

HOUSE BILL No. 5990

June 30, 1992, Introduced by Reps. Harder, Gernaat, Hickner, Barns, Muxlow, Allen, Jonker, Bodem, McBryde, Alley, Gagliardi, Anthony and Baade and referred to the Committee on State Affairs.

A bill to amend sections 1, 2, 4a, 4b, and 9 of Act No. 233 of the Public Acts of 1965, entitled as amended

"Fluid milk act of 1965,"

section 1 as amended by Act No. 142 of the Public Acts of 1981, section 2 as amended and sections 4a and 4b as added by Act No. 139 of the Public Acts of 1982, and section 9 as amended by Act No. 18 of the Public Acts of 1986, being sections 288.21, 288.22, 288.24a, 288.24b, and 288.29 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 2, 4a, 4b, and 9 of Act No. 233 of
2 the Public Acts of 1965, section 1 as amended by Act No. 142 of
3 the Public Acts of 1981, section 2 as amended and sections 4a and
4 4b as added by Act No. 139 of the Public Acts of 1982, and
5 section 9 as amended by Act No. 18 of the Public Acts of 1986,

1 being sections 288.21, 288.22, 288.24a, 288.24b, and 288.29 of
2 the Michigan Compiled Laws, are amended to read as follows:

3 Sec. 1. (1) The department of agriculture shall administer
4 this act and shall promulgate rules pursuant to Act No. 306 of
5 the Public Acts of 1969, as amended, being sections 24.201 to
6 ~~24.315~~ 24.328 of the Michigan Compiled Laws, governing the pro-
7 duction, transportation, processing, labeling, and sale of grade
8 A milk and grade A milk products. Except as otherwise specifi-
9 cally defined or described in this act, the provisions of the
10 ~~1978~~ 1989 edition of the grade A pasteurized milk ordinance and
11 administrative procedures and ~~appendixes~~ APPENDICES, and the
12 provisions of the ~~1978~~ 1989 grade A condensed and dry milk
13 products and condensed and dry whey ordinance and administrative
14 procedures and ~~appendixes~~ APPENDICES from the ~~1978~~ 1989 rec-
15 ommendations as set forth in the public health service/United
16 States food and drug administration publication number 229 are
17 adopted and declared to be the law of this state. Where the
18 words "regulatory agency" are used in these ordinances they are
19 amended to read the "Michigan department of agriculture".

20 (2) Water for the milkhouse and milking operations and for
21 milk plant purposes shall be from a supply properly located and
22 protected, shall be easily accessible, adequate, and of a safe
23 sanitary quality. Recommendations shall be made to the depart-
24 ment of agriculture by the department of public health according
25 to THE SAFE DRINKING WATER ACT, Act No. 399 of the Public Acts
26 of 1976, being sections 325.1001 to 325.1023 of the Michigan
27 Compiled Laws.

1 (3) The department shall promulgate rules to DO THE
2 FOLLOWING:

3 (a) Require recommended last date of sale by month and date
4 to appear on pasteurized fluid milk and milk products.

5 (b) Require that each processor establish his or her own
6 recommended last date of sale based on his or her quality control
7 information.

8 (c) Require that each processor's established last date of
9 sale is such that the milk has not lost its nutritional value and
10 no change in flavor can be detected by that date.

11 (d) Provide that the products may be sold after recommended
12 last date of sale if so advertised to the consumer.

13 (e) Implement the requirements of subsection (2).

14 (4) The addition of vitamin A to lowfat milk and skim milk
15 as provided for in appendix L of the ~~1978~~ 1989 edition of the
16 grade A pasteurized milk ordinance and administrative procedures
17 and ~~appendixes~~ APPENDICES is optional, if the lowfat milk and
18 skim milk are intended for sale solely in this state and provided
19 that appropriate labeling on the cap or carton states that the
20 product does not contain supplemental vitamin A. In addition, a
21 person shall not sell lowfat milk or skim milk that does not con-
22 tain supplemental vitamin A, unless a placard of not less than 8
23 by 10 inches printed in letters of not less than 14-point bold-
24 faced type is posted prominently in the display area where the
25 milk is offered for sale, which placard states the following:
26 "This milk does not contain supplemental vitamin A, therefore

1 does not meet federal requirements and should not ordinarily be
2 consumed by infants".

