

Act No. 273
Public Acts of 2004
Approved by the Governor
July 22, 2004
Filed with the Secretary of State
July 23, 2004
EFFECTIVE DATE: July 23, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Casperson, Richardville, Shackleton, Stahl, Voorhees, Amos, Palsrok, Taub, Meyer, LaJoy, Garfield, Nitz, DeRoche, Milosch, Pumford, Hummel, Steil, Koetje, Bisbee, Hune, Tabor, Shaffer, DeRossett, Ehardt, Gaffney, Newell, Caswell, Walker, Moolenaar, Acciavatti, Huizenga, Caul, Kooiman, Hoogendyk, Nofs and Sheen

ENROLLED HOUSE BILL No. 5897

AN ACT to amend 1931 PA 189, entitled "An act to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction of certain plants by owners of certain fruit trees; to provide for license and to provide for inspection; and imposing certain powers and duties on the director of agriculture; to provide for the promulgation of rules; and to prescribe penalties," by amending section 9 (MCL 286.209), as amended by 2003 PA 104.

The People of the State of Michigan enact:

Sec. 9. (1) A person, firm, partnership, association, or corporation growing or desiring to sell nursery stock in this state shall, on or before October 31, 1982 and October 31 of each year, apply to the director for a license. Until September 30, 2003 or after September 30, 2007, the annual nursery license fee shall be \$50.00, and beginning October 1, 2003 through September 30, 2007, the annual nursery license fee shall be \$100.00. Until September 30, 2003 or after September 30, 2007, the annual license fee for plant growers or plant dealers shall be \$20.00, and beginning October 1, 2003 through September 30, 2007, the annual license fee for plant growers or plant dealers shall be \$100.00. The annual license fee for nursery dealers shall be \$100.00. For persons growing less than 1/4 acre of nursery stock or utilizing less than 200 square feet of greenhouse space and only from October 1, 2003 through September 30, 2007, the fee for a license is \$40.00. License fees provided for in this act shall become due and payable at the office of the director on or before October 31 of each year. The fees imposed in this subsection are subject to subsection (7).

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

(3) Beginning October 1, 2003, the horticulture fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. From October 1, 2003 until September 30, 2007, up to \$70,000.00 of the funds generated through licensing shall be deposited into the horticulture fund each year. The state treasurer shall direct the investments of the horticulture fund. The state treasurer shall credit interest and earnings from fund investments to the fund. Assets in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The director shall administer the fund and shall expend money from the fund, upon appropriation, to provide for research projects, to develop and improve training programs, and to develop outreach materials for the purposes of safeguarding plants and plant products from unwanted plant pests. The director shall administer the fund with advice and consultation from a horticultural advisory committee created in subsection (4). After September 30, 2007, the fund shall no longer exist and the money in the fund shall revert to the general fund for use as described in subsection (2).

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

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

(6) Beginning the effective date of the amendatory act that added this subsection, the director shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the director, the director shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the director of a deficiency until the date the requested information is received by the director. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license. The director shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

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

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

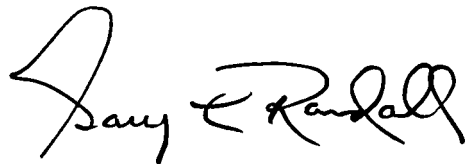
(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6).

(b) The number of applications denied.

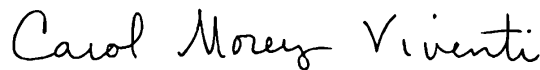
(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees and registrants under subsection (7).

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor