



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4333 (Substitute H-2 as passed by the House)

Sponsor: Representative Gary L. Randall

House Committee: Agriculture and Forestry

Senate Committee: Agriculture and Forestry

Date Completed: 5-13-96

CONTENT

The bill would amend the Grain Dealers Act to provide for the licensure and regulation of truckers of farm produce, including establishing an annual license fee of \$150 and providing for a review by the Agriculture Director of a trucker's records of operation. The bill also provides that an unsigned price later agreement, after the delivery of farm produce and absent any other written agreement, would be considered acceptance of that agreement.

Licensing

The Director of the Department of Agriculture would be required to prepare and issue a trucker license to an applicant, upon accepting a completed application and payment of a \$150 license fee. The license would be for one year and would be renewable annually. A trucker license would be subject to suspension or revocation for cause by the Director, and would have to carry a serial identification number, be nontransferable, and be made available to a grower or producer upon request. A person licensed as a trucker would be considered a handler or distributor under the Agricultural Commodities Marketing Act, and would have to comply with any check-off requirements imposed by a commodity committee pursuant to a marketing agreement or marketing program.

("Trucker" would mean a person who purchased, sold, exchanged, transported, or received farm produce pursuant to a cash transaction. Trucker would not include: a grower or producer selling farm produce that he or she actually produced; a person who bought farm produce as a feeder of the person's own livestock or poultry; a retailer who sold farm produce if the sales were an incidental portion of the retailer's business; and, a person who purchased farm produce from a nongrower, did not take possession of the farm produce, and was not required to offer warehouse receipts, price later agreements, or acknowledgment forms. "Cash transaction" would mean an operation in which a trucker purchased, sold, received, or exchanged farm produce from a producer or grower under circumstances in which full payment at a price certain was made in cash by the person not later than the time of delivery from the producer or grower and title to the farm produce passed from the producer or grower to the person or another legal entity. As used in this definition, "cash" would mean currency, a certified check, or any other instrument or medium equivalent to a certified check.)

A trucker would have to keep complete and accurate records of his or her operation. The Director could, during business hours, request a review of the trucker's records dealing with his or her operation. Any financial information submitted to the Director pursuant to a review of a trucker's records would be confidential and would not be subject to public disclosure as provided for in the Freedom of Information Act.

The Director could suspend, revoke, or deny a trucker license if, at any time during the license period, the Department had determined after notice and opportunity for a hearing that the trucker had not paid a valid claim. The Department could require, as a condition of the renewal or continuation of a trucker license involving a trucker who had been determined to have not paid a valid claim, the supplying of a bond in an amount and pursuant to conditions determined appropriate by the Department.

Currently, the Director must enforce the Act by using personnel, including a certified public accountant or a person with accounting background and specialized investigative training and experience, rules, and procedures as necessary to carry out the Act, including the inspection of grain dealers' records, taking of inventories, and measurements. The bill also would refer to the inspection of truckers' records.

A person acting or offering to act as a trucker without being licensed under the Act in the appropriate capacity or without being exempt from licensure under the Act would be guilty of a misdemeanor. Each day of operation as a trucker in violation of the Act would be a separate and distinct misdemeanor.

Price Later Agreements

Currently under the Act, if farm produce that is received by a grain dealer is not received pursuant to a bailment or cash sale, the grain dealer, within 30 days after receiving it, must provide the grower or owner of the farm produce with a price later agreement. An agreement must contain certain information specified in the Act, including the signature, name, and address of the grower or owner and the signature of the grain dealer or his or her authorized agent. (The Act defines "price later agreement" as a written agreement by which a grain dealer takes title to farm produce for a sale price that is not fixed at the time of delivery.)

Under the bill, a price later agreement not signed by the grower or producer within 30 days after the delivery of the farm produce, absent any other written agreement to the contrary, would have to be considered an acceptance of that agreement. The price later agreement form would have to include a statement in boldfaced type substantially conforming to the following: "If this price later agreement is not signed by the grower or producer within 30 days after the date of delivery of the farm produce and absent any other written agreement to the contrary, this agreement is considered accepted."

MCL 285.62

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have a minimal impact on the State as it is anticipated that only four or five people would apply for licensure as a trucker.

There would be no fiscal impact on local government.

Fiscal Analyst: A. Rich

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.