3 Sec. 2. (1) There shall be paid to the department of agri-
4 culture the fees provided for in this section. The license shall
5 be applied for on forms provided by the department. The license
6 shall be renewed annually and application for renewal made 10
7 days before expiration of the existing license. THE ANNIVERSARY
8 OF THE LICENSE FOR PURPOSE OF RENEWAL IS 130 DAYS AFTER THE CLOSE
9 OF THE LICENSEE'S FISCAL YEAR. The department may issue a tempo-
10 rary license.

11 (2) Each milk plant, receiving station, or transfer station
12 shall pay an annual fee of \$5.00 for each dairy farm whose milk
13 is first received at the milk plant or receiving station or
14 transfer station, plus an additional \$10.00 per farm shipping to
15 it if the milk plant or receiving station or transfer station
16 operator does not maintain an adequate number of industry person-
17 nel who are certified to conduct farm supervision and who do not
18 in fact conduct farm supervision. This additional \$10.00 per
19 farm fee shall not be levied if a cooperative association is
20 doing the farm supervision for the milk plant operator. The
21 license fee shall not be charged to the producer.

22 (3) Each milk plant that is a first receiving point for milk
23 shall pay a \$50.00 licensing fee. This fee shall be in addition
24 to the annual license fee required in subsection (2).

25 (4) Each milk distributor or grade A milk plant operator
26 shall pay an annual fee of \$10.00 for each delivery vehicle
27 operated. This fee shall be the sole distributor or vendor

1 license fee required by the state or any subdivision of the state
2 where the principal purpose of the vehicle is the delivery and
3 distribution of the products defined in this act.

4 (5) Each certified industry fieldman shall pay an annual fee
5 of \$10.00 for a license to conduct certified farm inspections.

6 (6) A person shall not pick up grade A milk in a farm pickup
7 milk tank from a farm bulk milk tank without a license issued by
8 the department of agriculture under this section or under section
9 3d of Act No. 222 of the Public Acts of 1913, as amended, being
10 section 288.103d of the Michigan Compiled Laws. The license fee
11 shall be ~~-\$10.00-~~ \$20.00. Every applicant for a license shall be
12 examined by the department under the provisions of this act and
13 rules promulgated pursuant to this act to determine his or her
14 qualifications to evaluate milk in a farm bulk milk tank, to
15 accurately measure milk in a farm bulk milk tank, to obtain rep-
16 resentative samples of milk from a farm bulk milk tank, to prop-
17 erly handle and deliver the samples, and to pick up milk. It is
18 a violation of this act and any license issued under this act or
19 section 3d of Act No. 222 of the Public Acts of 1913, as
20 amended, may be revoked or suspended if the person licensed fails
21 to agitate grade A milk in the farm bulk milk tank before taking
22 a sample for delivery to the milk plant or the department, fails
23 to take the sample for analysis in accordance with the procedures
24 established by departmental rules, picks up grade A milk the tem-
25 perature of which exceeds ~~-50-~~ 45 degrees Fahrenheit, or fails to
26 accurately report the weight or temperature of grade A milk
27 picked up from a farm bulk milk tank.

1 (7) ~~"Person" as~~ AS used in this section, "PERSON" means a
 2 natural person operating his or her own farm pickup milk tank or
 3 the farm pickup milk tank of another person, who is actually
 4 engaged in picking up milk in a farm pickup milk tank from farm
 5 bulk milk tanks.

6 (8) Each milk plant or transfer station shall pay an annual
 7 fee of \$25.00 for each location which is not a first receiving
 8 point for dairy farm milk.

