

Legislative Analysis



AMENDMENTS TO GRADE A MILK LAW AND MANUFACTURING MILK LAW

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Senate Bills 1131 & 1132 as enacted
Public Acts 41 and 42 of 2010
Sponsor: Sen. Gerald Van Woerkom
House Committee: Appropriations
Senate Committee: Agriculture and Bioeconomy

Complete to 11-18-11

A SUMMARY OF SENATE BILLS 1131 & 1132 AS ENACTED

The Michigan Department of Agriculture has authority to license and regulate the dairy industry under the Grade A Milk Law of 2001 and the Manufacturing Milk Law of 2001.

The Grade A Milk Law of 2001 regulates all milk for drinking, as well as milk products such as yogurt, sour cream, eggnog, and half and half. The Manufacturing Milk Law of 2001 regulates milk products such as butter, cheese, ice cream, and other frozen desserts. Producers who have a Grade A license are also authorized to make manufactured milk products; there is not a duplicate licensing requirement.

Senate Bill 1131, enacted as 2010 PA 41, amends the Grade A Milk Law of 2001 to increase certain dairy licensing and inspection fees already established under the act.

Senate Bill 1132, enacted as 2010 PA 42, amends the Manufacturing Milk Law of 2001 to increase certain licensing and inspection fees currently established under the act, and to establish a new "certified industry manufacturing farm inspector" licensing fee.

Both bills allow the Michigan Department of Agriculture to assess a new plan review fee, as well as a new repeat inspection fee. Both bills amend sections dealing with violations of the acts and related administrative fines.

Both bills had an effective date of March 31, 2011. However, under both governing statutes, most license renewals are due on June 30 of each year. As a result, the increased fees under the bills were generally first assessed with June 30, 2010 license renewals.

Detailed Analysis of Senate Bill 1131

Grade A Milk Plant Licensing and Inspection Fees and Dairy Farm Inspection Fees under the Grade A Milk Law of 2001.

The Michigan Department of Agriculture indicated [in March 2010] that it licenses 1,992 Grade A dairy farms and 30 Grade A Dairy Plants. The department also licenses other

parts of the dairy industry, including receiving stations, transfer stations, milk transportation companies, milk distributors, milk tank truck cleaning facilities.

Prior to enactment of House Bill 1131, Section 31 of the Grade A Milk Law of 2001 (MCL 288.501) provided for a \$175 annual milk plant licensing or permitting fee, plus an annual fee for each dairy farm whose milk is received at the milk plant. There was an additional fee of \$5 for each dairy farm that utilizes a certified industry field person, or \$15 for each dairy farm that does not utilize a certified industry field person.

Dairy farms "assigned" to a milk plant did not pay a direct licensing fee; their licensing costs were covered by the \$5 or \$15 per dairy annual fee assessed on their assigned milk plant. Only dairy farms not "assigned" to a milk plant were charged the \$5 or \$15 fee directly.

Senate Bill 1131, enacted as 2010 PA 41, amended Section 31 to change the \$175 per plant licensing fee to a fee based on the pounds of raw milk the milk plant anticipates receiving in the coming year. For milk plants anticipating receipt of less than 20 million pounds of raw milk, the annual fee is \$400; for plants anticipating 20 million pounds to 100 million pounds, the fee is \$800 per year; and for plants anticipating more than 100 million pounds of raw milk, the fee is \$1,600 per year.

The bill eliminated the \$5 and \$15 annual dairy farm fees that had been imposed on milk plants or directly on "unassigned" dairy farms. The bill amended Section 33 of the act (MCL 288.503) to establish a separate Grade A Dairy Farm permit. The new fee is \$25 for each dairy farm that "maintains adequate industry personnel, as determined by the director [of the Department of Agriculture], who are certified to conduct certified industry farm inspections." For each dairy farm that did not maintain adequate industry personnel, the fee is \$70.

Under provisions of the bill, the payment of these dairy farm fees would be made by a milk buyer on behalf of the dairy farms.

Both the milk plant and dairy farm inspection fees are due June 30th of each year.

