

SUBSTITUTE FOR
SENATE BILL NO. 1211

A bill to amend 1937 PA 284, entitled

"An act to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act,"

by amending section 3 (MCL 287.123), as amended by 2003 PA 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) A person desiring to act as a dealer, broker,
2 or agent shall file an application with the department for a
3 license to engage in ~~that~~ **the business of dealer, broker, or**
4 **agent**. The application shall state the nature of the business,
5 the ~~post-office~~ **mailing** address of the applicant, and the
6 ~~post-office~~ **mailing** address at or from which the business is to

1 be conducted. If the applicant desires to operate a livestock
2 yard where livestock is kept and sold at public or private sale,
3 the application shall so state. The application may state
4 additional information as requested by the director.

5 (2) ~~Beginning~~ **Subject to subsection (5) and beginning**
6 October 1, 2003 through September 30, 2007, the ~~departments~~
7 **department** shall charge and collect the following fees for
8 initial and renewal license applications, which shall be
9 deposited into the general fund:

- 10 (a) Class I (livestock auction)..... \$400.00.
- 11 (b) Class II (collection point/buying station)..... \$250.00.
- 12 (c) Class III (horse auction)..... \$150.00.
- 13 (d) Class IV (dealer/broker/agent)..... \$50.00.

14 (3) ~~Through~~ **Subject to subsection (5) and through**
15 September 30, 2003 or after September 30, 2007, the only fee the
16 department shall charge and collect for the issuance and renewal
17 of licenses under this section is a fee of \$5.00 for a dealer,
18 broker, or agent license.

19 (4) A licensee who buys or sells livestock by weight shall
20 employ a registered weighmaster to do all the weighing. The
21 duties, qualifications, and requirements for registration of
22 weighmasters shall be established by the director **by promulgation**
23 **of a rule** under section 9.

24 (5) **Beginning the effective date of the amendatory act that**
25 **added this subsection, the department shall issue an initial or**
26 **renewal dealer, broker, agent, livestock auction, collecting**
27 **point/buying station, and horse auction license not later than 90**

1 days after the applicant files a completed application. Receipt
2 of the application is considered the date the application is
3 received by any agency or department of the state of Michigan.
4 If the application is considered incomplete by the department,
5 the department shall notify the applicant in writing, or make the
6 information electronically available, within 30 days after
7 receipt of the incomplete application, describing the deficiency
8 and requesting the additional information. The 90-day period is
9 tolled upon notification by the department of a deficiency until
10 the date the requested information is received by the
11 department. The determination of the completeness of an
12 application does not operate as an approval of the application
13 for the license and does not confer eligibility of an applicant
14 determined otherwise ineligible for issuance of a license.

15 (6) If the department fails to issue or deny a license within
16 the time required by this section, the department shall return
17 the license fee and shall reduce the license fee for the
18 applicant's next renewal application, if any, by 15%. The
19 failure to issue a license within the time required under this
20 subsection does not allow the department to otherwise delay the
21 processing of the application, and that application, upon
22 completion, shall be placed in sequence with other completed
23 applications received at that same time. The department shall
24 not discriminate against an applicant in the processing of the
25 application based upon the fact that the license fee was refunded
26 or discounted under this subsection.

27 (7) Beginning October 1, 2005, the director shall submit a

1 report by December 1 of each year to the standing committees and
2 appropriations subcommittees of the senate and house of
3 representatives concerned with agriculture issues. The director
4 shall include all of the following information in the report
5 concerning the preceding fiscal year:

6 (a) The number of initial and renewal applications the
7 department received and completed within the 90-day time period
8 described in subsection (5).

9 (b) The number of applications denied.

10 (c) The number of applicants not issued a license within the
11 90-day time period and the amount of money returned to licensees
12 and registrants under subsection (6).

13 (8) ~~—(5)—~~ The application for that license and bond shall be
14 submitted to the director on or before October 1 of each year.
15 Each license issued under this section shall be for a period of 1
16 year commencing October 1 and ending the following September 30.

