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## BILL ANALYSIS

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Senate Bill 668 (as introduced 6-29-05)  
Sponsor: Senator Gerald Van Woerkom  
Committee: Agriculture, Forestry and Tourism

Date Completed: 9-7-05

### **CONTENT**

**The bill would amend the Michigan Agricultural Processing Act to provide that a processing operation could not be found to be a nuisance under either of the following circumstances:**

- The processing operation complied with national generally accepted practices, until the Michigan Agriculture Commission establishes generally accepted processing practices.**
- The operation had been operating in compliance with generally accepted practices, and pursuant to any required water permits, before a nuisance complaint was brought, and had not been prosecuted or sanctioned for an imminent public health threat.**

Under the Act, a processing operation may not be found to be a public or private nuisance if it conforms to generally accepted fruit, vegetable, dairy product, and grain processing practices as determined by the Agriculture Commission. Under the bill, until the Commission establishes those practices, a processing operation could not be found to be a public or private nuisance if, in an action brought in a court of competent jurisdiction, the operation were found as a matter of law to be in compliance with existing national generally accepted practices.

The bill also provides that a processing operation could not be found to be a public or private nuisance if it had been operating under generally accepted practices before any nuisance complaint was brought, had been operating pursuant to any required water permits, and had not been subject to prosecution or sanction on the basis of an imminent public health threat. The bill specifies that the finding of these circumstances would be considered to be a finding as a matter of law and would create a rebuttable presumption that the processing operation was operating under generally accepted practices.

(The Act defines "processing operation" as the operation and management of a business engaged in processing. "Processing" means the commercial processing or handling of fruit, vegetable, dairy, and grain products for human food consumption and animal feed, including the following:

- The generation of noise, odors, waste water, dust, fumes, and other associated conditions.
- The operation of machinery and equipment necessary for a processing operation, including irrigation and drainage systems and pumps and the movement of vehicles, machinery, equipment, and fruit and vegetable products, dairy products, and grain

products and associated inputs necessary for fruit and vegetable, dairy, and grain, food, or feed processing operations on the roadway as authorized by the Michigan Vehicle Code.

- The management, storage, transport, use, and land application of fruit, vegetable, dairy product, and grain processing by-products consistent with generally accepted agricultural and management practices as established under the Michigan Right to Farm Act.
- The conversion of one processing operation activity to another processing operation activity.
- The employment and use of labor engaged in a processing operation.)

MCL 289.823

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.