

Act No. 299  
Public Acts of 2018  
Approved by the Governor  
June 27, 2018  
Filed with the Secretary of State  
June 29, 2018  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Rep. Marino

# **ENROLLED HOUSE BILL No. 5993**

AN ACT to amend 1931 PA 189, entitled "An act to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction or treatment of certain plants or plant products; to provide for the licensure and inspection of certain persons and activities under certain circumstances; to impose certain powers and duties on the director of agriculture; to create certain restricted funds for certain department activities and to allow allocation of those funds throughout the department; to provide for the promulgation of rules; to prescribe penalties and civil sanctions; and to provide remedies," by amending section 9 (MCL 286.209), as amended by 2012 PA 106.

*The People of the State of Michigan enact:*

Sec. 9. (1) A person growing or desiring to sell nursery stock in this state shall, on or before October 31 of each year, apply to the director for a license. A person that is a nursery dealer that only purchases nursery stock grown in this state by a nursery grower in this state that holds a valid nursery license and certificate of inspection is not required to apply for a license, but instead shall, on or before October 31 of each year, register with the director as a nursery dealer. The fee to register as a nursery dealer is \$35.00. The annual nursery license fee is \$100.00. The annual license fee for plant growers or plant dealers is \$100.00. The annual license fee for nursery dealers is \$100.00. For persons growing less than 1/4 acre of nursery stock or utilizing less than 200 square feet of greenhouse space, the fee for a license is \$40.00. License fees provided for in this act are due and payable at the office of the director on or before October 31 of each year. The fees imposed in this subsection are subject to subsection (8).

(2) The agriculture licensing and inspection fees fund is created within the state treasury. The state treasurer may receive license and inspection fees and administrative and civil fines received pursuant to this act and other acts, as provided for by law, that are administered by the department for deposit into the agriculture licensing and inspection fees fund. The state treasurer may also receive money or other assets from any other source for deposit into the agriculture licensing and inspection fees fund. The state treasurer shall direct the investment of the agriculture licensing and inspection fees fund and shall credit to the agriculture licensing and inspection fees fund interest earnings from fund investments. Money in the agriculture licensing and inspection fees fund at the close of the fiscal year must remain in the fund and not lapse to the general fund. The department shall expend money from the agriculture licensing and inspection fees fund, upon appropriation, for the purpose of administering and carrying out those duties required by law under this act and other acts, as provided by law, that are administered by the department. The department shall be the administrator of the agriculture licensing and inspection fees fund for auditing purposes.

(3) Subject to subsection (4), license fees, inspection fees, and other noncriminal fees collected under this section and section 6 and administrative fines imposed under this act must be deposited into the agriculture licensing and inspection fees fund, to be used, upon appropriation, by the director in administering and carrying out those duties required by law under this act and to develop and improve training and outreach programs for the purpose of safeguarding plants or plant products from unwanted plant pests.

(4) The horticulture fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the horticulture fund. Up to \$70,000.00 of the funds generated through licensing may be deposited into the horticulture fund each year. The state treasurer shall direct the investments of the horticulture fund. The state treasurer shall credit interest and earnings from horticulture fund investments to the horticulture fund. Assets in the horticulture fund at the close of the fiscal year must remain in the horticulture fund and not lapse to the general fund. The director shall administer the horticulture fund and shall expend money from the horticulture fund, upon appropriation, to provide for research projects, to develop and improve training programs, and to develop outreach materials for the purposes of safeguarding plants or plant products from unwanted plant pests. The director shall administer the horticulture fund with advice and consultation from the horticultural advisory committee created in subsection (5).

(5) There is created a horticulture advisory committee. Members of this committee, to be named by the director, must include representatives from the horticulture industry.

(6) This section does not apply to persons engaged in fruit growing that are not nursery growers but desire to sell or exchange surplus small fruit plants of their own growing, or to farmers or other persons that may sell or give away wild shade trees, wild shrubs, wild vines, wild hardy perennials, or wild evergreens from their own premises.

(7) The director shall issue an initial or renewal license under this section not later than 90 days after a completed application for the license is received by the department. If the application is considered incomplete by the director, the director shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the director of a deficiency until the date the requested information is received by the director. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license. The director shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under subsection (8).

(8) If the director fails to issue or deny a license within the time required by this section, the director shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, must be placed in sequence with other completed applications received at that same time.

(9) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing and inspection fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor