

# HOUSE BILL No. 4003

January 31, 1991, Introduced by Rep. Niederstadt and referred to the Committee on Agriculture, Forestry and Minerals.

A bill to amend the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, and 15 of Act No. 70 of the Public Acts of 1961, entitled

"Seal of quality act,"

being sections 289.631, 289.632, 289.633, 289.634, 289.635, 289.636, 289.637, 289.638, 289.639, 289.640, 289.643, 289.644, and 289.645 of the Michigan Compiled Laws; to add sections 15a and 15b; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 8,  
2 9, 10, 13, 14, and 15 of Act No. 70 of the Public Acts of 1961,  
3 being sections 289.631, 289.632, 289.633, 289.634, 289.635,  
4 289.636, 289.637, 289.638, 289.639, 289.640, 289.643, 289.644,  
5 and 289.645 of the Michigan Compiled Laws, are amended and  
6 sections 15a and 15b are added to read as follows:

## TITLE

1  
2 An act to promote the development and to encourage consump-  
3 tion OR USE of Michigan FOOD AND agricultural products by use of  
4 a seal AND TERMS denoting quality; to prescribe ~~the~~ CERTAIN  
5 powers and duties of the state department of agriculture; to  
6 establish procedures for standards AND ENFORCEMENT OF THOSE  
7 STANDARDS; to provide for fees; to ~~authorize the appointment of~~  
8 ~~commodity committees~~ PROMULGATE RULES; and to prescribe penal-  
9 ties for violations.

10 Sec. 1. This act shall be known and may be cited as the  
11 ~~"seal of quality"~~ "MICHIGAN PREMIUM PROGRAM act".

12 Sec. 2. As used in this act:

13 (a) "Commission" means the commission of agriculture.

14 (b) "Department" means the ~~state~~ department of  
15 agriculture.

16 (c) "Director" means the ~~state~~ director of THE DEPARTMENT  
17 OF agriculture OR HIS OR HER DESIGNEE.

18 (D) "FOOD" MEANS ARTICLES USED FOR EATING OR DRINKING BY  
19 HUMAN BEINGS OR ANIMALS, OR ARTICLES USED AS COMPONENTS OF THOSE  
20 ARTICLES.

21 (E) ~~(d)~~ "Person" means ~~individuals, partnerships, trusts,~~  
22 ~~associations, corporations, and~~ AN INDIVIDUAL, PARTNERSHIP,  
23 TRUST, ASSOCIATION, CORPORATION, OR any ~~and all~~ other business  
24 ~~units, devices and arrangements~~ UNIT, DEVICE, OR ARRANGEMENT,  
25 or THE receiver, trustee, or assignee of ~~such~~ THAT business  
26 ~~units~~ UNIT, DEVICE, OR ARRANGEMENT.

1 (F) ~~(e) "Michigan PREMIUM seal" of quality"~~ means ~~any~~  
2 ~~label, tag or other device bearing~~ the official emblem  
3 promulgated under ~~the provisions of~~ this act containing the  
4 term "Michigan ~~seal of quality~~ PREMIUM". ~~attached to, affixed~~  
5 ~~or placed upon any crate, carton, package or other container of~~  
6 ~~agricultural products grown, packed and processed within this~~  
7 ~~state.~~

8 (G) "MICHIGAN PREMIUM" MEANS A DESIGNATION THAT A PRODUCT  
9 MEETS THE STANDARDS APPROVED FOR THE USE OF THE MICHIGAN PREMIUM  
10 SEAL.

11 (H) "PRODUCER" MEANS A GROWER, PACKER, OR PROCESSOR OF FOOD  
12 OR AN AGRICULTURAL COMMODITY. PRODUCER INCLUDES A PERSON WHO  
13 OWNS OR OPERATES A BUSINESS OR SERVICE THAT IS CONNECTED WITH THE  
14 TRANSPORTATION, HANDLING, STORAGE, PROCESSING, PACKING, OR SALE  
15 OF FOOD OR AGRICULTURAL COMMODITY.

