

HOUSE BILL No. 4502

March 15, 2005, Introduced by Reps. Amos, Nitz, David Law, Pastor, Garfield, Hummel, Booher, Brandenburg, Emmons, Mortimer, Drolet, Gosselin, Leland, Kathleen Law, Plakas and Polidori and referred to the Committee on Agriculture.

A bill to amend 1964 PA 283, entitled
"Weights and measures act,"
by amending section 31a (MCL 290.631a), as added by 2002 PA 208.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31a. (1) The director, upon determination that a person
2 who, by himself or herself, his or her agent or employee, or as the
3 agent or employee of another, has violated this act or rules
4 promulgated under this act, may enter into a consent agreement for
5 the assessment of a civil fine as follows:

6 (a) For a first violation, not less than \$50.00 and not more
7 than \$1,000.00 plus the amount of any economic benefit associated
8 with the violation.

9 (b) For a second violation within 2 years of the first

1 violation, not less than ~~-\$100.00~~ **\$1,000.00** or ~~not~~ more than
2 ~~\$5,000.00~~ **\$7,500.00** plus actual costs of the investigation and the
3 amount of any economic benefit associated with the violation.

4 (c) For a third violation within 2 years from the date of the
5 first violation, not less than ~~-\$500.00~~ **\$2,000.00** or ~~not~~ more
6 than \$10,000.00 plus actual costs of the investigation and the
7 amount of any economic benefit associated with the violation.

8 (2) If a person alleged to have violated this act or rules
9 promulgated under this act does not enter into a written consent
10 agreement as described in subsection (1), the director may do
11 either of the following:

12 (a) Initiate a criminal prosecution.

13 (b) Commence an administrative hearing conducted pursuant to
14 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
15 to 24.328, in the case of a person holding a registration under
16 this act, or commence a civil violation proceeding in a court of
17 competent jurisdiction regarding any other person.

18 (3) Upon finding a violation of any provision of this act or
19 rules promulgated under this act as a result of the commencement of
20 an action under subsection (2)(b), the director shall assess an
21 administrative fine or a civil fine of not more than \$10,000.00
22 plus actual costs of the investigation and the amount of any
23 economic benefit associated with the violation.

24 (4) The decision of the director pursuant to a proceeding
25 under this section is subject to appropriate judicial review as
26 provided by law.

27 (5) The director shall advise the attorney general of the

1 failure of any person to pay an administrative fine or civil fine
2 imposed under this section. The attorney general shall bring an
3 action in a court of competent jurisdiction to recover the fine.

4 (6) Any civil fines or recovery of any economic benefits
5 associated with a violation of this act and collected under this
6 section shall be paid to the general fund and credited to the
7 department for the enforcement of this act.