

HOUSE BILL No. 4880

May 30, 1989, Introduced by Reps. Niederstadt, Hart, Bartnik, Sofio, Spaniola, Stupak, Hickner, Gnodtke, Brown, Allen, DeMars, Maynard, Rocca, Stopczynski, Randall, Ouwinga, Ostling, Oxender, Stacey, Middaugh, Warther, Gilmer, Walberg, Webb, Owen, DeBeaussaert, Scott, Jonker and Profit and referred to the Committee on Agriculture.

A bill to amend the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, and 15 of Act No. 70 of the Public Acts of 1961, entitled

"Seal of quality act,"

being sections 289.631, 289.632, 289.633, 289.634, 289.635, 289.636, 289.637, 289.638, 289.639, 289.640, 289.641, 289.643, 289.644, and 289.645 of the Michigan Compiled Laws; and to add sections 14a and 15a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 8,
2 9, 10, 11, 13, 14, and 15 of Act No. 70 of the Public Acts of
3 1961, being sections 289.631, 289.632, 289.633, 289.634, 289.635,
4 289.636, 289.637, 289.638, 289.639, 289.640, 289.641, 289.643,
5 289.644, and 289.645 of the Michigan Compiled Laws, are amended
6 and sections 14a and 15a are added to read as follows:

TITLE

1

2 An act to promote the development and to encourage consump-
3 tion OR USE of Michigan FOOD, SERVICES, BUSINESSES, AND agricul-
4 tural products by use of a seal AND TERMS denoting quality; to
5 prescribe the powers and duties of the state department of agri-
6 culture; to establish procedures for standards; to provide for
7 fees; to authorize the appointment of commodity committees; and
8 to prescribe penalties for violations.

9 Sec. 1. This act shall be known and may be cited as the

10 ~~"seal of quality"~~ "MICHIGAN PREMIUM PROGRAM act".

11 Sec. 2. As used in this act:

12 (a) "Commission" means the commission of agriculture.

13 (b) "Department" means the ~~state~~ department of
14 agriculture.

15 (c) "Director" means the ~~state~~ director of THE DEPARTMENT
16 OF agriculture OR HIS OR HER DESIGNEE.

17 (D) "FOOD" MEANS ARTICLES USED FOR EATING OR DRINKING BY
18 HUMAN BEINGS OR ANIMALS, CHEWING GUM, OR ARTICLES USED AS COMPO-
19 NENTS OF THOSE ARTICLES.

20 (E) ~~(d)~~ "Person" means ~~individuals, partnerships, trusts,~~
21 ~~associations, corporations, and~~ AN INDIVIDUAL, PARTNERSHIP,
22 TRUST, ASSOCIATION, CORPORATION, OR any ~~and all~~ other business
23 ~~units, devices and arrangements~~ UNIT, DEVICE, OR ARRANGEMENT,
24 or THE receiver, trustee, or assignee of ~~such~~ THAT business
25 ~~units~~ UNIT, DEVICE, OR ARRANGEMENT.

26 (F) ~~(e)~~ "Michigan PREMIUM seal" ~~of quality~~ means ~~any~~
27 ~~label, tag or other device bearing~~ the official emblem

1 promulgated under ~~the provisions of~~ this act containing the
2 term "Michigan ~~seal of quality~~ PREMIUM" OR "MICHIGAN PREMIUM
3 SEAL" attached to, affixed, or placed upon any crate, carton,
4 package, or other container of ~~agricultural products grown,~~
5 ~~packed and processed within this state~~ PRODUCTS.

6 (G) "MICHIGAN PREMIUM" MEANS A DESIGNATION THAT A PRODUCT OR
7 SERVICE MEETS THE STANDARDS APPROVED FOR THE USE OF THE MICHIGAN
8 PREMIUM SEAL.