16 (I) ~~(f) "Products" mean agricultural products grown, packed~~  
17 ~~and processed within this state~~ "PRODUCT" MEANS FOOD OR AN AGRI-  
18 CULTURAL COMMODITY GROWN; GROWN AND PACKED; OR GROWN AND PRO-  
19 CESSSED WITHIN THIS STATE EXCEPT AS THE DIRECTOR MAY OTHERWISE  
20 PROVIDE BY A RULE PROMULGATED UNDER THIS ACT. PRODUCT INCLUDES A  
21 BUSINESS OR SERVICE WITHIN THIS STATE THAT IS CONNECTED WITH THE  
22 TRANSPORTATION, STORAGE, PROCESSING, OR SALE OF THE FOOD OR AGRI-  
23 CULTURAL COMMODITY.

24 (J) "PROGRAM" MEANS THE MICHIGAN PREMIUM PROGRAM ADOPTED  
25 PURSUANT TO THIS ACT.

26 (K) "STANDARDS" MEANS STANDARDS OF PREMIUM QUALITY  
27 APPLICABLE TO PRODUCTS, THE HANDLING OF PRODUCTS, OR QUALITY

1 CONTROL PROCEDURES AND PROGRAMS EXCEPT WHEN USED IN REFERENCE TO  
2 STANDARDS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICUL-  
3 TURE OR ANOTHER FEDERAL DEPARTMENT OR AGENCY.

4       Sec. 3. (1) The ~~commission~~ DIRECTOR shall design ~~emblems~~  
5 ~~bearing the inscription "Michigan seal of quality",~~ AND ADOPT AN  
6 EMBLEM KNOWN AS THE MICHIGAN PREMIUM SEAL to be used as a seal  
7 denoting quality for the purpose of identifying the products to  
8 which it may be applied; ~~to~~ SHALL designate the products upon  
9 which it may be used; and ~~to promulgate the quality and grade~~  
10 ~~standards for products to which it may be applied~~ SHALL ADOPT  
11 STANDARDS.

12       (2) THE DIRECTOR SHALL ESTABLISH AND ADOPT A PROGRAM WHICH  
13 SHALL BE DESIGNED TO ADVANCE THE PURPOSES OF THIS ACT.

14       Sec. 4. Upon the WRITTEN request of A PERSON REPRESENTING  
15 any ~~commodity~~ group of producers ~~of agricultural products~~  
16 stating that ~~it is essential to~~ the successful marketing of  
17 ~~the products that~~ A PRODUCT WILL BE ENHANCED IF standards ~~of~~  
18 ~~quality be~~ ARE established, OR IF THE DIRECTOR BELIEVES THAT THE  
19 ESTABLISHING OF STANDARDS WILL ENHANCE THE MARKETING OF A  
20 PRODUCT, the ~~commission~~ DIRECTOR, after not less than 10 days'  
21 notice, shall call a public hearing at which any interested  
22 person ~~shall have the right to~~ MAY be heard. ~~, and thereafter~~  
23 ~~the commission~~ NOT MORE THAN 30 DAYS AFTER THAT HEARING, THE  
24 DIRECTOR shall determine whether the establishment of standards  
25 ~~of quality for the products is necessary to the~~ PRODUCT WILL  
26 ENHANCE ITS successful marketing. ~~thereof.~~

1       Sec. 5. (1) The ~~commission~~ DIRECTOR, if ~~it~~ HE OR SHE  
2 determines that ~~it is necessary to establish~~ ESTABLISHING  
3 standards ~~of quality for any products, shall promulgate an order~~  
4 ~~establishing~~ WILL ENHANCE THE MARKETING OF A PRODUCT, SHALL  
5 ADOPT standards. ~~of quality for the products, which standards~~  
6 ~~shall relate to the quality, size and condition thereof.~~

7       (2) AFTER ADOPTING STANDARDS, THE DIRECTOR MAY ENTER INTO  
8 AGREEMENTS WITH PRODUCERS APPROVING AND ESTABLISHING CONDITIONS  
9 FOR THE USE OF THE MICHIGAN PREMIUM SEAL AND THE MICHIGAN PREMIUM  
10 DESIGNATION.

