

HOUSE BILL NO. 4988

September 14, 2023, Introduced by Reps. Martus and Witwer 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 2019 PA 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) A person ~~desiring~~**that wants** to obtain a license

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

12 (2) Except as otherwise provided in this section, ~~until~~
 13 ~~October 1, 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 station operator)..... \$ 250.00.
- 17 (c) Class III (dealer/broker/agent/collection point
 18 operator)..... \$ 50.00.
- 19 (d) Class IV (livestock trucker)..... \$ 25.00.

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

25 (4) For each renewal application postmarked or delivered after
 26 October 1 of each year, a late fee of \$10.00 ~~shall~~**must** be imposed
 27 for each business day the application is late. The late fee for a
 28 new application submitted after a person is operating as a class I,
 29 II, III, or IV operation as described in subsection (2) ~~shall be is~~

1 \$10.00 per business day the application is late. The total late fee
2 ~~shall~~**must** not exceed \$100.00.

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

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

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

29 (8) If the department fails to issue or deny a license within

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

11 (9) An application for a license or the renewal of a license,
12 and proof of bonding or other security requirements, must be
13 submitted to the director on or before October 1 of each year. A
14 license issued under this section is valid for a period of 1 year
15 commencing October 1 and ending the following September 30.

16 (10) A person ~~operating-that operates~~ a livestock auction or
17 buying station must file, with ~~his-or-her-the~~ the application for a
18 license, a surety bond effective during the period for which the
19 license is issued or other security. The surety bond must be issued
20 by a surety company registered in this state to indemnify persons
21 from whom livestock is purchased or for whom livestock is sold. The
22 surety bond or other security must be in the amount, form, and
23 sufficiency approved by the director. The amount of the bond or
24 other security ~~shall-must~~ be equal to the amount of gross dollar
25 volume of livestock business conducted during the average week of
26 the previous licensing year by the applicant, but ~~shall-must~~ not be
27 less than \$1,500.00. If the average gross weekly livestock business
28 conducted by the applicant during the previous licensing year was
29 greater than \$25,000.00, the bond ~~shall-must~~ be increased above

1 \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part
2 thereof above \$25,000.00 of average gross dollar volume of weekly
3 livestock business conducted during the previous year. A licensee
4 who owns or operates more than 1 livestock auction or buying
5 station may file 1 bond in an amount determined by the formula
6 described in this subsection. A licensee ~~operating~~ **that operates** a
7 livestock auction or buying station who has filed a surety bond for
8 the livestock auction or buying station and indemnifies persons
9 from whom livestock is purchased or for whom livestock is sold in
10 accordance with the terms of any federal act is exempt from the
11 bonding requirements of this subsection if the bond is equivalent
12 in amount to that which would be required by this act. The
13 department shall be the obligee on the bond for the benefit and
14 purpose of protecting all persons selling or consigning livestock
15 to the licensee against the licensee's failure to pay amounts due
16 on livestock purchased by or consigned to them.

17 (11) A licensee shall keep records and ~~shall~~ furnish, ~~upon~~ **on**
18 request, information concerning ~~his or her~~ **the licensee's** purchases
19 and sales as may be required by the director for the purpose of
20 establishing the amount of bond required under subsection (10). The
21 director, in establishing the amount of the bond, shall take into
22 consideration the dollar volume of livestock business and other
23 information furnished by the licensee. If a licensee did not
24 operate a livestock auction the previous licensing year, the bond
25 ~~shall~~ **must** be for an amount established by the director after
26 consideration of all information available on the probable weekly
27 gross dollar volume of business to be conducted by the licensee
28 during the licensing year.

29 (12) If during a licensing year the bond filed by a licensee

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

18 (13) A licensee bonded as required under this act must submit
19 a notice to the department not later than 60 days before canceling
20 a bond.

21 (14) A license issued under this section allows the holder to
22 conduct the business of dealer or broker at or from the place named
23 in the application. A person engaged in the business of
24 transporting livestock or negotiating or soliciting the
25 transportation or transfer of livestock that is not engaged in the
26 buying, selling, reselling, exchanging, negotiating, or soliciting
27 the sale, resale, or exchange of livestock must obtain a license
28 under this section but is not required to comply with the bonding
29 or other security provisions of this section.

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

4 (16) A licensee shall report to the director a change in
5 ownership of a livestock auction within 5 days of that change.

6 (17) A dealer or broker shall file with the director on
7 January 1 of each year a sworn statement of average weekly sales
8 and a statement showing the number and species of livestock
9 purchased and sold during the previous year.

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

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