9 (H) ~~(f) "Products" mean agricultural products grown, packed~~
10 ~~and processed within this state~~ "PRODUCT" MEANS FOOD OR AN AGRI-
11 CULTURAL COMMODITY GROWN; GROWN AND PACKED; OR SUBSTANTIALLY
12 GROWN AND PROCESSED WITHIN THIS STATE EXCEPT AS THE DIRECTOR MAY
13 PROVIDE BY A RULE PROMULGATED UNDER THIS ACT.

14 (I) "PROGRAM" MEANS THE MICHIGAN PREMIUM PROGRAM ADOPTED
15 PURSUANT TO THIS ACT.

16 (J) "STANDARDS" MEANS STANDARDS OF PREMIUM QUALITY APPLICA-
17 BLE TO PRODUCTS, THE HANDLING OF PRODUCTS, QUALITY CONTROL PROCE-
18 DURES AND PROGRAMS, OR THE CONDUCTING OF A SERVICE OR A BUSINESS.

19 Sec. 3. (1) The ~~commission~~ DIRECTOR shall design ~~emblems~~
20 ~~bearing the inscription "Michigan seal of quality",~~ AND ADOPT AN
21 EMBLEM KNOWN AS THE MICHIGAN PREMIUM SEAL to be used as a seal
22 denoting quality for the purpose of identifying the products to
23 which it may be applied; ~~to~~ SHALL designate the products,
24 SERVICES, AND BUSINESSES upon which it may be used; and ~~to~~
25 ~~promulgate the quality and grade standards for products to which~~
26 ~~it may be applied~~ SHALL ADOPT STANDARDS.

1 (2) THE DIRECTOR SHALL ESTABLISH AND ADOPT A PROGRAM WHICH
2 SHALL BE DESIGNED TO ADVANCE THE PURPOSES OF THIS ACT.

3 Sec. 4. Upon the WRITTEN request of A PERSON REPRESENTING
4 A SIGNIFICANT PORTION OF any commodity group of producers of
5 ~~agricultural products~~ A PRODUCT OR SUPPLIERS OF A SERVICE stat-
6 ing that ~~it is essential to~~ the successful marketing of the
7 products ~~that~~ WILL BE ENHANCED IF standards ~~of quality be~~ ARE
8 established, OR IF THE DIRECTOR BELIEVES THAT THE ESTABLISHING OF
9 STANDARDS WILL ENHANCE THE MARKETING OF PRODUCTS OR SERVICES, the
10 ~~commission~~ DIRECTOR, after not less than 10 days' notice, shall
11 call a public hearing at which any interested person ~~shall have~~
12 ~~the right to~~ MAY be heard. ~~, and thereafter the commission~~
13 AFTER THAT MEETING, THE DIRECTOR shall determine whether the
14 establishment of standards ~~of quality~~ for the products ~~is nec-~~
15 ~~essary to the~~ OR SERVICES WILL ENHANCE THEIR successful
16 marketing. ~~thereof.~~

17 Sec. 5. (1) The ~~commission~~ DIRECTOR, if ~~it~~ HE OR SHE
18 determines that it is ~~necessary~~ ADVISABLE to establish stan-
19 dards, ~~of quality for any products, shall promulgate an order~~
20 ~~establishing~~ SHALL ADOPT standards. ~~of quality for the prod-~~
21 ~~ucts, which standards shall relate to the quality, size and con-~~
22 ~~dition thereof.~~

23 (2) AFTER ADOPTING STANDARDS, THE DIRECTOR MAY ENTER INTO
24 AGREEMENTS WITH PRODUCERS OR PROVIDERS OF SERVICES APPROVING AND
25 CONDITIONING THE USE OF THE MICHIGAN PREMIUM SEAL AND THE
26 MICHIGAN PREMIUM DESIGNATION.