9 (9) Other special license fees or taxes may not be levied on
 10 any of the persons or businesses described in this section by the
 11 state or any subdivision of the state, except for taxes or fees
 12 that are generally levied on persons or businesses other than
 13 dairy plants and dairy plant operators.

14 Sec. 4a. (1) A license shall be granted under this act to a
 15 milk plant that is a first receiving point for milk if 1 of the
 16 following security arrangements is filed with the director of the
 17 department of agriculture:

18 (a) A current certified, audited financial statement pre-
 19 pared by a certified public accountant. The licensee shall also
 20 submit to the department copies of new year end certified audits
 21 within 120 days of the licensee's year end. The certified
 22 audited statement shall verify the licensee's ability to meet
 23 minimum liquidity requirements of current assets to current
 24 liabilities which shall have a ratio of 1.2:1. ~~1.1:1 the first~~
 25 ~~year after the effective date of this section, 1.1:1 the second~~
 26 ~~year, and 1.2:1 the third year and thereafter, pursuant to rules~~
 27 ~~promulgated by the department. The rules shall be promulgated~~

1 ~~within 6 months after the effective date of this section,~~
2 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~
3 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~

4 (b) A bond issued by a surety company authorized to do busi-
5 ness in this state and conditioned upon the faithful and proper
6 discharge of the duty to pay a producer, when payment is due, for
7 milk received; cash, in an amount not to exceed the ~~sum reason-~~
8 ~~ably likely to be due and accrued at any 1 time for milk received~~
9 ~~by the plant~~ VALUE OF THE 30 DAYS OF HIGHEST MILK RECEIPTS THAT
10 THE MILK PLANT RECEIVED DURING THE MOST RECENT COMPLETED FISCAL
11 YEAR OR THE VALUE OF THE 30 DAYS OF HIGHEST MILK RECEIPTS THAT
12 THE MILK PLANT IS ANTICIPATED TO RECEIVE DURING THE LICENSE
13 PERIOD, WHICHEVER IS HIGHER; or other security acceptable to the
14 department, ~~except~~ INCLUDING, BUT NOT LIMITED TO, an irrevoca-
15 ble letter of credit LESS ANY OFFSETTING BALANCES OWED BY THE
16 PRODUCER TO THE MILK PLANT. The bond or other security shall be
17 payable to the department and the cash shall be paid to the
18 department, for the benefit of the producers who would be damaged
19 by a default in payment.

20 (c) An agreement IN WHICH THE MILK PLANT PREPAYS FOR ITS
21 MILK SUPPLY, BY PROVIDING CASH PAYMENT NOT LATER THAN THE TIME OF
22 DELIVERY. ~~providing for the complete control over all milk and~~
23 ~~milk products by a trustee, in the manner provided by this~~
24 ~~subdivision. A trustee shall be appointed by the director of the~~
25 ~~department of agriculture. The trustee shall do all of the~~
26 ~~following:~~

1 ~~(i) Make and file with the department a bond issued by a~~
2 ~~surety company authorized to do business in this state and~~
3 ~~conditioned upon the faithful and proper discharge of the duties~~
4 ~~of the trustee as provided in this act and rules promulgated~~
5 ~~under this act. The bond shall be in an amount not less than 75%~~
6 ~~of the maximum due and accrued liability of the milk plant. The~~
7 ~~plant shall pay any expenses of obtaining the bond.~~

8 ~~(ii) Enter into contracts with the milk plant and all per-~~
9 ~~sons to whom milk or milk products are sold by the milk plant on~~
10 ~~forms prescribed by the department. The contracts shall include~~
11 ~~a provision stating that payment of the gross proceeds of all~~
12 ~~sales shall be made directly to the trustee. The contracts shall~~
13 ~~further provide that the milk or milk product purchaser shall not~~
14 ~~make a deduction, or offset any amount, from the gross purchase~~
15 ~~price for any purpose. The trustee shall retain 1 copy, and fur-~~
16 ~~nish copies to the milk plant, the purchaser, and the~~
17 ~~department.~~

