

EXTEND SUNSET FOR CERTAIN AGRICULTURE REGULATORY AND INSPECTION FEES

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

Enrolled House Bill 4849 (2007 PA 78)
Sponsor: Rep. Shanelle Jackson

Enrolled House Bill 4860 (2007 PA 79)
Sponsor: Rep. Paul Condino

Enrolled House Bill 4863 (2007 PA 80)
Sponsor: Rep. Bert Johnson

Enrolled House Bill 4862 (2007 PA 84)
Sponsor: Rep. Paul Condino

Enrolled House Bill 4864 (2007 PA 81)
Sponsor: Rep. Bert Johnson

Committee: Appropriations
Complete to 9-30-07

A SUMMARY OF ENROLLED HOUSE BILLS 4849, 4860, 4862, 4863, & 4864

BRIEF SUMMARY:The five bills listed above extend 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:

Enrolled House Bill 4849 – Pesticide Regulatory Fees

The bill amends Section 8317 (MCL 324.8317) of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451) to extend the sunset (which had been September 30, 2007) on certain pesticide regulatory fees to *September 30, 2012*. As a result, the fee for *private agricultural applicator* certification and for a *private registered applicator* (as defined in the act) will remain at \$50 per application until September 30, 2012. The fee reverts to \$10 per application starting October 1, 2012, after the new sunset date.

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 had estimated that failure to extend or remove the sunset would have resulted in a reduction in fee revenue of approximately \$112,000 per year.

All pesticide licensing fees under the act had been dedicated to the Pesticide Control Fund, established in Section 8318 of the act. The bill repeals Section 8318 and redirects fee revenue into a new state-restricted fund.

The bill directs the Michigan Department of Agriculture to deposit license fees and administrative fines received under Part 83 of the act (Pesticide Control) into the Agriculture Licensing and Inspection Fees Fund created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act, "*to be used pursuant to appropriation by the director in administering and carrying out those duties required by the law under this part [i.e. Part 83].*" The Agriculture Licensing and Inspection Fees Fund is created in 1931 PA 189 through Enrolled House Bill 4862, to which House Bill 4849 was tie-barred. House Bill 4862 is described below.

Enrolled House Bill 4860 – Pet Shop Regulatory Fees

The bill amends Section 4 of 1969 PA 287 (an act to regulate pet shops and animal control/animal protection shelters) to extend the sunset (which had been September 30, 2007) on certain pet shop licensing and regulatory fees to *September 30, 2012*. The fee for an initial pet shop application license of \$200, and the fee for annual renewal license of \$100, were to have sunset on September 30, 2007. If the sunset had not been removed or extended annual pet shop license fees would have been \$150 (with no distinction between initial application fees and renewal fees).

Revenue from the pet shop regulatory fees generates approximately \$34,200 per year. The Michigan Department of Agriculture estimates that failure to remove or extend the sunset would have resulted in a reduction of fee revenue of \$25,200 per year.

Fee revenue had not previously been earmarked in statute; fee revenue had been treated as miscellaneous General Fund revenue and used to support of animal industry regulatory programs within the Michigan Department of Agriculture budget.

The bill directs the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act, "*to be used, pursuant to appropriation, by the director in administering and carrying out those duties required by law under this act.*" The Agriculture Licensing and Inspection Fees Fund is created in 1931 PA 189 through Enrolled House Bill 4862, to which House Bill 4860 was tie-barred. House Bill 4862 is described below.

Enrolled House Bill 4862 – Insect Pest and Plant Disease

Fee sunset – The bill amends Section 9 of the Insect Pest and Plant Disease Act (1931 PA 189) to extend the sunset (which had been September 30, 2007) on regulatory and license fees to *September 30, 2012*. The bill provides for nursery license fees to remain at \$100 after September 30, 2007 and not revert to \$50 until after the new sunset date. 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 and through September 30, 2012. The bill also amends Section 11 of the bill to make the license fee for a non-resident nurseryman, dealer, or grower the same as that established in Section 9.

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

New Restricted Fund – With the exception of an authorization of up to \$70,000 for the Horticulture Fund (see below), the act had directed the Michigan Department of Agriculture to deposit license and inspection fees and administrative fines received under the act into the state General Fund to be used in enforcement of the act. The bill directs those fees and fines into a new Agriculture Licensing and Inspection Fees Fund created in new subsection 2. The bill creates the Agriculture Licensing and Inspection Fees Fund within the state treasury and allows the fund to receive money from license fees, inspection fees, and administrative fines collected under PA 189, 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 189) as well as other acts. 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 new fund is intended to serve as a statutory state-restricted fund for department licensing and regulatory fee revenue. Historically, "licensing and inspection fee revenue" has been treated as a restricted fund source in the Department of Agriculture appropriation bill, but has not been established in statute.

Certificate of Inspection Fees – Section 6 of the act 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. Department inspection fees currently generate approximately \$500,000 per year.

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 as introduced would have eliminated the 50% limitation and the prior Commission approval requirement. The enrolled bill retains the language from current law and simply makes a relatively minor clarifying change in wording (the addition of the word "however") and to the numbering of the subsections.

Horticulture Fund – The Horticulture Fund, established in Section 9 of the act, was authorized to receive up to \$70,000 each year from licensing fees for use in horticulture research projects, training programs, and outreach materials. Authority for the fund was to have sunset in September 30, 2007 and any money in the fund was to have reverted to

the state General Fund. The enrolled bill extends the sunset to *September 30, 2012* and requires that that any money remaining in the fund at that time revert to the Agriculture Licensing and Inspection Fees Fund, rather than the state General Fund.

Enrolled House Bill 4863 – Horse Riding Stables

The bill amends Section 9 of 1974 PA 93 to extend the sunset (which had been September 30, 2007) on certain regulatory and license fees to *September 30, 2012*. The fee for an initial horse riding stable license would remain at \$100 after September 30, 2007 and would not revert to \$25 until October 1, 2012, after the new sunset date. The annual renewal fee would remain at \$50 through September 30, 2012 and not revert to \$25 until after the new sunset date.

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

Although the act had directed fee revenue to the General Fund, it had been treated as restricted licensing and inspection fee revenue in the Agriculture budget. The bill directs the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act into the Agriculture Licensing and Inspection Fees Fund created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act. The Agriculture Licensing and Inspection Fees Fund is created in Enrolled House Bill 4862, to which House Bill 4863 is tie-barred. House Bill 4862 is described above.

Enrolled House Bill 4864 – Livestock Operations

The bill amends Section 3 of 1937 PA 284 to extend the sunset (which had been September 30, 2007) on certain livestock operation regulatory and license fees to *September 30, 2012*. 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 had not been amended, the only fee authorized under the act after September 30, 2007 would have been the license fees for dealer/broker/agent which would have reverted 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 has been treated as state restricted licensing and inspection fee revenue within the Department of Agriculture budget. The bill directs the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act. The Agriculture Licensing and Inspection Fees Fund is created in Enrolled House Bill 4862, to which House Bill 4864 is tie-barred. House Bill 4862 is described above.

FISCAL IMPLICATIONS:

Revenue from the various license and regulatory fees was assumed in the Executive recommendation for the FY 2007-08 state Agriculture budget. Extension of statutory authority to collect the fees was necessary to enact the budget as presented by the Governor and/or to maintain baseline department programs. Failure to remove or extend the sunsets would have resulted 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.