



# SENATE BILL No. 75

January 13, 1993, Introduced by Senator MC MANUS and referred to the Committee on Agriculture and Forestry.

A bill to amend the title and 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. The title and sections 1, 2, 4a, 4b, and 9 of  
2 Act No. 233 of the Public Acts of 1965, section 1 as amended by  
3 Act No. 142 of the Public Acts of 1981, section 2 as amended and  
4 sections 4a and 4b as added by Act No. 139 of the Public Acts of  
5 1982, and section 9 as amended by Act No. 18 of the Public Acts

1 of 1986, being sections 288.21, 288.22, 288.24a, 288.24b, and  
 2 288.29 of the Michigan Compiled Laws, are amended to read as  
 3 follows:

4 TITLE

5 An act to regulate the production, transportation, handling,  
 6 processing, delivery, and sale of grade A milk and milk products;  
 7 to define grade A milk and milk products and to establish stan-  
 8 dards and requirements for grade A milk and milk products; to  
 9 provide for licenses and producer permits and revocation of  
 10 licenses and producer permits; to impose certain fees; to require  
 11 certain security arrangements of milk plants to ensure the prompt  
 12 payment of producers; to prescribe the powers and duties of cer-  
 13 tain state departments and officers; ~~with respect to the secur-~~  
 14 ~~ity arrangements;~~ to provide for certain milk containers and set  
 15 standards for certain milk containers; to provide for uniform  
 16 standards and uniform inspection; to ~~fix~~ PROVIDE FOR CERTAIN  
 17 REMEDIES AND penalties; ~~for violations;~~ to provide for the  
 18 transfer of personnel and the rights of transferred personnel;  
 19 and to repeal certain acts and parts of acts.

20 Sec. 1. (1) The department of agriculture shall administer  
 21 this act and shall promulgate rules pursuant to Act No. 306 of  
 22 the Public Acts of 1969, as amended, being sections 24.201 to  
 23 ~~24.315~~ 24.328 of the Michigan Compiled Laws, governing the pro-  
 24 duction, transportation, processing, labeling, and sale of grade  
 25 A milk and grade A milk products. Except as otherwise specifi-  
 26 cally defined or described in this act, the provisions of the  
 27 ~~1978~~ 1989 edition of the grade A pasteurized milk ordinance and

1 administrative procedures and ~~appendixes~~ APPENDICES, and the  
2 provisions of the ~~1978~~ 1989 grade A condensed and dry milk  
3 products and condensed and dry whey ordinance and administrative  
4 procedures and ~~appendixes~~ APPENDICES from the ~~1978~~ 1989 rec-  
5 ommendations as set forth in the public health service/United  
6 States food and drug administration publication number 229 are  
7 adopted and declared to be the law of this state. Where the  
8 words "regulatory agency" are used in these ordinances they are  
9 amended to read the "Michigan department of agriculture".

10 (2) Water for the milkhouse and milking operations and for  
11 milk plant purposes shall be from a supply properly located and  
12 protected, shall be easily accessible, adequate, and of a safe  
13 sanitary quality. Recommendations shall be made to the depart-  
14 ment of agriculture by the department of public health according  
15 to THE SAFE DRINKING WATER ACT, Act No. 399 of the Public Acts  
16 of 1976, being sections 325.1001 to 325.1023 of the Michigan  
17 Compiled Laws.

18 (3) The department shall promulgate rules to DO THE  
19 FOLLOWING:

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

22 (b) Require that each processor establish his or her own  
23 recommended last date of sale based on his or her quality control  
24 information.

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

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

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

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

19 Sec. 2. (1) There shall be paid to the department of agri-  
20 culture the fees provided for in this section. The license shall  
21 be applied for on forms provided by the department OF  
22 AGRICULTURE. The license shall be renewed annually and applica-  
23 tion for renewal made 10 days before expiration of the existing  
24 license. THE ANNIVERSARY OF THE LICENSE FOR PURPOSE OF RENEWAL  
25 IS 130 DAYS AFTER THE CLOSE OF THE LICENSEE'S FISCAL YEAR. The  
26 department OF AGRICULTURE may issue a temporary license.

1           (2) Each milk plant, receiving station, or transfer station  
2 shall pay an annual fee of \$5.00 for each dairy farm whose milk  
3 is first received at the milk plant or receiving station or  
4 transfer station, plus an additional \$10.00 per farm shipping to  
5 it if the milk plant or receiving station or transfer station  
6 operator does not maintain an adequate number of industry person-  
7 nel who are certified to conduct farm supervision and who do not  
8 in fact conduct farm supervision. This additional \$10.00 per  
9 farm fee shall not be levied if a cooperative association is  
10 doing the farm supervision for the milk plant operator. The  
11 license fee shall not be charged to the producer.

