

HOUSE BILL No. 4862

May 29, 2007, Introduced by Rep. Condino and referred to the Committee on Appropriations.

A bill to amend 1931 PA 189, entitled
"The insect pest and plant disease act,"
by amending sections 6, 9, and 11 (MCL 286.206, 286.209, and
286.211), section 6 as amended by 1995 PA 137, section 9 as amended
by 2004 PA 273, and section 11 as amended by 1984 PA 88.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The director shall cause to be inspected at least
2 once each year during the growing season all nurseries in the state
3 to ascertain whether they are infested with insect pests or
4 infected with plant diseases. The director shall cause to be
5 inspected all nursery stock which will be stored or offered for

1 sale or which is stored in cellars, heeling-in grounds, or
2 warehouses to ascertain whether it is infested with insect pests or
3 infected with plant diseases and assess an inspection fee.

4 (2) If upon the inspection of any nursery stock it is
5 determined that the nursery stock or nursery and its premises are
6 apparently free from insect pests and plant diseases, and if the
7 necessary inspection fees have been paid, the director shall give
8 or send to the owner of each nursery or of the nursery stock or to
9 the person in charge of the nursery or nursery stock a certificate
10 executed by the director setting forth the fact of the inspection.
11 If any inspections are requested by any nursery after September 1,
12 the nursery or applicant shall pay, in addition to the inspection
13 fee, the expense of the inspector and mileage at the prevailing
14 rate per mile, as established by the state administrative board, in
15 going to and returning from the inspection, either from Lansing or
16 the location of the nearest inspector.

17 (3) Certificates of inspection are valid from November 1 in 1
18 year to October 31 of the following year. Any nursery owner may
19 request a second inspection be performed, prior to offering for
20 sale or removing or shipping from a nursery or other premises,
21 provided that the nursery owner or applicant pays an inspection fee
22 based upon the actual cost to the department of agriculture of such
23 inspection.

24 (4) A person shall not sell, ~~or~~ offer for sale, or remove or
25 ship from a nursery or other premises any nursery stock until the
26 nursery stock has been officially inspected and a certificate or
27 permit covering it has been granted by the director, except that

1 nursery stock may be shipped to the director without an inspection
2 and certification.

3 (5) The director shall not grant a certificate of inspection
4 to private landowners who are about to sell or remove trees or
5 plants originally supplied from the state, ~~or~~ federal, or state and
6 federal nurseries or by any political subdivision or its agencies.

7 (6) The director shall charge an inspection fee based upon the
8 cost to the department of agriculture of making the inspection.

9 ~~—— (7) The~~ **HOWEVER, THE** director shall adjust the schedule of
10 fees for the costs of making the various inspections of nursery
11 stock, plants, and plant materials as required by ~~this act. The~~
12 ~~director shall review and adjust its schedule of fees for the~~
13 ~~inspections at the end of each fiscal year. In any given fiscal~~
14 ~~year, the director may raise initial inspection fees by no more~~
15 ~~than 50%. The commission of agriculture shall approve all~~
16 ~~adjustments to the initial fees before they are adopted.~~ **SECTION 9.**

17 Sec. 9. (1) A person, firm, partnership, association, or
18 corporation growing or desiring to sell nursery stock in this state
19 shall, on or before October 31, 1982 and October 31 of each year,
20 apply to the director for a license. ~~Until September 30, 2003 or~~
21 ~~after September 30, 2007, the annual nursery license fee shall be~~
22 ~~\$50.00, and beginning October 1, 2003 through September 30, 2007,~~
23 ~~the~~ **THE** annual nursery license fee shall be \$100.00. ~~Until~~
24 ~~September 30, 2003 or after September 30, 2007, the annual license~~
25 ~~fee for plant growers or plant dealers shall be \$20.00, and~~
26 ~~beginning October 1, 2003 through September 30, 2007, the~~ **THE**
27 annual license fee for plant growers or plant dealers shall be

1 \$100.00. The annual license fee for nursery dealers shall be
2 \$100.00. For persons growing less than 1/4 acre of nursery stock or
3 utilizing less than 200 square feet of greenhouse space, ~~and only~~
4 ~~from October 1, 2003 through September 30, 2007,~~ the fee for a
5 license is \$40.00. License fees provided for in this act shall
6 become due and payable at the office of the director on or before
7 October 31 of each year. The fees imposed in this subsection are
8 subject to subsection (7).