1 Sec. 6. The ~~commission~~ DIRECTOR shall DO ALL OF THE
2 FOLLOWING IN ORDER TO PROTECT THE INTEGRITY OF THE MICHIGAN
3 PREMIUM SEAL AND THE PROGRAM:

4 (a) ~~Establish a seal denoting quality which shall be regis-~~
5 ~~tered, advertised and protected by the director.~~ CAUSE THE
6 MICHIGAN PREMIUM SEAL AND THE TERM "MICHIGAN PREMIUM PROGRAM" TO
7 BE REGISTERED AND PROTECTED UNDER APPLICABLE LAW.

8 (b) ~~Promulgate rules for the inspection of products to~~
9 ~~which the seal is applied.~~ INVESTIGATE COMPLAINTS.

10 (c) ~~Authorize the application of the seal to those products~~
11 ~~conforming to the standards of quality as established by the com-~~
12 ~~mission under the provisions of this act.~~ CONDUCT INVESTIGATIONS
13 AND INSPECTIONS THAT THE DIRECTOR CONSIDERS NECESSARY FOR IMPE-
14 MENTING THIS ACT.

15 (D) COOPERATE WITH ANY OTHER GOVERNMENTAL AGENCY OR ANY
16 OTHER PERSON.

17 (E) ENTER INTO AGREEMENTS WITH OTHER PERSONS FOR THE INVES-
18 TIGATION, INSPECTION, GRADING, TESTING, OR SAMPLING OF PRODUCTS.

19 (F) PRESCRIBE CONDITIONS FOR THE USE, SUSPENSION, OR REVOCATION
20 OF THE USE OF THE MICHIGAN PREMIUM SEAL.

21 (G) INITIATE OR DEFEND CIVIL ACTIONS.

22 (H) INITIATE CRIMINAL COMPLAINTS.

23 Sec. 7. The MICHIGAN PREMIUM seal ~~of quality~~ shall not
24 be used as a barrier to interstate commerce, nor ~~is~~ SHALL it
25 ~~a~~ substitute for MANDATORY federal grades and standards, or for
26 the federal grading and inspection service on products entering
27 into interstate commerce.

1 Sec. 8. ~~Products to be sold to the consumer in packages~~
2 ~~to which the seal of quality is applied shall be graded by or~~
3 ~~under the supervision of~~ THE DIRECTOR MAY ADOPT STANDARDS WHICH
4 REQUIRE THE GRADING OF MICHIGAN PREMIUM PRODUCTS, SERVICES, OR
5 BUSINESSES. IF THOSE STANDARDS ARE ADOPTED, THEY SHALL BE SUPER-
6 VISED BY competently trained inspectors approved by the depart-
7 ment or by graders or supervisors of grading supplied under coop-
8 erative agreement between the department and the United States
9 department of agriculture.

10 Sec. 9. (1) A PERSON SHALL NOT USE THE MICHIGAN PREMIUM
11 SEAL OR IMPLY ASSOCIATION WITH OR APPROVAL TO USE THE MICHIGAN
12 PREMIUM SEAL WITHOUT PRIOR WRITTEN APPROVAL OF THE DIRECTOR.

13 (2) Use of the MICHIGAN PREMIUM seal ~~of quality~~ shall be
14 elective by any person ~~offering products for sale or other dis-~~
15 ~~position to any other person~~ AUTHORIZED TO USE IT UNDER THIS
16 ACT, but, upon election to use the seal, conformance with the
17 STANDARDS, ORDERS, rules, and regulations ADOPTED OR promulgated
18 ~~by the commission~~ PURSUANT TO THIS ACT shall be mandatory.

19 Sec. 10. ~~For the purpose of giving effect to the provi-~~
20 ~~sions of this act, the commission may enter into agreements with~~
21 ~~any person on such terms and conditions as the commission deems~~
22 ~~best for the grading, or for the supervision of grading, of prod-~~
23 ~~ucts to which the seal of quality is to be applied.~~ IN ORDER TO
24 IMPLEMENT THIS ACT, THE DIRECTOR MAY DO ALL OF THE FOLLOWING:

25 (A) ENTER INTO A CONTRACT WITH ANY PERSON FOR SERVICES WHICH
26 INCLUDE, BUT ARE NOT LIMITED TO, MARKET RESEARCH, ADVERTISING,

1 PROGRAM DEVELOPMENT, PUBLICATION SERVICES, GRADING SERVICES, OR
2 INSPECTION SERVICES.

3 (B) APPOINT 1 OR MORE ADVISORY COMMITTEES.

