

A SUMMARY OF HOUSE BILL 5143 AS INTRODUCED 11-30-00

The bill would amend Public Act 228 of 1959, which provides for promotion of the development of the Michigan fruit and vegetable industry, to define certain terms and revise some of the standards and procedures. More specifically, the bill would define the terms “sealed storage room,” “sealed storage space,” and “sealed storage building” to mean sealed storage spaces in which a controlled atmosphere is maintained, inferred, advertised, or represented as having a controlled atmosphere. Controlled atmosphere (CA) storage would mean the storage of fruits or vegetables in such a room, space, or building under controlled conditions as set forth in the act or rules adopted under the act. The bill would specify that a sealed storage room, space, or building that was used as a controlled atmosphere storage facility for fruits and vegetables must be constructed of materials that will allow for the establishment and maintenance of the required levels of carbon dioxide, oxygen, and temperature that would be acceptable to the director of the Department of Agriculture. The room, space or building would be required to have a properly installed and maintained Fahrenheit thermometer, and an approved gas analyzer for the measurement of carbon dioxide and oxygen gases would have to be readily accessible to all sealed rooms or units. A person who wanted to maintain a licensed controlled atmosphere room would have to notify the director within five days after the room was sealed and within 14 days after the room was sealed, the oxygen within the room would have to be at five percent or lower. Apples would generally be required to be stored in a continuously sealed storage room that doesn’t have more than five percent oxygen for a minimum period of 60 days. However, Gala and Jonagold varieties could be removed after a minimum of 45 days. During the storage period, the oxygen level could exceed five percent for an accumulated time not to exceed 10 days (240 hours). If the atmospheric conditions were interrupted, most apples would have to be stored for at least 70 days, and the Gala and Jonagold varieties would have to be stored for at least 55 days. The air temperature of a storage room could not exceed 35 degrees Fahrenheit for Jonathan, Rome Beauty, Delicious (all), and Stayman varieties of apples and could not exceed 41 degrees for all other varieties for the interruption period.

Anyone storing fruits and vegetables in a controlled storage atmosphere would be required to keep a daily record, indicating the atmospheric conditions in each sealed storage space from the date of sealing until the date the space is opened. The records would have to indicate the date and time of the recording, the temperature in degrees Fahrenheit, and the percentages of carbon dioxide and of oxygen. The daily records would have to be made available for inspection at the request of the director. In order to qualify as controlled atmosphere storage, the room would have to be sealed by the operator on or before November 15 of the storage year. At the time of inspection, the department representative making the inspection would have to place an official seal on the door. The operator could not break the seal or enter the storage room during the days required for the storage period. If interruption in the atmospheric conditions occurred, the operator would be

required to notify the department within 48 hours. If a storage room's conditions were interrupted, it could be resealed by an authorized representative of the department.

The director of the Michigan Department of Agriculture or his or her designated agents would be allowed to promulgate rules under the Administrative Procedures Act (current law requires the director to make reasonable rules).

The bill would also clarify that those who stored fruits or vegetables in a controlled atmosphere could not sell, label describe, advertise, offer, expose, offer for sale, exchange, or transport as having been held under a controlled atmosphere unless they were stored in compliance with the provisions of the act and in accordance with the rules promulgated by the director. Each controlled atmosphere unit would have to have a separate license. The application fee for a license would be \$35 per room. A license would expire on November 15 of the year after it was issued and could be renewed annually.

Failure to comply with the provisions of the act could result in the denial, revocation, or suspension of a license. The director could revoke, suspend or deny a license after notice and an opportunity for a hearing under the Administrative Procedures Act. After making a finding that a violation occurred, the director could impose a fine of up to \$1,000 for each violation. If the director found that a person or firm had violated the act despite the exercise of due care, he or she could issue a warning instead of a fine. If a person failed to pay a fine imposed under the act, the director would be required to inform the attorney general and the attorney general would be required to bring an action in the appropriate court to attempt to recover the fine. In addition, the director could also bring an action to enjoin the violation or threatened violation of the act or a rule promulgated under the act. Any civil penalties or recovery of any economic benefits associated with a violation of the act would have to be paid to the state treasury and credited to the department for enforcement of the act. A person or other legal entity who violated the act would also be guilty of a misdemeanor punishable by imprisonment for no more than 90 days, or a fine of no less than \$200 or more than \$5,000.

The bill would repeal the section of the act that provides for registration numbers and permits for controlled atmosphere storage units. In addition, it would repeal a section that sets forth labeling requirements.

MCL 286.371 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.