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

15           (4) Each milk distributor or grade A milk plant operator  
16 shall pay an annual fee of \$10.00 for each delivery vehicle  
17 operated. This fee shall be the sole distributor or vendor  
18 license fee required by the state or any subdivision of the state  
19 where the principal purpose of the vehicle is the delivery and  
20 distribution of the products defined in this act.

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

23           (6) A person shall not pick up grade A milk in a farm pickup  
24 milk tank from a farm bulk milk tank without a license issued by  
25 the department of agriculture under this section or under section  
26 3d of Act No. 222 of the Public Acts of 1913, as amended, being  
27 section 288.103d of the Michigan Compiled Laws. The license fee

1 shall be ~~-\$10.00-~~ \$20.00. Every applicant for a license shall be  
2 examined by the department OF AGRICULTURE under the provisions of  
3 this act and rules promulgated pursuant to this act to determine  
4 his or her qualifications to evaluate milk in a farm bulk milk  
5 tank, to accurately measure milk in a farm bulk milk tank, to  
6 obtain representative samples of milk from a farm bulk milk tank,  
7 to properly handle and deliver the samples, and to pick up milk.  
8 It is a violation of this act and any license issued under this  
9 act or section 3d of Act No. 222 of the Public Acts of 1913, as  
10 amended, may be revoked or suspended if the person licensed fails  
11 to agitate grade A milk in the farm bulk milk tank before taking  
12 a sample for delivery to the milk plant or the department, fails  
13 to take the sample for analysis in accordance with the procedures  
14 established by departmental rules, picks up grade A milk the tem-  
15 perature of which exceeds ~~-50-~~ 45 degrees Fahrenheit, or fails to  
16 accurately report the weight or temperature of grade A milk  
17 picked up from a farm bulk milk tank.

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

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

26 (9) Other special license fees or taxes ~~may~~ SHALL not be  
27 levied on any of the persons or businesses described in this

1 section by the state or any subdivision of the state, except for  
2 taxes or fees that are generally levied on persons or businesses  
3 other than dairy plants and dairy plant operators.

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

8       (a) A current certified, audited financial statement pre-  
9 pared by a certified public accountant. The licensee shall also  
10 submit to the department OF AGRICULTURE copies of new year end  
11 certified audits within 120 days of the licensee's year end. The  
12 certified audited statement shall verify the licensee's ability  
13 to meet minimum liquidity requirements of current assets to cur-  
14 rent liabilities which shall have a ratio of 1.2:1. ~~1:1 the~~  
15 ~~first year after the effective date of this section, 1.1:1 the~~  
16 ~~second year, and 1.2:1 the third year and thereafter, pursuant to~~  
17 ~~rules promulgated by the department. The rules shall be promul-~~  
18 ~~gated within 6 months after the effective date of this section,~~  
19 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~  
20 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~

21       (b) A bond issued by a surety company authorized to do busi-  
22 ness in this state and conditioned upon the faithful and proper  
23 discharge of the duty to pay a producer, when payment is due, for  
24 milk received; cash, in an amount not to exceed the ~~sum reason-~~  
25 ~~ably likely to be due and accrued at any 1 time for milk received~~  
26 ~~by the plant~~ VALUE OF THE 30 DAYS OF HIGHEST MILK RECEIPTS THAT  
27 THE MILK PLANT RECEIVED DURING THE MOST RECENT COMPLETED FISCAL

1 YEAR OR THE VALUE OF THE 30 DAYS OF HIGHEST MILK RECEIPTS THAT  
2 THE MILK PLANT IS ANTICIPATED TO RECEIVE DURING THE LICENSE  
3 PERIOD, WHICHEVER IS HIGHER; or other security acceptable to the  
4 department OF AGRICULTURE, ~~except~~ INCLUDING, BUT NOT LIMITED  
5 TO, an irrevocable letter of credit LESS ANY OFFSETTING BALANCES  
6 OWED BY THE PRODUCER TO THE MILK PLANT. The bond or other secur-  
7 ity shall be payable to the department OF AGRICULTURE and the  
8 cash shall be paid to the department OF AGRICULTURE, for the ben-  
9 efit of the producers who would be damaged by a default in  
10 payment.

