



House Bill 4003

**Sponsor: Rep. Roland G. Niederstadt
Committee: Agriculture, Forestry, and
Minerals**

Complete to 2-5-91

A SUMMARY OF HOUSE BILL 4003 AS INTRODUCED 1-31-91

The bill would rewrite the Seal of Quality Act (Public Act 70 of 1961), renaming it the "Michigan Premium Act," shifting major responsibility for implementing the act from the Commission of Agriculture to the director of the Department of Agriculture, and allowing participation in the program by businesses and services related to the food and agricultural industry in addition to food and agricultural commodity producers.

Eligibility. Under the present law, only agricultural products grown, packed, and processed in Michigan are eligible for the Michigan seal of quality. The bill would expand the proposed Michigan premium designation to include businesses or services in the state that were connected with the food or agricultural industry. That is, not only could food and agricultural products have a Michigan premium seal, but related businesses (such as retailers) and services (such as truckers and handlers) also could be included in the program.

Obtaining a Michigan premium designation. Currently, in order to initiate the process of obtaining a seal of quality for an agricultural product, a "commodity group of producers" must ask the Commission of Agriculture to set quality and grade standards for their product and must say that such standards are "essential to the successful marketing of the products." Within ten days, the commission must hold a public hearing on the request and then decide whether setting quality standards are in fact necessary for successful marketing of the product. If the commission agrees to the request, it proceeds to set standards and can authorize the application of the seal to those products meeting the standards.

The bill would give decision making power to the director of the Department of Agriculture, instead of the commission; expand the term "producer" to include shippers, handlers, storers, processors, packers, and retailers of food or agricultural commodities; and make some minor language changes in the form that the request for standards would take.

No sooner than ten days after receiving a request for standards from someone representing a group of producers, or upon his or her own initiative, the director would be required to call a public hearing. Within thirty days after the hearing, the director would have to decide whether or not to grant the request, and, if so, would adopt standards and could then enter into agreements with producers to approve and establish conditions for using the Michigan premium seal and designation.

Implementing the Michigan premium program. At present, the Commission of Agriculture implements the Michigan seal of quality program, and is responsible for a number of activities, including:

- (1) designing and adopting an emblem for the seal of quality;
- (2) designating and authorizing products on which the seal can be used;
- (3) setting quality and grade standards and rules for inspecting products bearing the seal (and promulgating any other orders, rules or regulations necessary for the program);
- (4) entering into agreements for grading products bearing the seal; and
- (5) enforcing the act.

The bill would, with minor changes, transfer these responsibilities from the commission to the director of the Department of Agriculture. The director also would be required to protect the integrity of the Michigan premium seal and program by:

- (1) registering and protecting the seal and the terms "Michigan premium" and "Michigan premium program" under the appropriate laws;
- (2) investigating complaints and carrying out any other investigations and inspections necessary to implement the bill;
- (3) cooperating with other governmental agencies and entering into agreements with others to investigate, inspect, grade, test, or sample products;
- (4) setting conditions for using, suspending, or revoking the seal; and
- (5) initiating criminal complaints regarding violations of the bill.

In addition, the director would be allowed to appoint advisory committees and to enter into contracts for services such as marketing research, advertising, program development, publishing, grading, and inspecting.

Conditions of participation in the program. As at present in the Michigan seal of quality program, participants in the Michigan premium program could decide voluntarily whether or not to use the seal. However, once a participant decided to use the seal, he or she would have to comply with rules and regulations adopted under the bill. The bill also would specifically prohibit the use of the seal without prior written approval of the director.

Penalties for violations. Under present law, anyone who sells a product bearing the Michigan seal of quality which does not, in fact, meet the required quality standards, is guilty of a misdemeanor punishable by a fine of up to \$25 and 90 days in jail. The director of the Department of Agriculture also may seize and dispose of any products bearing the seal but not meeting the required standards.

The bill would increase the criminal fines, do away with the jail provisions, and add civil fines. It would continue to allow the director to seize (or embargo) noncomplying products bearing the seal and would specifically require compliance with an order of the director suspending or revoking the use of the seal.

Use of the seal on products that did not meet the appropriate standards would continue to be a misdemeanor, as would failure to comply with an order by the director suspending or revoking the use of the seal. Violators would be subject to a minimum

criminal fine of \$100 and a maximum criminal fine of \$1,000 and could be assessed for the costs of investigation or prosecution.

If the director believed that someone was selling a product misrepresented as being in the Michigan premium program or that someone was not complying with an order suspending or revoking use of the seal, the director could enter into a consent agreement for a civil fine of not less than \$100 nor more than \$500 instead of taking further administrative action. If the person did not enter into a written consent agreement, the director would be required to hold a hearing in accordance with the Administrative Procedures Act.

Other provisions. * As in present law, if grading of a product were required, the grading would have to be supervised by competently trained inspectors who either were approved by the department or who were from the federal Department of Agriculture.

* The bill would retain, with minor changes, existing provisions for access by the director to inspect products (and all records regarding compliance or noncompliance) bearing a seal.

* The bill would continue to specify that the program could not be used as a barrier to interstate commerce nor as a substitute for mandatory federal grades and standards.

* The bill would define standards so as to exclude federal standards and to include stands of premium quality applicable to products, to the handling of products, and to quality control procedures and programs.

* The bill would strike language that currently says that inspection certificates (and all federal certificates relative to the condition of quality of the products) is prima facie evidence in all courts of the facts stated on the certificate.

Repeals. The bill would repeal three sections of existing law regarding fees (section 11), the establishment of "commodity commissions" by the Commission of Agriculture (section 16), and intergovernmental cooperation (section 12).