11       Sec. 6. The ~~commission~~ DIRECTOR shall DO ALL OF THE FOL-  
12 LOWING IN ORDER TO PROTECT THE INTEGRITY OF THE MICHIGAN PREMIUM  
13 SEAL AND THE PROGRAM:

14       (a) ~~Establish a seal denoting quality which shall be regis-~~  
15 ~~tered, advertised and protected by the director.~~ CAUSE THE  
16 MICHIGAN PREMIUM SEAL AND THE TERMS "MICHIGAN PREMIUM" AND  
17 "MICHIGAN PREMIUM PROGRAM" TO BE REGISTERED AND PROTECTED UNDER  
18 APPLICABLE LAW.

19       (b) ~~Promulgate rules for the inspection of products to~~  
20 ~~which the seal is applied.~~ INVESTIGATE COMPLAINTS.

21       (c) ~~Authorize the application of the seal to those products~~  
22 ~~conforming to the standards of quality as established by the com-~~  
23 ~~mission under the provisions of this act.~~ CONDUCT INVESTIGATIONS  
24 AND INSPECTIONS THAT THE DIRECTOR CONSIDERS NECESSARY FOR IMPE-  
25 MENTING THIS ACT.

26       (D) COOPERATE WITH ANY OTHER GOVERNMENTAL AGENCY OR ANY  
27 OTHER PERSON.

1 (E) ENTER INTO AGREEMENTS WITH OTHER PERSONS FOR THE  
2 INVESTIGATION, INSPECTION, GRADING, TESTING, OR SAMPLING OF  
3 PRODUCTS.

4 (F) PRESCRIBE CONDITIONS FOR THE USE, SUSPENSION, OR REVOCATION OF THE USE OF THE MICHIGAN PREMIUM SEAL.

6 (G) INITIATE CRIMINAL COMPLAINTS REGARDING VIOLATIONS OF  
7 THIS ACT OR RULES OR REGULATIONS PROMULGATED OR ADOPTED PURSUANT  
8 TO THIS ACT.

9 Sec. 7. The MICHIGAN PREMIUM seal ~~of quality~~ shall not be  
10 used as a barrier to interstate commerce ~~, nor is it~~ AND SHALL  
11 NOT BE a substitute for MANDATORY federal grades and standards  
12 ~~, or~~ for the federal grading and inspection service on products  
13 entering into interstate commerce.

14 Sec. 8. ~~Products to be sold to the consumer in packages to~~  
15 ~~which the seal of quality is applied shall be graded by or under~~  
16 ~~the supervision of~~ AGREEMENTS ENTERED INTO PURSUANT TO THIS ACT  
17 MAY REQUIRE THE GRADING OF MICHIGAN PREMIUM PRODUCTS. IF GRADING  
18 IS REQUIRED, IT SHALL BE SUPERVISED BY competently trained  
19 inspectors approved by the department or by graders or supervisors  
20 of grading supplied under cooperative agreement between the  
21 department and the United States department of agriculture.

22 Sec. 9. (1) A PERSON SHALL NOT USE THE MICHIGAN PREMIUM  
23 SEAL OR IMPLY ASSOCIATION WITH OR APPROVAL TO USE THE MICHIGAN  
24 PREMIUM SEAL WITHOUT PRIOR WRITTEN APPROVAL OF THE DIRECTOR.

25 (2) Use of the MICHIGAN PREMIUM seal ~~of quality~~ shall be  
26 elective by any person ~~offering products for sale or other~~  
27 ~~disposition to any other person~~ AUTHORIZED TO USE IT UNDER THIS

1 ACT, but, upon election to use the seal, conformance with the  
 2 STANDARDS, rules, and regulations ADOPTED OR promulgated ~~by the~~  
 3 ~~commission~~ PURSUANT TO THIS ACT shall be mandatory.

4 Sec. 10. ~~For the purpose of giving effect to the provi-~~  
 5 ~~sions of this act, the commission may enter into agreements with~~  
 6 ~~any person on such terms and conditions as the commission deems~~  
 7 ~~best for the grading, or for the supervision of grading, of prod-~~  
 8 ~~ucts to which the seal of quality is to be applied.~~ IN ORDER TO  
 9 IMPLEMENT THIS ACT, THE DIRECTOR MAY DO ALL OF THE FOLLOWING:

10 (A) ENTER INTO A CONTRACT WITH ANY PERSON FOR SERVICES WHICH  
 11 INCLUDE, BUT ARE NOT LIMITED TO, MARKET RESEARCH, ADVERTISING,  
 12 PROGRAM DEVELOPMENT, PUBLICATION SERVICES, GRADING SERVICES, OR  
 13 INSPECTION SERVICES.