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

18 ~~(i) Make and file with the department a bond issued by a~~  
19 ~~surety company authorized to do business in this state and condi-~~  
20 ~~tioned upon the faithful and proper discharge of the duties of~~  
21 ~~the trustee as provided in this act and rules promulgated under~~  
22 ~~this act. The bond shall be in an amount not less than 75% of~~  
23 ~~the maximum due and accrued liability of the milk plant. The~~  
24 ~~plant shall pay any expenses of obtaining the bond.~~

25 ~~(ii) Enter into contracts with the milk plant and all per-~~  
26 ~~sons to whom milk or milk products are sold by the milk plant on~~  
27 ~~forms prescribed by the department. The contracts shall include~~

~~1 a provision stating that payment of the gross proceeds of all  
2 sales shall be made directly to the trustee. The contracts shall  
3 further provide that the milk or milk product purchaser shall not  
4 make a deduction, or offset any amount, from the gross purchase  
5 price for any purpose. The trustee shall retain 1 copy, and fur-  
6 nish copies to the milk plant, the purchaser, and the  
7 department.~~

~~8 (iii) Enter into a trust agreement with the milk plant on  
9 forms prescribed by the department granting the trustee control  
10 over all milk purchased by the milk plant, all milk products, and  
11 all proceeds derived from the sale or disposition of the milk and  
12 milk products. The agreement shall prohibit the sale or disposi-  
13 tion of milk and milk products except as provided in this act. A  
14 copy of this agreement shall be filed with the department.~~

~~15 (iv) Obtain from the milk plant a security agreement grant-  
16 ing to the trustee a security interest in all inventories of milk  
17 and milk products and all proceeds derived therefrom, including  
18 accounts receivable. A security interest granted to the trustee  
19 shall not be in compliance with this subparagraph unless perfec-  
20 ted by the filing of financing statements under article 9 of Act  
21 No. 174 of the Public Acts of 1962, as amended, being sections  
22 440.9101 to 440.9994 of the Michigan Compiled Laws, and as deter-  
23 mined under that act, takes priority over, and is not subject to,  
24 any other outstanding security interest in the collateral. The  
25 security agreement and the financing statements shall specify  
26 that the security is granted to the trustee as trustee for the  
27 milk plant. Evidence of the perfection of the security interest~~

~~1 shall be filed with the department. The milk plant shall pay all  
2 fees related to the security agreement.~~

~~3 (v) Maintain a separate escrow account, which may bear  
4 interest, in a regulated financial institution in this state, for  
5 deposit of funds received by the trustee.~~

~~6 (vi) Collect the gross proceeds for milk and milk products  
7 sold and deposit the sums in the trust account.~~

~~8 (vii) Remit to producers, in accordance with the agreed  
9 price between producers and the milk plant, cash proceeds  
10 received under milk or milk product purchase contracts. The  
11 trustee shall keep a memorandum of all producer licensee price  
12 agreements.~~

~~13 (viii) Personally execute or supervise the execution of all  
14 checks written on the trust account.~~

~~15 (ix) Ensure that an advance payment granted to a producer  
16 shall be completely set off by the trustee against the amount due  
17 to that producer at the end of each payment period. An advance  
18 to a producer shall not exceed the reasonable accrued value of  
19 the milk delivered by the producer before the date of the advance  
20 payment.~~

~~21 (x) First apply cash proceeds from the sale of milk and milk  
22 products during a payment period in payment for milk delivered  
23 during that period; next apply cash proceeds from the sale of  
24 milk and milk products during the payment period for milk deliv-  
25 ered during a prior period; and lastly, pay to the licensee any  
26 amounts in excess of those required to meet producer liability  
27 for that period or a prior period.~~

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

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

5 ~~(2) A milk plant that enters into a trustee arrangement as~~  
6 ~~provided in subsection (1)(c) shall not commit any act that~~  
7 ~~impairs the ability of the trustee to carry out the trustee's~~  
8 ~~duties or that impairs the security interest granted the trustee~~  
9 ~~under subsection (1)(c). A milk plant shall not pledge milk or~~  
10 ~~milk product inventories or receivables as collateral for a loan~~  
11 ~~without the written consent of the trustee and direct payment of~~  
12 ~~the proceeds of the loan to the trustee.~~

13 (2) ~~(3)~~ Upon receipt OR RENEWAL of a license and any time  
14 the type of licensing is altered, ~~a milk plant that is a first~~  
15 ~~receiving point for milk~~ THE DIRECTOR OF THE DEPARTMENT OF  
16 AGRICULTURE shall notify each producer delivering milk to the  
17 plant of the financial basis on which the license was issued.  
18 The notice shall state the type and amount of security provided  
19 pursuant to this section. ~~A copy of the notice shall be mailed~~  
20 ~~to the department when mailed to the producers.~~

21 (3) ~~(4)~~ A milk plant that is a first receiving point for  
22 milk shall not receive milk which will increase the amount due  
23 and accrued from the plant to an amount greater than the amount  
24 represented as a basis for the issuance of the license, without  
25 first notifying the department OF AGRICULTURE.

