

**SUBSTITUTE FOR
SENATE BILL NO. 669**

A bill to amend 1998 PA 381, entitled
"Michigan agricultural processing act,"
by amending section 4 (MCL 289.824).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The Michigan commission of agriculture shall
2 request the director of the Michigan department of agriculture or
3 his or her designee to investigate all nuisance complaints under
4 this act involving a processing operation. **IF A PERSON IS GRANTED A**
5 **DETERMINATION BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE**
6 **UNDER THIS ACT, THE PERSON IS CONSIDERED TO HAVE EXHAUSTED HIS OR**
7 **HER ADMINISTRATIVE REMEDIES WITH REGARD TO THAT MATTER. A COURT**
8 **SHALL NOT PROCEED WITH AN ACTION FOR NUISANCE BROUGHT AGAINST A**
9 **PROCESSING OPERATION UNTIL IT FINDS THAT THE COMPLAINANT EXHAUSTED**

1 **ALL ADMINISTRATIVE REMEDIES.**

2 (2) The Michigan commission of agriculture and the director of
3 the Michigan department of agriculture may enter into a memorandum
4 of understanding with the Michigan department of environmental
5 quality. The investigation and resolution of nuisance complaints
6 shall be conducted pursuant to the memorandum of understanding. **IN**
7 **THE CASE WHERE NO GENERALLY ACCEPTED FRUIT, VEGETABLE, DAIRY**
8 **PRODUCT, AND GRAIN PROCESSING PRACTICES HAVE BEEN ESTABLISHED, ANY**
9 **NUISANCE COMPLAINT RECEIVED BY EITHER THE DEPARTMENT OF**
10 **ENVIRONMENTAL QUALITY OR THE DEPARTMENT OF AGRICULTURE SHALL BE**
11 **RESOLVED UNDER SECTION 3 IN THE FOLLOWING MANNER:**

12 (A) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL ASSESS
13 COMPLIANCE OF AN OPERATION OR PRACTICE WITH THE NATURAL RESOURCES
14 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
15 324.90106, AND SHALL CONDUCT AN INSPECTION WITHIN 10 WORKING DAYS
16 OF RECEIPT OF THE COMPLAINT.

17 (B) THE DEPARTMENT OF AGRICULTURE SHALL ASSESS THE PROCESSING
18 OPERATION OR PRACTICE UNDER FEDERAL GOOD MANUFACTURING PRACTICES AS
19 ADOPTED UNDER THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1101 TO
20 289.8111, AND SHALL CONDUCT AN INSPECTION WITHIN 10 WORKING DAYS OF
21 RECEIPT OF THE COMPLAINT.

22 (3) BASED UPON THE DETERMINATIONS MADE IN SUBSECTION (2), THE
23 DEPARTMENT OF AGRICULTURE SHALL MAKE A FINDING AS TO WHETHER A
24 PROCESSING OPERATION IS IN COMPLIANCE WITH THIS ACT.

25 (4) ~~—(3)—~~ If the director of the Michigan department of
26 agriculture or his or her designee finds upon investigation that
27 the person responsible for the processing operation is using

1 generally accepted fruit, vegetable, dairy product, and grain
2 processing practices **OR OTHERWISE IN COMPLIANCE WITH LAW AS**
3 **DESCRIBED IN SECTION 3(2)**, the director of the Michigan department
4 of agriculture or his or her designee shall notify that person and
5 the complainant of this finding in writing. If the director of the
6 Michigan department of agriculture or his or her designee
7 identifies the source or potential sources of the problem caused by
8 the use of other than generally accepted fruit, vegetable, dairy
9 product, and grain processing practices **OR OTHER THAN COMPLIANCE**
10 **WITH LAW AS DESCRIBED IN SECTION 3(2)**, the director of the Michigan
11 department of agriculture or his or her designee shall advise the
12 person responsible for the processing operation that necessary
13 changes should be made to resolve or abate the problem and to
14 conform with generally accepted fruit, vegetable, dairy product,
15 and grain processing practices **OR WITH APPLICABLE LAW AS DESCRIBED**
16 **IN SECTION 3(2)**. The director of the Michigan department of
17 agriculture or his or her designee shall determine if those changes
18 are implemented and shall notify the person responsible for the
19 processing operation and the complainant of this determination in
20 writing.

21 (5) ~~—(4)—~~ A complainant who brings more than 3 unverified
22 nuisance complaints against the same processing operation within 3
23 years may be ordered by the director of the Michigan department of
24 agriculture to pay to the Michigan department of agriculture the
25 full costs of investigation of any fourth or subsequent unverified
26 nuisance complaint against the same processing operation. As used
27 in this subsection, "unverified nuisance complaint" means a

1 nuisance complaint in which the director of the department of
2 agriculture or his or her designee determines that the processing
3 operation is using generally accepted fruit, vegetable, dairy
4 product, and grain processing practices.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. 668 of the 93rd Legislature is enacted into
7 law.