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 BILL ANALYSIS

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Senate Bills 1131 and 1132 (as enacted)
Sponsor: Senator Gerald Van Woerkom
Senate Committee: Agriculture and Bioeconomy
House Committee: Appropriations

PUBLIC ACTS 41 & 42 of 2010

Date Completed: 1-13-11

CONTENT

Senate Bill 1131 amended the Grade A Milk Law, and Senate Bill 1132 amended the Manufacturing Milk Law, to do the following:

- **Require a milk plant to pay an annual license or permit fee based on the plant's pounds of anticipated raw milk receipts.**
- **Increase the license or permit fee for various types of stand-alone facilities, and for tanks and trucks.**
- **Require grade A dairy farms, and dairy farms producing manufacturing milk for sale, to be licensed or permitted and pay an annual fee.**
- **Allow the Michigan Department of Agriculture (MDA) to collect plan review fees and reinspection fees.**
- **Require a producer to pay an administrative fine to the MDA in every case of a violative drug residue, and to pay an additional fine to the milk buyer if the violative shipment caused partial or total loss of a load of milk.**

Senate Bill 1132 also added a requirement that certified industry manufacturing farm inspectors pay a three-year license fee.

The bills took effect on March 31, 2010.

Senate Bill 1131Milk Plants

Under the Grade A Milk Law, a person may not produce Grade A milk to be offered for

sale or conduct other related activities without being licensed under the Law.

An applicant for an initial or renewal license as a milk plant must submit an application form to the MDA and provide a statement containing specified information. Under the bill, the required information includes the annual volume of raw milk that the milk plant anticipates receiving. For the renewal of a milk plant license, the MDA may conduct an audit to verify the accuracy of the annual volume of raw milk receipts reported and may reassess the license fee accordingly. Alternatively, the MDA may use an audit conducted by the U.S. Department of Agriculture or any other audit acceptable to the MDA Director.

Previously, each milk plant was required pay to the MDA an annual \$175 licensing or permitting fee and an additional fee of \$5 for each dairy farm whose milk the plant received, plus a \$10 fee per farm if the plant did not have an adequate number of certified industry farm inspectors. The MDA could charge the license fee to a producer only if the producer was not assigned to a milk plant that paid the annual fee for that producer. An unassigned producer had to pay a handling fee of \$5 plus an additional \$10 if certified industry farm inspectors were not assigned to the farm. The bill deleted those provisions.

The bill requires a licensed milk plant to pay an annual license or permit fee based on the plant's pounds of anticipated raw milk receipts per year, as shown in Table 1.

Table 1

Pounds	Fee
Less than 20.0 million	\$400
20.0 million – 99,999,999	\$800
100.0 million or more	\$1,600

License renewal must take place on June 30 of each year unless otherwise specified in the Law.

Farm Inspectors

The Law requires each certified industry farm inspector to pay a three-year license fee. The bill increased the fee from \$60 to \$150.

The bill deleted a provision that allowed an initial license fee to be prorated in six-month increments at \$10 per increment.

Stand-Alone Facilities, Trucks, & Tanks

The Law requires various types of facilities to be licensed or permitted either as part of a milk plant or as a stand-alone facility. This applies to a receiving station or transfer station, a milk tank truck cleaning facility (which also may be licensed or permitted as part of a receiving or transfer station), a distributor of finished grade A milk products, and a single service containers and closures manufacturer.

For all types of stand-alone facilities except a distributor, the bill increased the annual license or permit fee from \$50 to \$250. For a stand-alone distribution facility, the bill increased the fee from \$50 to \$100.

The bill also increased the annual license or permit fee for a milk transportation company from \$20 to \$50, and for a milk tank truck from \$10 to \$20.

The Law requires a person to have a hauler/sampler license in order to pick up grade A milk in a farm pickup milk tank from a farm bulk milk tank. The bill increased the two-year license fee from \$40 to \$50. The bill allows an initial license fee to be prorated in one-year increments at \$25 per increment (instead of six-month increments at \$10 per increment).

Dairy Farms; Milk Buyers

The bill requires an applicant for an initial grade A dairy farm permit to apply to the MDA and pay the prescribed annual fee. Each dairy farm producing grade A milk to be offered for sale must be licensed or permitted annually at either of the following rates, depending on whether the farm maintains adequate industry personnel, as determined by the MDA Director, who are approved to conduct certified industry farm inspections:

- \$70 if the dairy farm does not maintain adequate industry personnel.
- \$25 if the dairy farm maintains adequate industry personnel.

The fee must be paid to the MDA by June 30 each year.

The bill requires a milk buyer to pay the annual license or permit fee on behalf of dairy farms. The milk buyer may submit an invoice to the dairy farms for reimbursement or may deduct the fee from the farms' milk check. A milk buyer must complete a form provided by the MDA that indicates the number of producers for which it is responsible, and must include a list of the producer names, addresses, and MDA permit numbers. The Department may conduct audits to verify fee payments.

Plan Review & Reinspection Fees

The bill allows the Department to assess a plan review fee of \$100 to a potential dairy licensee or permittee, to be paid before an on-site consultation. The fee is not refundable and will not apply toward any future license fees.

The MDA also may assess a \$300 fee on any licensee or permittee requiring the performance of two or more consecutive reinspections for compliance of items found in violation of the Law.

Administrative Fines

The Law requires the MDA Director to impose sanctions and administrative fines on a producer who violates the Law by selling or offering for sale milk that has been found positive for violative drug residues.

Previously, the producer had to pay the milk buyer a fine equal to the lost value of the milk on the entire contaminated load and costs associated with disposing of it. If the violative shipment did not cause partial or total loss of a load of milk, the producer had to pay the MDA an administrative fine of \$300 for a first violative drug residue within a 12-month period, \$600 for a second, or \$1,200 for a third or additional violative drug residue within a 12-month period.

The bill generally retained these provisions, but requires the producer to pay an administrative fine to the MDA in each case, and to pay an additional fine to the milk buyer if the violative shipment caused the partial or total loss of a load of milk. The fine paid to the MDA remains \$300 for a first, \$600 for a second, and \$1,200 for a third or subsequent violative drug residue within a 12-month period.

Senate Bill 1132

Dairy Plant

The Manufacturing Milk Law (MML) prohibits a person from engaging in certain activities, including producing milk that is offered for sale, without being licensed under the Law or the Grade A Milk Law.

An applicant for an initial or renewal license as a dairy plant must apply to the MDA and provide a statement containing specified information. Under the bill, the required information includes the annual volume of raw milk each plant anticipates receiving. The bill contains the same auditing provisions as described in Senate Bill 1131, but applies them to both initial and renewal licensure.

Senate Bill 1132 requires a dairy plant licensed under the MML to pay an annual license or permit fee based on its pounds of anticipated raw milk receipts, as follows:

- \$200 for a plant with less than 6.0 million pounds.
- \$400 for a plant with 6.0 million pounds or more.

License renewal must take place on June 30 of each year unless otherwise specified in the MML.

Stand-Alone Facilities

The MML requires various types of facilities to be licensed or permitted either as part of a milk plant or as a stand-alone facility. This applies to a receiving station or transfer station, a milk tank truck cleaning facility (which also may be licensed or permitted as part of a receiving or transfer station), and a single service containers and closures manufacturer.

For all types of stand-alone facilities, the bill increased the annual license or permit fee from \$50 to \$200.

The bill also increased the annual license or permit fee for a milk tank truck or can milk truck from \$10 to \$20.

Dairy Farms; Milk Buyers

Under the bill, each dairy farm producing manufacturing milk to be offered for sale must be licensed or permitted annually at either of the following rates, depending on whether the farm maintains adequate industry personnel, as determined by the MDA Director, who are approved to conduct certified industry farm inspections:

- \$30 if the dairy farm does not maintain adequate industry personnel.
- \$15 if the dairy farm maintains adequate industry personnel.

The fee must be paid to the MDA by June 30 each year.

The bill contains the same provisions as described in Senate Bill 1131 regarding payment of the fee by a milk buyer on behalf of the dairy farms.

Plan Review & Reinspection Fees

Senate Bill 1132 allows the Department to assess a plan review fee of \$100 to a potential dairy licensee or permittee, to be paid before an on-site consultation. The fee is not refundable and will not apply toward any future license fees.

The MDA also may assess a \$150 fee on any licensee or permittee requiring the performance of two or more consecutive reinspections for compliance of items found in violation of the Law.

Farm Inspectors

The bill requires each certified industry manufacturing farm inspector to pay a three-year license fee of \$150 for a license to conduct certified industry manufacturing farm inspections. License renewal must take place on the expiration of the three-year certification.

Certified inspectors must comply with the requirements for certified industry inspections specified in the Pasteurized Milk Ordinance (as defined in the Grade A Milk Law), and must conduct both of the following;

- A farm inspection of all producers having the first routine count exceeding legal standards for bacteria or somatic cells, or both.
- One routine inspection per year of each producer, with a copy of each required inspection forwarded to the local area dairy inspector.

Certified inspectors may perform official inspections, but only with authorization by the MDA Director.

Administrative Fines

The bill made the same changes as described in Senate Bill 1131 regarding administrative fines for producers who sell milk that has been found positive for violative drug residues. Under the MML and Senate Bill 1132, however, the administrative fine payable to the MDA is \$50 for a first, \$200 for a second, and \$500 for a third or subsequent violative drug residue within a 12-month period.

MCL 288.501 et al. (S.B. 1131)
288.670 et al. (S.B. 1132)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills together will generate approximately \$100,000 in additional restricted funds to be used by the Department of Agriculture to help support its dairy inspection program. These funds were included in the FY 2009-10 appropriations for the Department, Public Act 119 of 2009.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.