14 (B) APPOINT 1 OR MORE ADVISORY COMMITTEES.

15 (C) HOLD PUBLIC HEARINGS.

16 Sec. 13. The director ~~or any person authorized by him~~  
 17 ~~shall have~~ MAY DO ALL OF THE FOLLOWING FOR THE PURPOSE OF  
 18 ENFORCING THIS ACT IN RELATION TO A PERSON GOVERNED BY THIS ACT:

19 (a) Obtain free access AT REASONABLE HOURS to any place,  
 20 STRUCTURE, or conveyance ~~wherein products bearing the "seal of~~  
 21 ~~quality" are being marketed, transported or held for commercial~~  
 22 ~~purposes, may open~~ BEING USED FOR COMMERCIAL PURPOSES.

23 (B) OPEN any container ~~bearing the seal~~ and examine the  
 24 contents ~~thereof,~~ OF THAT CONTAINER and, upon tender of the  
 25 market price, ~~may~~ take A SAMPLE. ~~samples therefrom.~~ The  
 26 director may employ inspectors to inspect products bearing the  
 27 MICHIGAN PREMIUM seal. ~~of quality. Certificates~~ REPORTS OR

1 CERTIFICATES of inspection shall state the date and place of  
2 inspection, ~~the grade,~~ AND RELATE TO THE condition and  
3 ~~approximate~~ quality of the products inspected, and any other  
4 pertinent facts that the director requires. ~~The certificate and~~  
5 ~~all federal certificates relative to the condition of quality of~~  
6 ~~the products shall be prima facie evidence in all courts of the~~  
7 ~~state of the facts required to be stated therein.~~

8 (C) OBTAIN FREE ACCESS AT REASONABLE HOURS TO ALL RECORDS  
9 PERTAINING TO COMPLIANCE OR NONCOMPLIANCE WITH THE STANDARDS  
10 ADOPTED PURSUANT TO SECTION 5.

11 Sec. 14. The ~~commission shall enforce this act and may~~  
12 ~~promulgate such orders, rules and regulations in accordance with~~  
13 ~~Act No. 88 of the Public Acts of 1943, as amended, being sections~~  
14 ~~24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act~~  
15 ~~No. 197 of the Public Acts of 1952, as amended, being sections~~  
16 ~~24.101 to 24.110~~ DIRECTOR SHALL PROMULGATE RULES PURSUANT TO THE  
17 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC  
18 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 of the MICHIGAN  
19 Compiled Laws, ~~of 1948,~~ as are necessary to carry out the pur-  
20 poses of this act. ~~When the director, or any person appointed~~  
21 ~~by him, determines that products bearing the seal fail to conform~~  
22 ~~to the quality characteristics and standards promulgated by the~~  
23 ~~commission, the director or his appointee may seize and dispose~~  
24 ~~of the products as provided by section 7 of Act No. 211 of the~~  
25 ~~Public Acts of 1893, as amended, being section 289.37 of the~~  
26 ~~Compiled Laws of 1948.~~



1        Sec. 15. (1) ~~Any~~ A person who WILLFULLY AND KNOWINGLY  
2 holds for sale, offers for sale, or sells any product ~~, to which~~  
3 ~~the seal of quality is applied,~~ which IS REPRESENTED AS MICHIGAN  
4 PREMIUM OR IS OTHERWISE IDENTIFIED WITH THE MICHIGAN PREMIUM SEAL  
5 AND WHICH does not conform with the quality characteristics,  
6 ~~and~~ standards, ~~for that product~~ RULES, AND REGULATIONS  
7 ADOPTED OR PROMULGATED PURSUANT TO THIS ACT, OR FAILS TO COMPLY  
8 WITH AN ORDER OF THE DIRECTOR SUSPENDING OR REVOKING THE USE OF  
9 THE MICHIGAN PREMIUM SEAL, is guilty of a misdemeanor and shall  
10 be punished by a fine of not less than ~~\$25.00~~ \$100.00 and not  
11 more than ~~\$100.00, or by imprisonment in the county jail for not~~  
12 ~~more than 90 days, or both~~ \$1,000.00.