18 ~~(iii) Enter into a trust agreement with the milk plant on~~
19 ~~forms prescribed by the department granting the trustee control~~
20 ~~over all milk purchased by the milk plant, all milk products, and~~
21 ~~all proceeds derived from the sale or disposition of the milk and~~
22 ~~milk products. The agreement shall prohibit the sale or disposi-~~
23 ~~tion of milk and milk products except as provided in this act. A~~
24 ~~copy of this agreement shall be filed with the department.~~

25 ~~(iv) Obtain from the milk plant a security agreement grant-~~
26 ~~ing to the trustee a security interest in all inventories of milk~~
27 ~~and milk products and all proceeds derived therefrom, including~~

~~1 accounts receivable. A security interest granted to the trustee
2 shall not be in compliance with this subparagraph unless perfec-
3 ted by the filing of financing statements under article 9 of Act
4 No. 174 of the Public Acts of 1962, as amended, being sections
5 440.9101 to 440.9994 of the Michigan Compiled Laws, and as deter-
6 mined under that act, takes priority over, and is not subject to,
7 any other outstanding security interest in the collateral. The
8 security agreement and the financing statements shall specify
9 that the security is granted to the trustee as trustee for the
10 milk plant. Evidence of the perfection of the security interest
11 shall be filed with the department. The milk plant shall pay all
12 fees related to the security agreement.~~

~~13 (v) Maintain a separate escrow account, which may bear
14 interest, in a regulated financial institution in this state, for
15 deposit of funds received by the trustee.~~

~~16 (vi) Collect the gross proceeds for milk and milk products
17 sold and deposit the sums in the trust account.~~

~~18 (vii) Remit to producers, in accordance with the agreed
19 price between producers and the milk plant, cash proceeds
20 received under milk or milk product purchase contracts. The
21 trustee shall keep a memorandum of all producer licensee price
22 agreements.~~

~~23 (viii) Personally execute or supervise the execution of all
24 checks written on the trust account.~~

~~25 (ix) Ensure that an advance payment granted to a producer
26 shall be completely set off by the trustee against the amount due
27 to that producer at the end of each payment period. An advance~~

1 ~~to a producer shall not exceed the reasonable accrued value of~~
2 ~~the milk delivered by the producer before the date of the advance~~
3 ~~payment.~~

4 ~~(x) First apply cash proceeds from the sale of milk and milk~~
5 ~~products during a payment period in payment for milk delivered~~
6 ~~during that period; next apply cash proceeds from the sale of~~
7 ~~milk and milk products during the payment period for milk deliv-~~
8 ~~ered during a prior period; and lastly, pay to the licensee any~~
9 ~~amounts in excess of those required to meet producer liability~~
10 ~~for that period or a prior period.~~

11 ~~(xi) Except as provided in this section, pay no obligations~~
12 ~~of the licensee out of the trust account.~~

13 ~~(xii) Submit, at least annually, an accounting of the~~
14 ~~receipts to the department and to each producer.~~

15 ~~(2) A milk plant that enters into a trustee arrangement as~~
16 ~~provided in subsection (1)(c) shall not commit any act that~~
17 ~~impairs the ability of the trustee to carry out the trustee's~~
18 ~~duties or that impairs the security interest granted the trustee~~
19 ~~under subsection (1)(c). A milk plant shall not pledge milk or~~
20 ~~milk product inventories or receivables as collateral for a loan~~
21 ~~without the written consent of the trustee and direct payment of~~
22 ~~the proceeds of the loan to the trustee.~~

23 ~~(2) -(3)-~~ Upon receipt OR RENEWAL of a license and any time
24 the type of licensing is altered, ~~a milk plant that is a first~~
25 ~~receiving point for milk~~ THE DIRECTOR OF THE DEPARTMENT OF
26 AGRICULTURE shall notify each producer delivering milk to the
27 plant of the financial basis on which the license was issued.

