

ELIMINATE SUNSET FOR CERTAIN AGRICULTURE REGULATORY AND INSPECTION FEES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4849
Sponsor: Rep. Shanelle Jackson

House Bill 4860
Sponsor: Rep. Paul Condino

House Bill 4863
Sponsor: Rep. Bert Johnson

House Bill 4862
Sponsor: Rep. Paul Condino

House Bill 4864
Sponsor: Rep. Bert Johnson

Committee: Appropriations
Complete to 6-18-07

A SUMMARY OF HOUSE BILL 4849 AS INTRODUCED 5-24-07 AND HOUSE BILLS 4860, 4862, 4863, AND 4864 AS INTRODUCED 5-29-07

BRIEF SUMMARY:The five bills listed above are not tie-barred or part of an identifiable bill package. They are treated together in this analysis because they would all eliminate sunsets for various Michigan Department of Agriculture regulatory or inspection fees established in statute.

Revenue from the fees is assumed in the Executive recommendation for the FY 2007-08 state Agriculture budget. Extension of statutory authority to collect these fees is necessary to enact the FY 2007-08 budget as presented by the Governor and/or to maintain baseline department programs.

The bills, statutes affected, fees, and fee revenue are summarized below:

House Bill 4849 – Pesticide Regulatory Fees

The bill would amend Section 8317 (MCL 324.8317) of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451) to eliminate the sunset (September 30, 2007 in current law) on certain pesticide regulatory fees. The fee for *private agricultural applicator* certification and for a *private registered applicator* (as defined in the act) would remain at \$50 per application after September 30, 2007 and would not revert to \$10 per application.

Note that the certificates for private agricultural applicator and registered applicators are valid for a period of not less than three years. For a three-year certificate, the effective annual application fee is slightly more than \$16 per year. The department indicates that total annual revenue from the various pesticide regulatory fees established under the act, including fees not subject to statutory sunset is approximately \$1.2 million. The

department estimates that the failure to repeal the sunset would result in a reduction in fee revenue of approximately \$112,000 per year.

Under current law, all pesticide licensing fees are dedicated to the Pesticide Control Fund which is established in Section 8318 of the act. The bill would repeal Section 8318.

The bill would instead direct the Michigan Department of Agriculture to deposit license fees and administrative fines received under the part (Part 83 of the act, Pesticide Control) in the Agriculture Licensing and Inspection Fees Fund created in Section 4 of 1969 PA 287 (an act to regulate pet shops and animal control/protection shelters) "*to be used pursuant to appropriation by the director in administering and carrying out those duties required by the law under this part [Part 83].*" The Agriculture Licensing and Inspection Fees Fund does not currently exist in 1969 PA 287; it would be created in House Bill 4860, described below.

The bill would also provide the department authority to adjust the section's fee schedule every three years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index (CPI). However, the bill would limit the 3-year increase to 5%, regardless of the increase in the Detroit CPI.

House Bill 4860 – Pet Shop Regulatory Fees

The bill would amend Section 4 of 1969 PA 287 (an act to regulate pet shops and animal control/animal protection shelters) to eliminate the sunset (September 30, 2007 in current law) on certain pet shop licensing and regulatory fees. Under current law and through September 30, 2007, the fee for an initial pet shop application license is \$200, and the fee for annual renewal license is \$100. If the sunset is not removed, annual pet shop license fees would be \$150 (with no distinction between initial application fees and renewal fees).

Under current law, revenue from the fees generates approximately \$34,200 per year. The act does not currently designate where fee revenue is be credited. It appears that fee revenue is currently treated as state General Fund revenue although restricted for support of the pet shop inspection program with the Michigan Department of Agriculture. The department estimates that failure to remove the sunset would result in a reduction of fee revenue of \$25,200 per year.

The bill would create a new Agriculture Licensing and Inspection Fees Fund within the state treasury and would allow the fund to receive money from pet shop license and inspection fees and administrative fines received pursuant to PA 287 as well as other acts. The bill directs the department to expend money from the fund, upon appropriation, for the purpose of administering and carrying out the act (PA 287) as well as 1937 PA 284 (regulation of livestock operations), 1974 PA 93 (regulation of horse riding stables), 1931 PA 189 (Insect and Plant Disease Act), Part 83 of the Natural Resources and Environmental Protection Act (regulation of pesticides).

Funds in the new Agriculture Licensing and Inspection Fees Fund would remain in the fund at the close of the fiscal year and not lapse to the General Fund.

The bill would also provide the department authority to adjust the section's license fee schedule every three years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index (CPI). However, the bill would limit the 3-year increase to 5%, regardless of the increase in the Detroit CPI.