26 (4) ~~(5)~~ This section shall not be construed to apply to  
27 the sale of milk or milk products in interstate commerce to an

1 out of state purchaser not licensed pursuant to this act. The  
2 protection provided by this section shall be available to a  
3 producer in another state selling milk products to a licensee in  
4 this state.

5 (5) ~~(6)~~ Financial and product information filed by a milk  
6 plant that is a first receiving point for milk ~~shall not be~~ IS  
7 NOT subject to disclosure under the freedom of information act,  
8 Act No. 442 of the Public Acts of 1976, as amended, being sec-  
9 tions 15.231 to 15.246 of the Michigan Compiled Laws.

10 (6) ~~(7)~~ An individual milk producer or an agent of the  
11 producer shall, upon written request to the department OF  
12 AGRICULTURE, be given a copy of the certified audited financial  
13 statement of a milk plant that is the first receiving point for  
14 the milk of that producer.

15 (7) ~~(8)~~ An individual milk producer or an agent of the  
16 producer may file a written complaint with the department OF  
17 AGRICULTURE requesting an audit of the ability of the milk plant  
18 that is the first receiving point for the milk of the individual  
19 producer to meet the minimum liquidity requirements pursuant to  
20 subsection (1)(a). The complaint shall be accompanied by a cer-  
21 tified check in the amount of \$100.00 and a signed document guar-  
22 anteeing full payment for an audit if required under ~~section~~  
23 ~~4a(9)~~ SUBSECTION (8). Upon receipt of the complaint and check,  
24 the department OF AGRICULTURE shall notify the appropriate milk  
25 plant and present to the milk plant the choice of either having  
26 an independent audit conducted, or voluntarily changing the

1 security arrangement to either of the alternatives provided for  
2 in subsection (1)(b) or (c).

3 (8) ~~(9)~~ If the milk plant requests an independent audit,  
4 the cost of that audit shall be borne by the milk plant if the  
5 audit shows an inability to meet minimum liquidity requirements  
6 as defined in subsection (1)(a) and the rules promulgated there-  
7 under, or by the complainant if the milk plant meets the minimum  
8 liquidity requirements.

9 (9) ~~(10)~~ If the milk plant fails to meet the minimum  
10 liquidity requirements, the department OF AGRICULTURE shall, in  
11 conformance with the administrative procedures act OF 1969, Act  
12 No. 306 of the Public Acts of 1969, as amended, being sections  
13 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws, suspend  
14 or revoke the milk plant's license until such time as the milk  
15 plant meets the licensing requirements in subsection (1)(b) or  
16 (c) and the \$100.00 shall be returned to the complainant. If the  
17 milk plant meets the minimum liquidity requirements, the \$100.00  
18 shall be forfeited to the milk plant.

19 (10) ~~(11)~~ A licensee may request a change in its security  
20 arrangement at any time if all requirements for the new security  
21 arrangement have been met and all producers doing business with  
22 the licensee have been duly notified.

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

1           Sec. 4b. (1) A person injured by the breach of an  
2 obligation for which a security arrangement has been entered into  
3 pursuant to section 4a may file with the department OF  
4 AGRICULTURE a verified proof of claim or other evidence of  
5 default. Upon receipt of a verified proof of claim or other evi-  
6 dence of default, the department OF AGRICULTURE, by order, may  
7 require all interested creditors to file their verified proofs of  
8 claim before a certain date, or be barred from participating in  
9 any recovery made by the department OF AGRICULTURE. Notice of  
10 the entry of an order shall be given by posting a copy of the  
11 order on the premises described in the license, and by publica-  
12 tion of a notice pursuant to the rules for service by publication  
13 contained in the ~~general~~ MICHIGAN court rules. The date of  
14 last publication shall be not less than 30 days before the last  
15 day for the filing of claims. The department OF AGRICULTURE  
16 shall make the necessary audit, and shall by order allow or dis-  
17 allow each claim presented. Notice of allowance or disallowance  
18 and request for the payment within 30 days of the claims allowed  
19 shall be sent to the principal and surety by registered mail.  
20 The department OF AGRICULTURE may demand, collect, and receive  
21 from the licensee, ~~or trustee,~~ or from the surety or sureties  
22 of ~~either of them~~ THE LICENSEE, the amount determined to be  
23 necessary to satisfy the claims. The department OF AGRICULTURE  
24 may request the department of attorney general to commence an  
25 action for that purpose in ~~the~~ A court of ~~appropriate~~  
26 COMPETENT jurisdiction. Upon receipt of the money to be applied  
27 to the satisfaction of a claim as provided in this section, the