4 (C) HOLD PUBLIC HEARINGS.

5 Sec. 11. The ~~commission shall~~ DIRECTOR MAY adopt and may
6 amend from time to time schedules of fees to be charged for
7 ~~labels bearing the seal of quality, for~~ grading and supervision
8 of grading, or for such other services AND MATERIALS as may be
9 rendered under this act. ~~All fees shall be sufficient to make~~
10 ~~self sustaining the grading services performed under this act.~~
11 All fees shall be deposited in the state treasury and credited to
12 the general fund AND EARMARKED TO THE DEPARTMENT FOR THE IMPLE-
13 MENTATION OF THIS ACT. ~~The fees assessed under the provisions~~
14 ~~of this act shall be payable by the person for whom the services~~
15 ~~are performed and the director shall prescribe the method by~~
16 ~~which and times when the fees shall be collected.~~

17 Sec. 13. The director ~~or any person authorized by him~~
18 ~~shall have~~ MAY DO ALL OF THE FOLLOWING FOR THE PURPOSE OF
19 ENFORCING THIS ACT IN RELATION TO A PERSON GOVERNED BY THIS ACT:

20 (a) Obtain free access AT REASONABLE HOURS to any place,
21 STRUCTURE, or conveyance ~~wherein products bearing the "seal of~~
22 ~~quality" are being marketed, transported or held for commercial~~
23 ~~purposes, may open~~ BEING USED FOR COMMERCIAL PURPOSES.

24 (B) OPEN any container ~~bearing the seal~~ and examine the
25 contents ~~thereof,~~ OF THAT CONTAINER and, upon tender of the
26 market price, ~~may~~ take A SAMPLE. ~~samples therefrom. The~~
27 ~~director may employ inspectors to inspect products bearing the~~

~~1 seal of quality. Certificates of inspection shall state the date
2 and place of inspection, the grade, condition and approximate
3 quality of the products inspected, and any other pertinent facts
4 that the director requires. The certificate and all federal cer-
5 tificates relative to the condition of quality of the products
6 shall be prima facie evidence in all courts of the state of the
7 facts required to be stated therein.~~

8 (C) OBTAIN FREE ACCESS AT REASONABLE HOURS TO ALL RECORDS
9 PERTAINING TO COMPLIANCE OR NONCOMPLIANCE WITH THE STANDARDS.

10 Sec. 14. The ~~commission shall enforce this act and~~
11 DIRECTOR may ISSUE ORDERS AND promulgate ~~such orders,~~ rules
12 ~~and regulations in accordance with Act No. 88 of the Public~~
13 ~~Acts of 1943, as amended, being sections 24.71 to 24.82 of the~~
14 ~~Compiled Laws of 1948, and subject to Act No. 197 of the Public~~
15 ~~Acts of 1952, as amended, being sections 24.101 to 24.110-~~
16 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
17 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
18 24.328 of the MICHIGAN Compiled Laws, ~~of 1948,~~ as are necessary
19 to carry out the purposes of this act. ~~When the director, or~~
20 ~~any person appointed by him, determines that products bearing the~~
21 ~~seal fail to conform to the quality characteristics and standards~~
22 ~~promulgated by the commission, the director or his appointee may~~
23 ~~seize and dispose of the products as provided by section 7 of Act~~
24 ~~No. 211 of the Public Acts of 1893, as amended, being section~~
25 ~~289.37 of the Compiled Laws of 1948.~~

1 SEC. 14A. THE MICHIGAN PREMIUM SEAL AND THE STANDARDS
2 ADOPTED PURSUANT TO THIS ACT SHALL BE ADOPTED IN THE FOLLOWING
3 MANNER:

4 (A) THE DIRECTOR SHALL ISSUE AN ORDER.