House Bill 4862 – Insect Pest and Plant Disease

The bill would amend Section 9 of the Insect Pest and Plant Disease Act (1931 PA 189) to eliminate the sunset (September 30, 2007 in current law) on regulatory and license fees. The bill would provide for nursery license fees to remain at \$100 after September 30, 2007 and not revert to \$50. The annual license fee for persons using less than ¼ acre to grow nursery stock or utilizing less than 200 square feet of greenhouse space would remain at \$40 after September 30, 2007.

Annual revenue from these fees is approximately \$670,000. The department estimates that failure to remove the sunset would result in a reduction in state fee revenue of approximately \$381,500.

With the exception of funds earmarked for the Horticulture Fund established in Section 9, subsection (3), revenue from these fees is currently credited to the state General Fund for use in enforcement of the act. Except for the Horticulture Fund earmark (described below), the bill would direct the Michigan Department of Agriculture to deposit license and inspection fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund created in Section 4 of 1969 PA 287. The funds could be used, pursuant to appropriation, by the director in administering and carrying out those duties required by the law. The Agriculture Licensing and Inspection Fees Fund does not exist in current law; it would be created in House Bill 4860, described above.

The bill would also provide the department authority to adjust the section's fee schedule every three years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index (CPI). However, the bill would limit the 3-year increase to 5%, regardless of the increase in the Detroit CPI.

The bill would also amend Section 6 of the act, which provides authority for the department's nursery inspection program (a program which provides a certificate of inspection for nursery stock). The section authorizes the director to charge inspection fees based on cost to the department of making the inspection. The section also requires the director to review and adjust the schedule of fees at the end of the fiscal year. Under current law the director may raise inspection fees by up to 50% in any fiscal year, subject to prior approval of the Commission of Agriculture. The bill would eliminate the 50% limitation and the prior Commission approval requirement; the bill would require the

director to adjust inspection fees "as required by Section 9." This would apparently make the adjustment of inspection fees subject to the Detroit CPI adjustment described above.

Department inspection fees currently generate approximately \$500,000 per year. The fiscal impact, if any, of the proposed change in the method of adjusting the fees cannot be reasonably estimated.

The bill also eliminates a sunset in Section 9 subsection (3) on the Horticulture Fund. Under current law, the Horticulture Fund would no longer exist and revert to the General Fund on September 30, 2007. The Horticulture Fund is authorized to receive up to \$70,000 each year from licensing fees for use in horticulture research projects, training programs, and outreach materials.

House Bill 4863 – Horse Riding Stables

The bill would amend Section 9 of 1974 PA 93 to eliminate the sunset (September 30, 2007 in current law) on certain regulatory and license fees. The fee for an initial horse riding stable license would remain at \$100 after September 30, 2007 and would not revert to \$25. The annual renewal fee would remain at \$50 after September 30, 2007 and not revert to \$25.

Annual revenue from these fees is approximately \$5,500. The department indicates that failure to remove the sunset would result in a reduction in state fee revenue of approximately \$3,000.

Horse riding stable fee revenue under PA 93 is currently credited to the state General Fund. The bill would direct the Michigan Department of Agriculture to deposit license and inspection fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 4 of 1969 PA 287 by House Bill 4860, described above.

The bill would also provide the department authority to adjust the section's fee schedule every three years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index (CPI). However, the bill would limit the 3-year increase to 5%, regardless of the increase in the Detroit CPI.

House Bill 4864 – Livestock Operations

The bill would amend Section 3 of 1937 PA 284 to eliminate the sunset (September 30, 2007 in current law) on certain livestock operation regulatory and license fees. Both the initial and annual renewal fees under current law and through September 30, 2007 are as follow:

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

If the act were not amended, the only fee authorized under the act after September 30, 2007 would be the license fees for dealer/broker/agent which would revert to \$5 for both initial application and annual renewal.

Annual revenue from these fees is approximately \$22,000. Failure to pass the bill would result in a reduction in state revenue of almost all fee revenue currently collected under the act.

Livestock operation fee revenue is currently credited to the state General Fund. The bill would direct the Michigan Department of Agriculture to deposit license and inspection fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 4 of 1969 PA 287 by House Bill 4860, described above.

The bill would also provide the department authority to adjust the section's fee schedule every three years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index (CPI). However, the bill would limit the 3-year increase to 5%, regardless of the increase in the Detroit CPI.

FISCAL IMPLICATIONS:

Revenue from the various license and regulatory fees is assumed in the Executive recommendation for the FY 2007-08 state Agriculture budget. Extension of statutory authority to collect the fees is necessary to enact the budget as presented by the Governor and/or to maintain baseline department programs. Failure to remove the sunsets would result in a total reduction in fee revenue to the Michigan Department of Agriculture of approximately \$500,000.

Revenue from the above-described licensing and inspection fees supports Michigan Department of Agriculture animal health programs, and pesticide and plant pest management programs.

Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.