

**SUBSTITUTE FOR  
SENATE BILL NO. 668**

A bill to amend 1998 PA 381, entitled  
"Michigan agricultural processing act,"  
by amending section 3 (MCL 289.823).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3. (1) A processing operation shall not be found to be a  
2 public or private nuisance if the processing operation alleged to  
3 be a nuisance conforms to generally accepted fruit, vegetable,  
4 dairy product, and grain processing practices as determined by the  
5 Michigan commission of agriculture. The Michigan commission of  
6 agriculture shall annually review and revise, as determined  
7 necessary, the generally accepted fruit, vegetable, dairy product,  
8 and grain processing practices.

9       (2) UNTIL THE MICHIGAN COMMISSION OF AGRICULTURE ESTABLISHES

1 THE GENERALLY ACCEPTED FRUIT, VEGETABLE, DAIRY PRODUCT, AND GRAIN  
 2 PROCESSING PRACTICES, A PROCESSING OPERATION SHALL NOT BE FOUND TO  
 3 BE A PUBLIC OR PRIVATE NUISANCE IN AN ACTION BROUGHT IN A COURT OF  
 4 COMPETENT JURISDICTION IF THE DIRECTOR OF THE DEPARTMENT OF  
 5 AGRICULTURE HAS DETERMINED THAT THE PROCESSING OPERATION IS IN  
 6 COMPLIANCE WITH THIS ACT AS DESCRIBED IN SECTION 4(3).

7 (3) ~~—(2)—~~ A processing operation shall not be found to be a  
 8 public or private nuisance if the processing operation existed  
 9 before a change in the use or occupancy of land within 1 mile of  
 10 the boundaries of the land upon which the processing operation is  
 11 located and, ~~—if,—~~ before that change in use or occupancy of land,  
 12 the processing operation would not have been found to be a  
 13 nuisance. THE DETERMINATION OF THE CIRCUMSTANCES DESCRIBED IN THIS  
 14 SUBSECTION OR SUBSECTION (1) OR (2) IS CONSIDERED TO BE A FINDING  
 15 AS A MATTER OF LAW AND CREATES A REBUTTABLE PRESUMPTION THAT THE  
 16 PROCESSING OPERATION IS OPERATING UNDER GENERALLY ACCEPTED  
 17 PRACTICES OR THAT THE PROCESSING OPERATION IS NOT A PUBLIC OR  
 18 PRIVATE NUISANCE.

19 (4) ~~—(3)—~~ A processing operation that is in conformance with  
 20 subsection (1) OR (2) shall not be found to be a public or private  
 21 nuisance as a result of any of the following:

- 22 (a) A change in ownership or size.
- 23 (b) Temporary cessation or interruption of processing.
- 24 (c) Adoption of new technology.
- 25 (d) A change in type of fruit, vegetable, dairy, or grain
- 26 product being processed.

27 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 669 of the 93rd Legislature is enacted into  
2 law.