1 The notice shall state the type and amount of security provided
2 pursuant to this section. ~~A copy of the notice shall be mailed~~
3 ~~to the department when mailed to the producers.~~

4 (3) ~~(4)~~ A milk plant that is a first receiving point for
5 milk shall not receive milk which will increase the amount due
6 and accrued from the plant to an amount greater than the amount
7 represented as a basis for the issuance of the license, without
8 first notifying the department.

9 (4) ~~(5)~~ This section shall not be construed to apply to
10 the sale of milk or milk products in interstate commerce to an
11 out of state purchaser not licensed pursuant to this act. The
12 protection provided by this section shall be available to a
13 producer in another state selling milk products to a licensee in
14 this state.

15 (5) ~~(6)~~ Financial and product information filed by a milk
16 plant that is a first receiving point for milk shall not be
17 subject to disclosure under the freedom of information act, Act
18 No. 442 of the Public Acts of 1976, as amended, being sections
19 15.231 to 15.246 of the Michigan Compiled Laws.

20 (6) ~~(7)~~ An individual milk producer or an agent of the
21 producer shall upon written request to the department be given a
22 copy of the certified audited financial statement of a milk plant
23 that is the first receiving point for the milk of that producer.

24 (7) ~~(8)~~ An individual milk producer or an agent of the
25 producer may file a written complaint with the department
26 requesting an audit of the ability of the milk plant that is the
27 first receiving point for the milk of the individual producer to

1 meet the minimum liquidity requirements pursuant to subsection
2 (1)(a). The complaint shall be accompanied by a certified check
3 in the amount of \$100.00 and a signed document guaranteeing full
4 payment for an audit if required under ~~section 4a(9)~~

5 SUBSECTION (8). Upon receipt of the complaint and check, the
6 department shall notify the appropriate milk plant and present to
7 the milk plant the choice of either having an independent audit
8 conducted, or voluntarily changing the security arrangement to
9 either of the alternatives provided for in subsection (1)(b) or
10 (c).

11 (8) ~~(9)~~ If the milk plant requests an independent audit,
12 the cost of that audit shall be borne by the milk plant if the
13 audit shows an inability to meet minimum liquidity requirements
14 as defined in subsection (1)(a) and the rules promulgated there-
15 under, or by the complainant if the milk plant meets the minimum
16 liquidity requirements.

17 (9) ~~(10)~~ If the milk plant fails to meet the minimum
18 liquidity requirements, the department shall, in conformance with
19 the administrative procedures act OF 1969, Act No. 306 of the
20 Public Acts of 1969, as amended, being sections 24.201 to
21 ~~24.315~~ 24.328 of the Michigan Compiled Laws, suspend or revoke
22 the milk plant's license until such time as the milk plant meets
23 the licensing requirements in subsection (1)(b) or (c) and the
24 \$100.00 shall be returned to the complainant. If the milk plant
25 meets the minimum liquidity requirements, the \$100.00 shall be
26 forfeited to the milk plant.

1 (10) ~~(11)~~ A licensee may request a change in its security
2 arrangement at any time if all requirements for the new security
3 arrangement have been met and all producers doing business with
4 the licensee have been duly notified.

5 (11) THE DEPARTMENT OF AGRICULTURE SHALL DENY AN APPLICATION
6 FOR OR REVOKE A LICENSE OF A MILK PLANT THAT IS A FIRST RECEIVING
7 POINT FOR MILK AND THAT FAILS TO PROVIDE 1 OF THE SECURITY
8 ARRANGEMENTS PROVIDED FOR IN SUBSECTION (1).

