

SENATE BILL NO. 450

August 20, 2019, Introduced by Senator HERTEL and referred to the Committee on Appropriations.

A bill to amend 1937 PA 284, entitled

"An act to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act,"

by amending section 3 (MCL 287.123), as amended by 2015 PA 69.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) A person desiring to obtain a license under this
 2 act to act as a dealer, broker, agent, or livestock trucker, or to
 3 operate a livestock auction, buying station, or collection point
 4 shall submit to the department an application for a license. The
 5 application ~~shall~~**must** state the nature of the business, the post
 6 office address of the applicant, the post office address at or from
 7 which the business is to be conducted, and any additional contact
 8 information. If the applicant desires to operate a livestock yard
 9 where livestock are kept and sold at public or private sale, the
 10 application ~~shall~~**must** include that information. The application
 11 shall include additional information as requested by the director.

12 (2) Except as otherwise provided in this section, until
 13 October 1, ~~2019~~**2023**, the department shall charge the following
 14 nonrefundable fees for initial and renewal license applications:

- 15 (a) Class I (livestock auction operator).... \$ 400.00.
- 16 (b) Class II (buying
- 17 station operator)..... \$ 250.00.
- 18 (c) Class III (dealer/broker/agent/
 19 collection point operator)..... \$ 50.00.
- 20 (d) Class IV (livestock trucker)..... \$ 25.00.

21 (3) Each class of license listed in subsection (2) allows a
 22 person to operate at all classes listed below that class without
 23 requiring additional licensing. The licensee shall provide to the
 24 department a list of all individuals employed by and operating in
 25 license classes under his or her license.

26 (4) For each renewal application postmarked or delivered after
 27 October 1 of each year, a late fee of ~~an additional~~\$10.00 shall be
 28 imposed for each business day the application is late. The late fee

1 for a new application submitted after a person is operating as a
2 class I, II, III, or IV operation as described in subsection (2)
3 shall be ~~an additional~~ \$10.00 per business day the application is
4 late. ~~However, the~~ **The** total late fee shall not exceed \$100.00.

5 (5) The department shall deposit administrative and
6 noncriminal fines received under this act and license or other
7 administrative fees received under this section into the
8 agriculture licensing and inspection fees fund created in section 9
9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209,
10 to be used, upon appropriation, by the department in administering
11 and carrying out ~~those~~ **its** duties ~~required by law~~ under this act.

12 (6) A licensee who buys or sells livestock by weight shall
13 employ a weighmaster to do all of the weighing. The **department**
14 **shall establish the** duties, qualifications, and requirements for
15 registration of weighmasters ~~shall be established by the department~~
16 ~~by rule~~ **in the rules** promulgated under section 9.

17 (7) The department ~~shall~~ **must** issue an initial or renewal
18 license under this section not later than 60 days after the
19 applicant submits a completed application. Receipt of the
20 application is considered the date the application is received by
21 the department. If the **department considers the** application ~~is~~
22 ~~considered incomplete, by the department,~~ the department shall
23 notify the applicant in writing or electronically, within 30 days
24 after receipt of the incomplete application, describing the
25 deficiency and requesting the additional information. The 60-day
26 period is tolled upon notification by the department of a
27 deficiency until the date the requested information is received by
28 the department. ~~The~~ **A** determination of ~~the~~ completeness ~~of an~~
29 ~~application~~ does not operate as an approval of the application for

1 the license and does not confer eligibility of an applicant
2 determined otherwise ineligible for issuance of a license.

3 (8) If the department fails to issue or deny a license within
4 the time required by this section, the department shall return the
5 license fee and ~~shall~~ reduce the license fee for the applicant's
6 next renewal application, if any, by 15%. The failure to issue a
7 license within the time required under this subsection does not
8 allow the department to otherwise delay the processing of the
9 application, and that application, upon completion, shall be placed
10 in sequence with other completed applications received at that same
11 time. The department shall not discriminate against an applicant in
12 the processing of the application based upon the fact that the
13 license fee was refunded or discounted under this subsection.

14 (9) ~~The~~ **An** application for a license or the renewal of a
15 license, and proof of bonding or other security requirements, ~~shall~~
16 **must** be submitted to the director on or before October 1 of each
17 year. ~~Each~~ **A** license issued under this section ~~shall be~~ **is valid**
18 for a period of 1 year commencing October 1 and ending the
19 following September 30.

