

# HOUSE BILL No. 5597

November 12, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Appropriations.

A bill to amend 2001 PA 267, entitled  
"Manufacturing milk law of 2001,"  
by amending section 110 (MCL 288.670), as amended by 2008 PA 147.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 110. (1) A person shall not do any of the following  
2 without being licensed under this act or the grade A milk law of  
3 2001:

4           (a) Produce milk that is offered for sale.

5           (b) Collect milk samples for regulatory purposes.

6           (c) Operate a milk transportation company that owns or  
7 operates a can milk truck.

8           (d) Process, label, or sell milk or manufactured dairy  
9 products, except that a person operating a retail food

1 establishment is exempt from licensure under this act if he or she  
2 complies with section 111 and is licensed under the food law of  
3 2000. This subdivision does not prevent the sale at wholesale or  
4 retail at a retail food establishment licensed under the food law  
5 of 2000 of milk or milk products that are packaged in final  
6 consumer packages at a facility licensed under this act.

7 (e) Wash milk tank trucks.

8 (2) A person licensed under the grade A milk law of 2001 and  
9 engaged in activities regulated under that act and activities  
10 regulated under this act is exempt from licensure under this act.

11 (3) A person licensed under the grade A milk law of 2001 or  
12 this act shall comply with the requirements of this act, where  
13 applicable, and is subject to the penalties set forth in this act,  
14 where applicable.

15 (4) The director may issue a temporary license or permit for  
16 activities regulated under this act.

17 (5) State agencies operating dairy facilities under a  
18 memorandum of understanding with the department are not required to  
19 be licensed or permitted, or to provide producer security under  
20 this act, but are otherwise required to be in compliance with this  
21 act.

22 (6) An applicant for an initial manufacturing grade dairy farm  
23 permit shall complete education on drug residue avoidance control  
24 measures acceptable to the director before receiving the permit.

25 (7) An applicant for an initial license as a dairy plant shall  
26 apply to the department on a form supplied by the department and  
27 provide a statement containing the following:

1           (a) The dairy plant's correct legal name and any name by which  
2 the dairy plant is doing business. If the dairy plant is a person  
3 not an individual, the name of each officer and director, and  
4 partner, member, or owner owning in excess of 35% of equity or  
5 stock.

6           (b) The location of the dairy plant to which the statement  
7 pertains and the name of the responsible person who may be  
8 contacted at that location.

9           (c) The anticipated value of greatest milk receipts the dairy  
10 plant expects to receive during a consecutive 30-day period within  
11 the licensing period.

12           (d) A list of producers, including names, mailing addresses,  
13 and department producer permit number, with whom the dairy plant  
14 intends to do business except that not later than 90 days after  
15 becoming licensed for the first time, the dairy plant shall send an  
16 updated list to the department.

17           (e) The name of the financial institution through which milk  
18 checks are to be issued to producers.

19           (8) A dairy plant shall annually renew a license issued under  
20 this act by applying to the department at least 30 days prior to  
21 the expiration of the existing license. The anniversary date of a  
22 license for a dairy plant that is providing a financial statement  
23 as a security device shall be 130 days after the close of the  
24 licensee's fiscal year. The dairy plant shall apply for renewal of  
25 a license on a form supplied by the department and provide a  
26 statement containing the following:

27           (a) The dairy plant's correct legal name and any name by which

1 the dairy plant is doing business. If the dairy plant is a person  
2 not an individual, the name of each officer and director, and  
3 partner, member, or owner owning in excess of 35% of equity or  
4 stock.

5 (b) The location of the dairy plant to which the statement  
6 pertains and the name of the responsible person who may be  
7 contacted at that location.

8 (c) The greater of either the value of greatest milk receipts  
9 that the dairy plant received within a consecutive 30-day period  
10 during its last license year or the greatest milk receipts that the  
11 dairy plant is anticipated to receive during a consecutive 30-day  
12 period within the licensing period.

13 (d) A complete list of producers, including names, mailing  
14 addresses, and department producers permit number, with whom the  
15 dairy plant is doing business.

16 (e) The name of the financial institution through which milk  
17 checks are issued to producers.

