

Legislative Analysis



FOOD PROCESSORS: NUISANCE COMPLAINTS

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Senate Bill 668 as passed by the Senate
Sponsor: Sen. Gerald Van Woerkom

Senate Bill 669 as passed by the Senate
Sponsor: Sen. Tony Stamas
House Committee: Agriculture
Senate Committee: Agriculture, Forestry, and Tourism

Complete to 11-7-05

A SUMMARY OF SENATE BILLS 668 AND 669 AS PASSED BY THE SENATE 10-6-05

The Michigan Agricultural Processing Act provides that a processing operation shall not be found to be a public or private nuisance if the processing operation conforms to generally accepted fruit, vegetable, dairy product, and grain processing practices as determined by the state Agriculture Commission.

Senate Bill 668 would add that until the commission establishes generally accepted processing practices, a processing operation would not be found to be a public or private nuisance in a court action if the director of the Department of Agriculture has determined that the operation complies with the act.

The act further provides that a processing operation is not to be found to be a public or private nuisance if the processing operation existed before a change in the use or occupancy of the land within one mile of the operation and if the operation would not have been found to be a nuisance prior to the change in use or occupancy.

The bill would add that a determination that any of the circumstances above exists would be considered to be a finding as a matter of law and would create a rebuttable presumption that the operation is operating under generally accepted practices or that the operation is not a public or private nuisance.

Additionally, the act provides that Department of Environmental Quality and the Department of Agriculture may enter into a memorandum of understanding regarding the investigation and resolution of nuisance complaints.

Senate Bill 669 would add that in the case where no generally accepted processing practices have been established, an investigation by either the DEQ or the MDA would be resolved in one of three ways: (1) the DEQ would assess the compliance of the operation or practice under the Natural Resources and Environmental Protection Act and conduct an inspection within 10 working days of the receipt of the complaint; (2) the MDA would assess compliance of an operation under the federal Good Manufacturing Practices adopted under the Food Law of 2000 and conduct an inspection within 10

working days of the receipt of a complaint; or (3) the MDA would make a finding of whether the processing operation is in compliance with the act. In addition, the bill would prohibit a person from bringing a nuisance complaint in court until the he or she has exhausted all administrative remedies.

FISCAL IMPACT:

The bills would have no fiscal impact on the state or local governmental units.

Legislative Analyst: Mark Wolf

■ 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.