13        (2) UPON CONVICTION UNDER THIS SECTION, THE COURT MAY ASSESS  
14 AGAINST A DEFENDANT THE COSTS OF INVESTIGATION OR PROSECUTION.

15        SEC. 15A. (1) A PERSON OR A PERSON'S AGENT OR EMPLOYEE,  
16 SHALL NOT SELL, OFFER FOR SALE, OR POSSESS FOR THE PURPOSE OF  
17 SELLING A PRODUCT REPRESENTED AS MICHIGAN PREMIUM OR LABELED BY  
18 OR OTHERWISE IDENTIFIED WITH THE MICHIGAN PREMIUM SEAL UNDER ANY  
19 OF THE FOLLOWING CIRCUMSTANCES:

20        (A) THE DIRECTOR HAS NOT APPROVED THE PRODUCT FOR THE USE OF  
21 THE MICHIGAN PREMIUM SEAL OR FOR IDENTIFICATION OR REPRESENTATION  
22 AS MICHIGAN PREMIUM.

23        (B) THE PRODUCT DOES NOT MEET THE STANDARDS.

24        (C) THE PRODUCT IS NOT THE SUBJECT OF AN AGREEMENT EXECUTED  
25 PURSUANT TO THIS ACT.

1 (2) A PERSON OR A PERSON'S AGENT OR EMPLOYEE SHALL COMPLY  
2 WITH AN ORDER OF THE DIRECTOR SUSPENDING OR REVOKING THE USE OF  
3 THE MICHIGAN PREMIUM SEAL.

4 SEC. 15B. (1) WHEN THE DIRECTOR DETERMINES THAT PRODUCTS  
5 REPRESENTED WITH THE MICHIGAN PREMIUM SEAL FAIL TO CONFORM TO THE  
6 RULES, REGULATIONS, AND STANDARDS PROMULGATED PURSUANT TO THIS  
7 ACT, THE DIRECTOR MAY SEIZE OR EMBARGO THE PRODUCTS AS PROVIDED  
8 BY SECTION 11 OF THE MICHIGAN FOOD LAW OF 1968, ACT NO. 39 OF THE  
9 PUBLIC ACTS OF 1968, BEING SECTION 289.711 OF THE MICHIGAN  
10 COMPILED LAWS, AND SECTION 15 OF THE WEIGHTS AND MEASURES ACT OF  
11 1964, ACT NO. 283 OF THE PUBLIC ACTS OF 1964, BEING  
12 SECTION 290.615 OF THE MICHIGAN COMPILED LAWS.

13 (2) THE DIRECTOR, UPON BELIEF THAT A PERSON OR A PERSON'S  
14 AGENT OR EMPLOYEE IS IN VIOLATION OF SECTION 15A, MAY ENTER INTO  
15 A CONSENT AGREEMENT FOR THE ASSESSMENT OF A CIVIL FINE OF NOT  
16 LESS THAN \$100.00 OR NOT MORE THAN \$500.00 FOR THOSE VIOLATIONS  
17 INSTEAD OF FURTHER ADMINISTRATIVE ACTION. IF A PERSON ALLEGED TO  
18 HAVE VIOLATED SECTION 15A DOES NOT ENTER INTO A WRITTEN CONSENT  
19 AGREEMENT AS DESCRIBED IN SUBSECTION (1), THE DIRECTOR SHALL HOLD  
20 A HEARING CONDUCTED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT  
21 OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING  
22 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, REGARD-  
23 ING ANY VIOLATIONS OF THIS ACT OR THE RULES OR STANDARDS PROMUL-  
24 GATED UNDER THIS ACT.

25 Section 2. Sections 11, 12, and 16 of Act No. 70 of the  
26 Public Acts of 1961, being sections 289.641, 289.642, and 289.646  
27 of the Michigan Compiled Laws, are repealed.