1 department OF AGRICULTURE shall make A distribution to the  
2 claimant in accordance with the order allowing the claim, in full  
3 or proportionally. ~~, as the case may be. A claim for the pur-~~  
4 ~~chase price of milk which was due and payable more than 30 days~~  
5 ~~before the date the first written notice of default is received~~  
6 ~~by the department, or a claim covering a transaction in which the~~  
7 ~~producer has granted to the licensee a voluntary extension of~~  
8 ~~credit, shall not be allowed or paid under this subsection. As~~  
9 ~~used in this subsection, "voluntary extension of credit" means~~  
10 ~~any agreement between a producer and a milk plant under which the~~  
11 ~~plant directly or indirectly is permitted to pay after the time~~  
12 ~~specified in section 4.~~

13 (2) This section and section 4a ~~shall~~ DO not affect or  
14 impair any other lien, security, or priority for the claim or  
15 judgment.

16 Sec. 9. (1) Subject to subsection (3), any person who,  
17 alone or through his or her servant or agent, as the servant or  
18 agent of any other person, or as the officer, servant, or agent  
19 of any firm or corporation, violates any of the provisions of  
20 this act; ordinances adopted pursuant to this act; ~~or rule~~  
21 ~~no. 406 governing the standards and labeling requirements for~~  
22 ~~cottage cheese, lowfat cottage cheese, and cottage cheese dry~~  
23 ~~curd,~~ rule no. 407 governing haulers' duties and prohibitions,  
24 cleaning and sanitizing milk pickup tanks and transport tanks,  
25 records, and samples, qualifications of grade A plants for  
26 reduced licensing fees, dairy farm requirements, milk sample  
27 handling and records, or rule no. 408 governing fluid milk and

1 milk products, definitions, last date of sale, time interval of  
2 date, flavor, and sale after date which are in effect on  
3 December 30, 1980, is guilty of a misdemeanor, punishable by a  
4 fine of not less than \$50.00 and not more than \$500.00, or  
5 imprisonment for not more than 90 days, or both.

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

14 (a) ~~First~~ BOTH OF THE FOLLOWING IN THE CASE OF A FIRST  
15 positive test ~~for antibiotics~~ within A 12-month period: —  
16 \$50.00.—

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

20 (ii) THE SUM OF \$300.00 TO BE PAID TO THE DEPARTMENT OF  
21 AGRICULTURE. IF THE PRODUCER HAS PARTICIPATED IN THE MILK AND  
22 DAIRY BEEF QUALITY ASSURANCE PROGRAM WITHIN THE 12 MONTHS IMMEDI-  
23 ATELY PRECEDING THE DATE OF THE VIOLATIVE SAMPLE, AS EVIDENCED BY  
24 A PROPERLY SIGNED COMPLETION CERTIFICATE, \$200.00 OF THE FINE  
25 WILL BE SUSPENDED. THE CIVIL FINE MAY BE PAID BY THE MILK BUYER,  
26 IF A LIKE AMOUNT HAS BEEN DEDUCTED FROM THE PRODUCER'S MILK  
27 CHECK.

1 (b) ~~Second~~ BOTH OF THE FOLLOWING IN THE CASE OF A SECOND  
2 positive test ~~for antibiotics~~ within A 12-month period: —  
3 ~~\$200.00.~~

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

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

11 (c) ~~Third~~ ALL OF THE FOLLOWING IN THE CASE OF A THIRD pos-  
12 itive test ~~for antibiotics~~ within A 12-month period: —  
13 ~~\$500.00.~~

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

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

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

24 (3) The provisions of subsection (1) shall apply to a  
25 producer who violates this act by selling or offering for sale  
26 milk which ~~has a~~ TESTS positive ~~reaction to an antibiotics~~  
27 FOR DRUG RESIDUES ON A test performed pursuant to ~~section 2b of~~

1 ~~the manufacturing milk act, Act No. 222 of the Public Acts of~~  
2 ~~1913, being section 288.102b of the Michigan Compiled Laws~~  
3 APPENDIX N AND SECTION 7 OF THE 1989 PASTEURIZED MILK ORDINANCE,  
4 only under the following circumstances:

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

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

10       (4) The civil fines imposed under subsection (2) shall be  
11 paid to the department OF AGRICULTURE within 10 days after noti-  
12 fication of the violation. The civil fines received by the  
13 department OF AGRICULTURE under subsection (2) shall be deposited  
14 in the state general fund and shall be expended for the purpose  
15 of enforcing this section.