Senate Bill 1131 also increased other dairy licensing and inspection fees established under the act, including fees related to licenses for Receiving Stations/Transfer Stations, Single Service Facilities, Milk Transportation Companies, Milk Tank Trucks, Milk Distributors, Milk Tank Truck Cleaning Facilities, and Milk Bulk-Haulers/Samplers.

The bill also increased the current "certified industry manufacturing farm inspector" licensing fee.

The bill also allowed, but did not require, the permit the department to assess a new plan review fee as well as a new repeat inspection fee.

Detailed Analysis of Senate Bill 1132

The Michigan Department of Agriculture [March 2010] indicated that it licenses 307 Manufacturing Dairy farms in the state, as well as 45 manufacturing plants.

Senate Bill 1132, enacted as 2010 PA 42, amended the Manufacturing Milk Law of 2001 to change the \$50 per plant licensing fee to a fee based on the pounds of raw milk the milk plant anticipates receiving in the coming year. For milk plants anticipating receipt of less than 6 million pounds of raw milk, the annual fee is \$200; for plants anticipating more than 6 million pounds of raw milk, the fee is \$400 per year.

The fee is due June 30th of each year.

The bill also established a new "certified industry manufacturing farm inspector" licensing fee, similar to the license and fee established under the Grade A Milk Law of 2001.

The bill also allowed, but did not require, the department to assess a new plan review fee as well as a new repeat inspection fee.

FISCAL IMPACT:

The department had estimated that fees established or increased under the two bills would generate approximately \$100,000 in additional restricted revenue. This additional fee revenue was recognized in enacted state Agriculture budgets, starting with the FY 2009-10 budget (2009 PA 119). The department's estimate proved to be generally accurate. Dairy licensing and inspection fee revenue averaged approximately \$50,000 for the two years prior to enactment of Senate Bills 1131 and 1132 (FYs 2007-08, and 2008-09). Average dairy licensing and inspection fee revenue in the subsequent two fiscal years, FY 2009-10 and 2010-11, was approximately \$156,000.

Revenue from dairy licensing and inspection fees is credited to the Dairy and Food Safety Fund, a state restricted revenue fund created in Section 4117 of the Food Law of 2000, as amended by 2007 PA 114. Money from the fund is appropriated as one of the fund sources supporting the department's dairy safety and quality assurance program.

The total cost of the department's dairy safety and quality assurance program is approximately \$3.0 million per year. Actual program expenditures were \$2.8 million in FY 2010-11; the appropriation for FY 2011-12 is \$3.1 million. Prior to enactment of Senate Bills 1131 and 1132 dairy licensing and inspection fee revenue established in the Grade A Milk Law of 2001 and Manufacturing Milk Law of 2001 covered less than 2% of total program costs. Federal grants provided approximately 1% of program costs, with the state General Fund supporting the balance, approximately 97%, of program costs. It is anticipated that the additional fee revenue generated from the enactment of Senate Bills 1131 and 1132 could increase dairy licensing and inspection fee support to approximately 5% of program costs.

The department's dairy inspection program ensures that Michigan's dairy farms, milk processing plants and other licensees meet the milk safety requirements of Michigan's dairy laws and the Pasteurized Milk Ordinance. If dairies were not inspected for conformance with the Pasteurized Milk Ordinance, they would be unable to sell milk and milk products in other states.

According to the National Agricultural Statistics Service, *Michigan Agricultural Statistics 2010-2011*, milk production is Michigan's largest agricultural sector. Milk production in 2010 was 8.3 million pounds. In 2010, cash receipts from milk production totaled \$1.41 billion, approximately 22% of total 2010 state agricultural cash receipts of \$6.49 billion. Michigan was ranked 8th nationally in dairy production, accounting for 4.32% of U.S production.

In 2008, the Grade A Milk Law of 2001 and the Manufacturing Milk Law of 2001 were amended to conform to changes in national standards. The House Fiscal Agency legislative analysis of House Bill 5585 (2008 PA 147) from the 2007-2008 Legislative session contains additional information on state dairy licensing requirements. See <http://legislature.mi.gov/doc.aspx?2007-HB-5585>

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■ 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.