9 Sec. 4b. (1) A person injured by the breach of an obliga-
10 tion for which a security arrangement has been entered into pur-
11 suant to section 4a may file with the department a verified proof
12 of claim or other evidence of default. Upon receipt of a veri-
13 fied proof of claim or other evidence of default, the department,
14 by order, may require all interested creditors to file their ver-
15 ified proofs of claim before a certain date, or be barred from
16 participating in any recovery made by the department. Notice of
17 the entry of an order shall be given by posting a copy of the
18 order on the premises described in the license, and by publica-
19 tion of a notice pursuant to the rules for service by publication
20 contained in the general court rules. The date of last publica-
21 tion shall be not less than 30 days before the last day for the
22 filing of claims. The department shall make the necessary audit,
23 and shall by order allow or disallow each claim presented.
24 Notice of allowance or disallowance and request for the payment
25 within 30 days of the claims allowed shall be sent to the princi-
26 pal and surety by registered mail. The department may demand,
27 collect, and receive from the licensee, ~~or trustee,~~ or from the

1 surety or sureties of ~~either of them~~ THE LICENSEE, the amount
2 determined to be necessary to satisfy the claims. The department
3 may request the department of attorney general to commence an
4 action for that purpose in ~~the~~ A court of ~~appropriate~~
5 COMPETENT jurisdiction. Upon receipt of the money to be applied
6 to the satisfaction of a claim as provided in this section, the
7 department shall make distribution to the claimant in accordance
8 with the order allowing the claim, in full or proportionally, as
9 the case may be. ~~A claim for the purchase price of milk which~~
10 ~~was due and payable more than 30 days before the date the first~~
11 ~~written notice of default is received by the department, or a~~
12 ~~claim covering a transaction in which the producer has granted to~~
13 ~~the licensee a voluntary extension of credit, shall not be~~
14 ~~allowed or paid under this subsection. As used in this subsec-~~
15 ~~tion, "voluntary extension of credit" means any agreement between~~
16 ~~a producer and a milk plant under which the plant directly or~~
17 ~~indirectly is permitted to pay after the time specified in sec-~~
18 ~~tion 4.~~

19 (2) This section and section 4a shall not affect or impair
20 any other lien, security, or priority for the claim or judgment.

21 Sec. 9. (1) Subject to subsection (3), any person who,
22 alone or through his or her servant or agent, as the servant or
23 agent of any other person, or as the officer, servant, or agent
24 of any firm or corporation, violates any of the provisions of
25 this act; ordinances adopted pursuant to this act; ~~or rule~~
26 ~~no. 406 governing the standards and labeling requirements for~~
27 ~~cottage cheese, lowfat cottage cheese, and cottage cheese dry~~

1 ~~curd,~~ rule no. 407 governing haulers' duties and prohibitions,
 2 cleaning and sanitizing milk pickup tanks and transport tanks,
 3 records, and samples, qualifications of grade A plants for
 4 reduced licensing fees, dairy farm requirements, milk sample han-
 5 dling and records, or rule no. 408 governing fluid milk and milk
 6 products, definitions, last date of sale, time interval of date,
 7 flavor, and sale after date which are in effect on December 30,
 8 1980, is guilty of a misdemeanor, punishable by a fine of not
 9 less than \$50.00 and not more than \$500.00, or imprisonment for
 10 not more than 90 days, or both.

11 (2) The director of the department of agriculture shall
 12 impose upon a producer who violates this act by selling or offer-
 13 ing for sale milk which has ~~a~~ BEEN FOUND positive ~~reaction to~~
 14 ~~an antibiotic~~ FOR DRUG RESIDUES ON A test performed pursuant to
 15 ~~section 2b of the manufacturing milk act, Act No. 222 of the~~
 16 ~~Public Acts of 1913, being section 288.102b of the Michigan~~
 17 ~~Compiled Laws~~ APPENDIX N AND SECTION 7 OF THE 1989 PASTEURIZED
 18 MILK ORDINANCE, the following SANCTIONS AND civil fines:

19 (a) ~~First~~ BOTH OF THE FOLLOWING IN THE CASE OF A FIRST
 20 positive test ~~for antibiotics~~ within A 12-month period: —
 21 ~~\$50.00.~~

22 (i) A WRITTEN NOTIFICATION FROM THE BUYER OF THE MILK IN THE
 23 FORM OF A PAY DEDUCTION, THAT THE MILK PICKED UP FROM THE FARM
 24 TESTING POSITIVE WAS NOT PAID FOR.