5 (B) AFTER REASONABLE PUBLIC NOTICE, THE DIRECTOR SHALL
6 PRESENT THE ORDER FOR THE COMMISSION'S APPROVAL.

7 (C) IF THE COMMISSION APPROVES THE ORDER, THE COMMISSION
8 SHALL CAUSE THE ORDER TO BE SERVED UPON THE JOINT COMMITTEE ON
9 ADMINISTRATIVE RULES.

10 (D) IF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES DOES NOT,
11 WITHIN 30 DAYS, REJECT THE ORDER, THE ORDER IS CONSIDERED ADOPTED
12 AND SHALL TAKE IMMEDIATE EFFECT. THE ORDER ADOPTED SHALL BE PUB-
13 LISHED IN THE MICHIGAN REGISTER.

14 Sec. 15. (1) ~~Any person who holds for sale, offers for~~
15 ~~sale or sells any product, to which the seal of quality is~~
16 ~~applied, which does not conform with the quality characteristics~~
17 ~~and standards for that product is guilty of a misdemeanor and~~
18 ~~shall be punished by a fine of not less than \$25.00 and not more~~
19 ~~than \$100.00, or by imprisonment in the county jail for not more~~
20 ~~than 90 days, or both.~~ A PERSON OR A PERSON'S AGENT OR EMPLOYEE,
21 SHALL NOT SELL, OFFER FOR SALE, OR POSSESS FOR THE PURPOSE OF
22 SELLING A PRODUCT OR SERVICE REPRESENTED AS MICHIGAN PREMIUM OR
23 LABELED BY OR OTHERWISE IDENTIFIED WITH THE MICHIGAN PREMIUM
24 SEAL, REPRESENT OR LABEL A BUSINESS AS MICHIGAN PREMIUM, UNDER
25 ANY OF THE FOLLOWING CIRCUMSTANCES:

26 (A) THE DIRECTOR HAS NOT APPROVED THE PRODUCT, SERVICE, OR
27 BUSINESS FOR THE USE OF THE MICHIGAN PREMIUM SEAL.

1 (B) THE DIRECTOR HAS NOT APPROVED THE PRODUCT, SERVICE, OR
2 BUSINESS FOR IDENTIFICATION OR REPRESENTATION AS MICHIGAN
3 PREMIUM.

4 (C) THE PRODUCT, SERVICE, OR BUSINESS DOES NOT MEET THE
5 STANDARDS.

6 (D) THE PRODUCT, SERVICE, OR BUSINESS IS NOT THE SUBJECT OF
7 AN AGREEMENT EXECUTED PURSUANT TO THIS ACT.

8 (2) A PERSON OR A PERSON'S AGENT OR EMPLOYEE SHALL COMPLY
9 WITH AN ORDER OF THE DIRECTOR SUSPENDING OR REVOKING THE USE OF
10 THE MICHIGAN PREMIUM SEAL.

11 SEC. 15A. (1) A VIOLATION OF THIS ACT, AN ORDER, OR RULE
12 ADOPTED, ISSUED, OR PROMULGATED PURSUANT TO THIS ACT, IS A MISDE-
13 MEANOR PUNISHABLE BY A FINE OF NOT LESS THAN \$200.00 AND NOT MORE
14 THAN \$1,000.00, OR TWICE THE AMOUNT OF ANY MONEY GAINED BY REASON
15 OF THE VIOLATION, OR BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS,
16 OR BY ANY COMBINATION OF THESE PENALTIES.

17 (2) UPON CONVICTION, THE COURT MAY ASSESS AGAINST A
18 DEFENDANT THE COST OF INVESTIGATION OR PROSECUTION.