18 (9) Each dairy plant shall pay a \$50.00 annual licensing or  
19 permitting fee.

20 (10) Each receiving station or transfer station shall be  
21 licensed or permitted either as part of a dairy plant or as a  
22 stand-alone facility. Each stand-alone facility will be licensed or  
23 permitted at a rate of \$50.00 per year. License renewal shall take  
24 place on June 30 every year.

25 (11) Each milk tank truck cleaning facility shall be licensed  
26 or permitted under this act either as part of a dairy plant,  
27 receiving station or transfer station, or as a stand-alone milk

1 tank truck cleaning facility, or under the grade A law of 2001. Any  
2 milk tank truck cleaning facility that washes the milk contact  
3 surfaces of milk tank trucks used to haul grade A milk shall be  
4 licensed under the grade A law of 2001. Each stand-alone facility  
5 will be licensed or permitted at a rate of \$50.00 per year. License  
6 renewal shall take place on June 30 every year.

7 (12) Each single service containers and closures manufacturer  
8 shall be licensed or permitted under this act either as part of a  
9 dairy plant or as a stand-alone manufacturer. Each stand-alone  
10 facility will be licensed at a rate of \$50.00 per year. License  
11 renewal shall take place on June 30 every year.

12 (13) A person shall not pick up manufacturing grade milk in a  
13 farm pickup milk tank from a farm bulk milk tank without a  
14 hauler/sampler license issued by the department under the grade A  
15 law of 2001. Each milk tank truck or can milk truck shall be  
16 licensed or permitted under this act or as required under the grade  
17 A milk law of 2001 at a rate of \$10.00 per year. License or permit  
18 renewal shall take place on June 30 every year.

19 **(14) EACH DAIRY FARM FROM WHICH MILK IS SOLD OR OFFERED FOR**  
20 **SALE AND WHICH IS REQUIRED TO BE LICENSED UNDER THIS SECTION SHALL**  
21 **PAY A DAIRY INSPECTION ASSESSMENT FEE OF 1 CENT PER HUNDRED POUNDS**  
22 **OF MILK SOLD PER YEAR. THE FEE IMPOSED IN THIS SUBSECTION IS DUE**  
23 **JUNE 30 OF EACH YEAR.**

24 (15) ~~(14)~~The director may issue a temporary license or permit  
25 if the director determines that issuance of the license or permit  
26 will not be detrimental to the protection of the public health,  
27 safety, or welfare or will not cause an imminent threat of

1 financial loss to producers.

2 (16) ~~(15)~~—A political subdivision of the state shall not levy  
3 special license fees or taxes on 1 or more of the persons or  
4 businesses described in this section except for taxes or fees that  
5 are generally levied on persons or businesses other than dairy  
6 plants and dairy plant operators.

7 (17) ~~(16)~~—The director shall examine the books, records, and  
8 accounts of a dairy plant if the dairy plant has not responded to  
9 requests from the director regarding a security device described in  
10 sections 117, 118, and 119. All examinations of books, records, and  
11 accounts required under this subsection shall be made within this  
12 state.

13 (18) ~~(17)~~—All applicants for a permit or license must complete  
14 an application provided by the department and meet the minimum  
15 requirements of this act or the grade A law of 2001, and rules  
16 promulgated under this act.

17 (19) ~~(18)~~—Any fees, assessments, civil or administrative  
18 fines, and money from any other source collected by the department  
19 under this act shall be deposited into the dairy and food safety  
20 fund created in section 4117 of the food law of 2000, MCL 289.4117.

21 (20) ~~(19)~~—The department may impose a late fee of \$10.00 for a  
22 renewal application for each business day the application is late.  
23 The total late fee shall not exceed \$100.00. The department shall  
24 not issue or renew a license until any fees and fines have been  
25 paid. A hearing is not required regarding the department's refusal  
26 to issue or renew a license under this subsection except as allowed  
27 under the administrative procedures act of 1969, 1969 PA 306, MCL

1 24.201 to 24.328. The department may charge a convenience fee and  
2 collect from the applicants any additional costs associated with  
3 the method of fee payment for the license or permit fees described  
4 in this section and section 110a, not to exceed the costs to the  
5 department.