

**SUBSTITUTE FOR
HOUSE BILL NO. 5897**

A bill to amend 1931 PA 189, entitled
"The insect pest and plant disease act,"
by amending section 9 (MCL 286.209), as amended by 2003 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) A person, firm, partnership, association, or
2 corporation growing or desiring to sell nursery stock in this
3 state shall, on or before October 31, 1982 and October 31 of each
4 year, apply to the director for a license. Until September 30,
5 2003 or after September 30, 2007, the annual nursery license fee
6 shall be \$50.00, and beginning October 1, 2003 through September
7 30, 2007, the annual nursery license fee shall be \$100.00. Until
8 September 30, 2003 or after September 30, 2007, the annual
9 license fee for plant growers or plant dealers shall be \$20.00,
10 and beginning October 1, 2003 through September 30, 2007, the
11 annual license fee for plant growers or plant dealers shall be

1 \$100.00. The annual license fee for nursery dealers shall be
2 \$100.00. For persons growing less than 1/4 acre of nursery stock
3 or utilizing less than 200 square feet of greenhouse space and
4 only from October 1, 2003 through September 30, 2007, the fee for
5 a license is \$40.00. License fees provided for in this act shall
6 become due and payable at the office of the director on or before
7 October 31 of each year. **The fees imposed in this subsection are**
8 **subject to subsection (7).**

9 (2) Except as otherwise provided in subsection (3), fees
10 collected under this act shall be paid into the general fund of
11 the state and shall be used in enforcement of this act.

12 (3) Beginning October 1, 2003, the horticulture fund is
13 created within the state treasury. The state treasurer may
14 receive money or other assets from any source for deposit into
15 the fund. From October 1, 2003 until September 30, 2007, up to
16 \$70,000.00 of the funds generated through licensing shall be
17 deposited into the horticulture fund each year. The state
18 treasurer shall direct the investments of the horticulture fund.
19 The state treasurer shall credit interest and earnings from fund
20 investments to the fund. Assets in the fund at the close of the
21 fiscal year shall remain in the fund and shall not lapse to the
22 general fund. The director shall administer the fund and shall
23 expend money from the fund, upon appropriation, to provide for
24 research projects, to develop and improve training programs, and
25 to develop outreach materials for the purposes of safeguarding
26 plants and plant products from unwanted plant pests. The
27 director shall administer the fund with advice and consultation

1 from a horticultural advisory committee **created in subsection**
2 **(4)**. After September 30, 2007, the fund shall no longer exist
3 and the money in the fund shall revert to the general fund for
4 use as described in subsection (2).

5 (4) There is created a horticulture advisory committee.
6 Members of this committee, to be named by the director, shall
7 include representatives from the horticulture industry.

8 (5) This section does not apply to persons engaged in fruit
9 growing who are not nurserymen but desire to sell or exchange
10 surplus small fruit plants of their own growing, or to farmers or
11 other persons who may sell or give away native shade trees,
12 native shrubs, native vines, native hardy perennials, or native
13 evergreens from their own premises.

14 (6) Beginning the effective date of the amendatory act that
15 added this subsection, the director shall issue an initial or
16 renewal license not later than 90 days after the applicant files
17 a completed application. Receipt of the application is
18 considered the date the application is received by any agency or
19 department of the state of Michigan. If the application is
20 considered incomplete by the director, the director shall notify
21 the applicant in writing, or make the information electronically
22 available, within 30 days after receipt of the incomplete
23 application, describing the deficiency and requesting the
24 additional information. The 90-day period is tolled upon
25 notification by the director of a deficiency until the date the
26 requested information is received by the director. The
27 determination of the completeness of an application does not

1 operate as an approval of the application for the license and
2 does not confer eligibility of an applicant determined otherwise
3 ineligible for issuance of a license. The director shall not
4 discriminate against an applicant in the processing of the
5 application based upon the fact that the license fee was refunded
6 or discounted under this subsection.

7 (7) If the director fails to issue or deny a license within
8 the time required by this section, the director shall return the
9 license fee and shall reduce the license fee for the applicant's
10 next renewal application, if any, by 15%. The failure to issue a
11 license within the time required under this section does not
12 allow the department to otherwise delay the processing of the
13 application, and that application, upon completion, shall be
14 placed in sequence with other completed applications received at
15 that same time.

16 (8) Beginning October 1, 2005, the director shall submit a
17 report by December 1 of each year to the standing committees and
18 appropriations subcommittees of the senate and house of
19 representatives concerned with agricultural issues. The director
20 shall include all of the following information in the report
21 concerning the preceding fiscal year:

22 (a) The number of initial and renewal applications the
23 department received and completed within the 90-day time period
24 described in subsection (6).

25 (b) The number of applications denied.

26 (c) The number of applicants not issued a license within the
27 90-day time period and the amount of money returned to licensees

1 and registrants under subsection (7).

2 (9) As used in this section, "completed application" means an
3 application complete on its face and submitted with any
4 applicable licensing and inspection fees as well as any other
5 information, records, approval, security, or similar item
6 required by law or rule from a local unit of government, a
7 federal agency, or a private entity but not from another
8 department or agency of the state of Michigan.