements for eradication of tuberculosis and brucellosis; prohibited sale; disposal; milking barn or milking parlor; yard and loafing area; duties of person obtaining milk from dairy animal; milkhouse or milkroom; dairy farm bulk tank; milk shipping.

Sec. 130. (1) A person who offers milk to the public for human consumption shall obtain that milk from dairy animals that are located in areas under federal or state supervision for the eradication of tuberculosis and brucellosis and comply with those requirements for eradication of tuberculosis and brucellosis. Each animal that produces milk for human consumption shall be properly maintained and fed in a manner consistent with department recommendations for the maintenance of animals of that kind. Any dairy animals that are officially classified as tuberculosis reactors as defined in the animal industry act, 1988 PA 466, MCL 287.701 to 287.745, shall be milked last or in separate equipment and the milk from these dairy animals shall not be used or sold for human or animal consumption.

(2) A person shall not sell or offer for human consumption milk that is known to the person to be any of the following:

- (a) Infected with mastitis or showing signs of being bloody, ropy, or clumpy.
- (b) Carrying a violative drug residue in an amount that exceeds the maximum permitted under state or federal law.
- (c) Containing a pesticide or other chemical in excess of the maximum amount permitted under state or federal law.
- (d) Not normal and fresh in odor or appearance or containing excessive coarse sediment when examined organoleptically, visually, or by an accepted test procedure.
- (e) Containing excessive sediment as determined by sediment test methods provided in standard methods for the examination of dairy products and classified to USDA sediment standards as more than a no. 3.
- (f) Exceeds legal temperature, bacterial, or somatic cell limits.

(3) A person in possession of milk described in subsection (2) shall dispose of that milk in the manner directed by the department.

(4) A milking barn or milking parlor shall be all of the following:

(a) Well-lighted and ventilated.

(b) Of a size and arrangement adequate to provide for sanitary milking operations.

(c) Constructed with floors and gutters of concrete or other impervious material.

(d) Kept clean, with manure removed daily and stored out of reach of the animals that are subject to milking.

(e) Kept free of swine or fowl at all times.

(f) Constructed with a dust-tight ceiling.

(5) The yard and loafing area for dairy animals shall be all of the following:

(a) Of ample size to prevent overcrowding.

(b) Drained to prevent the formation of standing pools.

(c) Kept as clean as is practicably possible.

(6) A person who obtains milk from a dairy animal shall do all of the following:

(a) Ensure that the udders and flanks of the animal are kept clean.

(b) Wash and wipe the udders and teats of the animal immediately before milking with a clean cloth or paper towel that is treated with an approved sanitizing solution and dried with a clean cloth or paper towel after washing, or use any other method approved by the department.

(c) Wear clean outer clothing.

(d) Maintain clean and dry hands during milking.

(e) Refrain from handling the animal, milk containers, milking utensils, and equipment at any time the person has an infected cut or open sore on either of his or her hands or arms.

(f) Milk last or with separate equipment those animals that secrete abnormal milk and exclude that abnormal milk from the milk that will be offered for human consumption.

(g) Maintain and properly store milk stools, surcingles, and antikickers.

(h) Refrain from conducting an activity that raises dust in the milking area immediately before or during milking.

(i) Store feed and concentrates in a tightly covered container.

(j) Except for milk that is delivered to a processing plant within 2 hours after the milking, cool and store milk that is contained in cans and that will be used exclusively for cheese manufacturing at 60 degrees Fahrenheit (16 degrees Celsius) or lower at the farm within 2 hours after the milking.

(k) Cool milk that is stored in a dairy farm bulk tank to 50 degrees Fahrenheit (10 degrees Celsius) within 4 hours or less of the commencement of the first milking, and to 45 degrees Fahrenheit (7 degrees Celsius) or less within 2 hours after milking, provided that the blend temperature after the first milking and subsequent milkings does not exceed 50 degrees Fahrenheit (10 degrees Celsius).

(7) A milkhouse or milkroom shall be all of the following:

(a) Well-lighted and ventilated. Lighting in the milkhouse shall be adequate for milkhouse operations. A minimum of 1 light for the wash vat and a light for each bulk tank opening shall be provided. Nonelectric farms shall have the minimum of 1 battery-operated light for each bulk tank opening. Lights shall not be positioned directly over bulk tank openings. Fuels used for milkhouse operations shall not cause odors that may impart off-flavors to the milk.

(b) Located in convenient proximity to a milking barn or milking parlor.

- (c) Constructed in accordance with applicable building codes, with each of the following:
- (i) A floor of concrete or other impervious material, graded to provide appropriate drainage.
 - (ii) Walls and ceiling of a smooth, readily cleanable material.
 - (iii) A platform or slab constructed of concrete or other impervious material at the exterior of the milkhouse or milkroom, centered beneath a suitable opening, fitted with a tight, self-closing door, located on the exterior wall for milkhouse or milkroom connections to bulk milk tanks. The platform or slab shall be a minimum of 4 feet by 4 feet to provide sufficient room and clean surface for the milk hauler to stand and handle the milk transfer hose.
 - (iv) A truck approach to the milkhouse or milkroom, properly graded and surfaced to prevent mud or pooling of water at the milk loading point.
- (d) Equipped with a wash and rinse vat, utensil rack, and milk cooling facilities, for the handling and cooling of milk, and for the washing, handling, and storage of milking utensils and equipment.
- (e) Free of any product that the department determines is likely to contaminate milk or create a public health hazard.
- (f) Equipped with a supply of hot water adequate for cleaning milk utensils and equipment.
- (g) Designed without a direct opening, and with a solid, tight-fitting, self-closing door, at any entrance to a barn, stable, or milking parlor.
- (h) Designed with screens at all outside openings, unless another means is provided to prevent the entrance of insects or rodents into the milkhouse or milkroom. Screen doors shall be tight-fitting and self-closing and open outward. Toilet facilities located adjacent to the milkhouse or milking facilities shall have self-closing doors and all outside openings shall be screened.
- (i) Plans for new facilities, remodeled facilities, or new equipment installations must be submitted to the department for prior approval.
- (8) A dairy farm bulk tank shall be located in a milkhouse or milkroom in a manner that allows access to all areas of the tank for cleaning and servicing. A dairy farm bulk tank shall not be placed over a floor drain or under a ventilator or unprotected light fixture. A dairy farm shall ensure that each new farm bulk tank meets sanitary standards and is installed in accordance with department specifications.
- (9) The owner or operator of a milkhouse or milkroom shall ensure all of the following:
- (a) That the milkhouse or milkroom is clean and free of contaminants, animals, and fowl.
 - (b) That an unapproved pesticide is not stored in the milkhouse or milkroom.
 - (c) That any pesticide used in or near the milkhouse or milkroom is used in accordance with label instructions to prevent the contamination of milk or equipment.
 - (d) That each utensil, milk can, milking machine, pipeline system associated with a milking machine, and other equipment used in the handling of milk is maintained in good condition, free from rust, open seams, milkstone, and any unsanitary condition.
 - (e) That each utensil and item of equipment used in the handling of milk is of a smooth, noncorrosive material, washed, rinsed, and drained after each milking, stored in an appropriate manner, and sanitized immediately before use, by using dairy cleaners, detergents, sanitizing agents, or other similar materials labeled for dairy or food service use that will not contaminate or adversely affect the milk.
 - (f) That each dairy farm tank used on the premises is constructed of a material or materials approved by the department and installed in accordance with subsection (11).