25 (ii) THE SUM OF \$300.00 TO BE PAID TO THE DEPARTMENT. IF
 26 THE PRODUCER HAS PARTICIPATED IN THE MILK AND DAIRY BEEF QUALITY
 27 ASSURANCE PROGRAM WITHIN THE 12 MONTHS IMMEDIATELY PRECEDING THE

1 DATE OF THE VIOLATIVE SAMPLE, AS EVIDENCED BY A PROPERLY SIGNED
2 COMPLETION CERTIFICATE, \$200.00 OF THE FINE WILL BE SUSPENDED.
3 THE CIVIL FINE MAY BE PAID BY THE MILK BUYER, IF A LIKE AMOUNT
4 HAS BEEN DEDUCTED FROM THE PRODUCER'S MILK CHECK.

5 (b) ~~Second~~ BOTH OF THE FOLLOWING IN THE CASE OF A SECOND
6 positive test ~~for antibiotics~~ within A 12-month period: —
7 ~~\$200.00.~~

8 (i) A WRITTEN NOTIFICATION FROM THE BUYER OF THE MILK IN THE
9 FORM OF A PAY DEDUCTION, THAT THE MILK PICKED UP FROM THE FARM
10 TESTING POSITIVE WAS NOT PAID FOR.

11 (ii) THE SUM OF \$600.00 TO BE PAID TO THE DEPARTMENT, NO
12 PART OF WHICH SHALL BE SUSPENDED. THIS SUM MAY BE PAID BY THE
13 BUYER OF THE MILK IF A LIKE AMOUNT HAS BEEN DEDUCTED FROM THE
14 PRODUCER'S MILK CHECK.

15 (c) ~~Third~~ ALL OF THE FOLLOWING IN THE CASE OF A THIRD pos-
16 itive test ~~for antibiotics~~ within A 12-month period: —
17 ~~\$500.00.~~

18 (i) A WRITTEN NOTIFICATION FROM THE BUYER OF THE MILK IN THE
19 FORM OF A PAY DEDUCTION, THAT THE MILK PICKED UP FROM THE FARM
20 TESTING POSITIVE WAS NOT PAID FOR.

21 (ii) THE SUM OF \$1,200.00 TO BE PAID TO THE DEPARTMENT, NO
22 PART OF WHICH SHALL BE SUSPENDED. THIS SUM MAY BE PAID BY THE
23 BUYER OF THE MILK IF A LIKE SUM HAS BEEN DEDUCTED FROM THE
24 PRODUCER'S MILK CHECK.

25 (iii) THE SUSPENSION OF THE PRODUCER'S PERMIT FOR A PERIOD
26 NOT TO EXCEED 60 DAYS AFTER NOTICE AND THE OPPORTUNITY FOR A
27 HEARING BEFORE THE DEPARTMENT OF AGRICULTURE.

1 (3) The provisions of subsection (1) shall apply to a
2 producer who violates this act by selling or offering for sale
3 milk which ~~has a TESTS positive reaction to an antibiotics~~
4 FOR DRUG RESIDUES ON A test performed pursuant to ~~section 2b of~~
5 ~~the manufacturing milk act, Act No. 222 of the Public Acts of~~
6 ~~1913, being section 288.102b of the Michigan Compiled Laws~~
7 APPENDIX N AND SECTION 7 OF THE 1989 PASTEURIZED MILK ORDINANCE,
8 only under the following circumstances:

9 (a) The producer fails to pay the civil fine required by
10 subsection (2) within 10 days of the notification of the
11 violation.

12 (b) The producer has been fined under subsection (2) 3 times
13 within the preceding 12-month period.

14 (4) The civil fines imposed under subsection (2) shall be
15 paid to the department within 10 days after notification of the
16 violation. The civil fines received by the department under sub-
17 section (2) shall be deposited in the state general fund and
18 shall be expended for the purpose of enforcing this section.