17 (9) ~~—(6)—~~ Each dealer, broker, or agent operating or
18 conducting a livestock auction shall file with his or her
19 application for a license a surety bond effective during the
20 period for which the license is issued. The surety bond shall be
21 issued by a surety company registered in this state to indemnify
22 persons from whom livestock is purchased or for whom livestock is
23 sold or other security and in such amounts, form, and sufficiency
24 as approved by the director. The amount of the bond shall be an
25 amount equal to the amount of gross dollar volume of livestock
26 business conducted during the average week of the previous
27 licensing year by the applicant, but in no case less than

1 \$1,500.00. If the average gross weekly livestock business
2 conducted by the applicant during the previous licensing year was
3 greater than \$25,000.00, the bond shall be increased above
4 \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part
5 thereof above \$25,000.00 on the average gross dollar-volume of
6 weekly livestock business conducted during the previous year. A
7 licensee who owns or operates more than 1 livestock yard or
8 livestock auction may file 1 bond in an amount determined by the
9 formula described in this subsection. Any dealer, broker, or
10 agent operating or conducting a livestock yard or livestock
11 auction who has filed a surety bond for the livestock yard or
12 livestock auction and indemnifies persons from whom livestock is
13 purchased or for whom livestock is sold in accordance with the
14 terms of any federal act is exempt from the bonding requirements
15 of this subsection provided the bond is equivalent in amount to
16 that which would be required by this act. The bond shall be for
17 a ~~livestock~~ dealer or broker and his or her agents in which the
18 department is the obligee for the benefit and purpose of
19 protecting all persons selling or consigning livestock to the
20 licensed dealer, broker, or agent against the licensed dealer's,
21 broker's, or agent's failure to pay amounts due on livestock
22 purchased by or consigned to them.

23 (10) ~~(7)~~ Each licensee shall keep records and shall
24 furnish, upon request, information concerning his or her
25 purchases and sales as may be required by the director for the
26 purpose of establishing the amount of bond required under
27 subsection ~~(6)~~ (9). The director, in fixing the amount of the

1 bond, shall take into consideration the dollar volume of
2 livestock business and other information furnished by the
3 ~~livestock~~ dealer, broker, or his or her agent. If a dealer,
4 broker, or agent did not operate a livestock auction the previous
5 licensing year, the bond shall be for an amount as shall be
6 established by the director after consideration of all
7 information available on the probable weekly gross dollar volume
8 of business to be conducted by the dealer, broker, or agent
9 during the licensing year.

10 (11) ~~(8)~~ If during any licensing year the bond filed by any
11 licensee becomes less than required by this act because of an
12 increase in gross dollar volume of livestock sales, the director
13 may issue an order requiring the licensee to file an additional
14 bond to cover the increase in gross dollar volume of livestock
15 sales. Failure to comply with the orders of the director is
16 grounds for suspension or revocation of license. A bond shall be
17 conditioned upon the faithful performance of the licensee's
18 duties as a dealer **or broker** and on the provisions of law
19 relating to the purchase of livestock by the ~~livestock~~ dealer
20 **or broker** and for the payment by the ~~livestock~~ dealer **or broker**
21 of all livestock purchased by or consigned to the ~~livestock~~
22 dealer **or broker** as a dealer **or broker** in livestock.

23 (12) ~~(9)~~ A license issued under this section allows the
24 holder to conduct the business of dealer or broker at or from the
25 place named in the application. A legal entity engaged in the
26 business of transporting livestock or negotiating or soliciting
27 the transportation or transfer of livestock that is not engaged

1 in the buying, selling, reselling, exchanging, negotiating, or
2 soliciting the sale, resale, or exchange of livestock must obtain
3 a license under this section but is not required to comply with
4 bonding provisions of this section.

5 **(13)** ~~—(10)—~~ A dealer, broker, or agent shall keep adequate
6 records of the producers' proceeds account in compliance with
7 section 3a and of all sales and purchases for a period of 2 years
8 in the manner required by the director. The records shall be
9 open to reasonable inspection by the department.

10 **(14)** ~~—(11)—~~ A dealer, broker, or agent shall notify the
11 director of a change of address within 5 days after that change.
12 Any change in ownership of any livestock auction or market shall
13 be reported to the director within 5 days by the licensee. Each
14 dealer or broker shall file with the director on January 1 of
15 each year a sworn statement of average weekly sales and a
16 statement showing the number and kinds of livestock purchased and
17 sold during the previous year.

18 **(15)** As used in this section, "completed application" means
19 an application complete on its face and submitted with any
20 applicable licensing fees as well as any other information,
21 records, approval, security, or similar item required by law or
22 rule from a local unit of government, a federal agency, or a
23 private entity but not from another department or agency of the
24 state of Michigan.