20 (10) ~~Each~~ **A** person operating a livestock auction or buying
21 station ~~shall~~ **must** file with his or her application for a license a
22 surety bond effective during the period for which the license is
23 issued or other security. ~~A~~ **The** surety bond ~~shall~~ **must** be issued by
24 a surety company registered in this state to indemnify persons from
25 whom livestock is purchased or for whom livestock is sold. The
26 surety bond or other security ~~shall~~ **must** be in ~~such amounts,~~ **the**
27 **amount**, form, and sufficiency ~~as~~ approved by the director. The
28 amount of the bond or other security shall be equal to the amount
29 of gross dollar volume of livestock business conducted during the

1 average week of the previous licensing year by the applicant, but
2 shall not be less than \$1,500.00. If the average gross weekly
3 livestock business conducted by the applicant during the previous
4 licensing year was greater than \$25,000.00, the bond shall be
5 increased above \$25,000.00, at the rate of \$1,000.00 for each
6 \$5,000.00 or part thereof above \$25,000.00 of average gross dollar
7 volume of weekly livestock business conducted during the previous
8 year. A licensee who owns or operates more than 1 livestock auction
9 or buying station may file 1 bond in an amount determined by the
10 formula described in this subsection. A licensee operating a
11 livestock auction or buying station who has filed a surety bond for
12 the livestock auction or buying station and indemnifies persons
13 from whom livestock is purchased or for whom livestock is sold in
14 accordance with the terms of any federal act is exempt from the
15 bonding requirements of this subsection if the bond is equivalent
16 in amount to that which would be required by this act. The
17 department shall be the obligee on the bond for the benefit and
18 purpose of protecting all persons selling or consigning livestock
19 to the licensee against the licensee's failure to pay amounts due
20 on livestock purchased by or consigned to them.

21 (11) ~~Each~~ **A** licensee shall keep records and shall furnish,
22 upon request, information concerning his or her purchases and sales
23 as may be required by the director for the purpose of establishing
24 the amount of bond required under subsection (10). The director, in
25 establishing the amount of the bond, shall take into consideration
26 the dollar volume of livestock business and other information
27 furnished by the licensee. If a licensee did not operate a
28 livestock auction the previous licensing year, the bond shall be
29 for an amount established by the director after consideration of

1 all information available on the probable weekly gross dollar
2 volume of business to be conducted by the licensee during the
3 licensing year.

4 (12) If during ~~any~~**a** licensing year the bond filed by a
5 licensee becomes less than required by this act because of an
6 increase in gross dollar volume of livestock sales, or because of a
7 claim outside this state, the director may issue an order requiring
8 the licensee to file an additional bond to cover the increase in
9 gross dollar volume of livestock sales. Failure to comply with the
10 orders of the director is grounds for suspension or revocation of
11 license. A bond or other security shall be conditioned upon the
12 faithful performance of the licensee's duties as a dealer or broker
13 and on the provisions of law relating to the purchase of livestock
14 by the licensee and for the payment by the licensee of all
15 livestock purchased by or consigned to the licensee as a dealer or
16 broker in livestock. If a bond or other security required under
17 this act is canceled, the license that is approved under that bond
18 or other security is considered immediately suspended without
19 notice. An opportunity for a hearing shall be provided to the
20 licensee under the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.201 to 24.328.

22 (13) A licensee bonded as required under this act ~~shall~~**must**
23 submit a notice to the department not later than 60 days ~~prior to~~
24 **before** canceling a bond.

25 (14) A license issued under this section allows the holder to
26 conduct the business of dealer or broker at or from the place named
27 in the application. A person engaged in the business of
28 transporting livestock or negotiating or soliciting the
29 transportation or transfer of livestock that is not engaged in the

1 buying, selling, reselling, exchanging, negotiating, or soliciting
2 the sale, resale, or exchange of livestock ~~shall~~**must** obtain a
3 license under this section but is not required to comply with **the**
4 bonding or other security provisions of this section.

5 (15) A dealer, broker, livestock trucker, or agent shall
6 notify the director of a change of address within 5 days after that
7 change.

8 (16) ~~Any~~**A licensee shall report to the director a** change in
9 ownership of a livestock auction ~~shall be reported to the director~~
10 within 5 days ~~by the licensee. Each of that change.~~

11 (17) **A** dealer or broker shall file with the director on
12 January 1 of each year a sworn statement of average weekly sales
13 and a statement showing the number and species of livestock
14 purchased and sold during the previous year.

15 (18) ~~(17)~~As used in this section, "completed application"
16 means an application complete on its face and submitted with ~~any~~
17 **the** applicable licensing fees as well as any other information,
18 records, approval, security, or similar item required by law or
19 rule of a local unit of government, a federal agency, or a private
20 entity but not of another department or agency of this state.

21 (19) ~~(18)~~Notwithstanding any other provision of this section,
22 the department shall waive any fee otherwise required under
23 subsection (2) (c) ~~and~~**or** (d) if the individual responsible for
24 paying the fee is, and provides proof satisfactory to the
25 department that he or she is, an honorably discharged veteran of
26 the ~~armed forces~~**Armed Forces** of the United States.