9 (2) ~~Except as otherwise provided in~~ **SUBJECT TO** subsection (3),
10 **LICENSE AND INSPECTION** fees collected under **SECTIONS 6 AND 9 AND**
11 **ADMINISTRATIVE FINES IMPOSED UNDER** this act shall be paid into ~~the~~
12 ~~general fund of the state and shall be used in enforcement of this~~
13 ~~act.~~ **THE AGRICULTURE LICENSING AND INSPECTION FEES FUND CREATED IN**
14 **SECTION 4 OF 1969 PA 287, MCL 287.334, TO BE USED PURSUANT TO**
15 **APPROPRIATION BY THE DIRECTOR IN ADMINISTERING AND CARRYING OUT**
16 **THOSE DUTIES REQUIRED BY LAW UNDER THIS ACT. EVERY 3 YEARS, THE**
17 **DEPARTMENT BY ORDER MAY ADJUST THE FEE SCHEDULE IN SUBSECTION (1)**
18 **BY AN AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT THE**
19 **CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE DETROIT CONSUMER PRICE**
20 **INDEX OVER THE 3-YEAR PERIOD. AN ADJUSTMENT UNDER THIS SUBSECTION**
21 **SHALL NOT EXCEED 5% EVEN IF THE AMOUNT DETERMINED BY THE STATE**
22 **TREASURER TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE OVER**
23 **THE 3-YEAR PERIOD IS MORE THAN 5%. AS USED IN THIS SUBSECTION,**
24 **"DETROIT CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX**
25 **OF CONSUMER PRICES AVAILABLE FOR THE DETROIT AREA FROM THE BUREAU**
26 **OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.**

27 (3) Beginning October 1, 2003, the horticulture fund is

1 created within the state treasury. The state treasurer may receive
2 money or other assets from any source for deposit into the fund.
3 ~~From October 1, 2003 until September 30, 2007, up~~ **UP** to \$70,000.00
4 of the funds generated through licensing shall be deposited into
5 the horticulture fund each year. The state treasurer shall direct
6 the investments of the horticulture fund. The state treasurer shall
7 credit interest and earnings from fund investments to the fund.
8 Assets in the fund at the close of the fiscal year shall remain in
9 the fund and shall not lapse to the general fund. The director
10 shall administer the fund and shall expend money from the fund,
11 upon appropriation, to provide for research projects, to develop
12 and improve training programs, and to develop outreach materials
13 for the purposes of safeguarding plants and plant products from
14 unwanted plant pests. The director shall administer the fund with
15 advice and consultation from a horticultural advisory committee
16 created in subsection (4). ~~After September 30, 2007, the fund shall~~
17 ~~no longer exist and the money in the fund shall revert to the~~
18 ~~general fund for use as described in subsection (2).~~

19 (4) There is created a horticulture advisory committee.
20 Members of this committee, to be named by the director, shall
21 include representatives from the horticulture industry.

22 (5) This section does not apply to persons engaged in fruit
23 growing who are not nurserymen but desire to sell or exchange
24 surplus small fruit plants of their own growing, or to farmers or
25 other persons who may sell or give away native shade trees, native
26 shrubs, native vines, native hardy perennials, or native evergreens
27 from their own premises.

1 (6) ~~Beginning the effective date of the amendatory act that~~
2 ~~added this subsection~~ **JULY 23, 2004**, the director shall issue an
3 initial or renewal license not later than 90 days after the
4 applicant files a completed application. Receipt of the application
5 is considered the date the application is received by any agency or
6 department of the state of Michigan. If the application is
7 considered incomplete by the director, the director shall notify
8 the applicant in writing, or make the information electronically
9 available, within 30 days after receipt of the incomplete
10 application, describing the deficiency and requesting the
11 additional information. The 90-day period is tolled upon
12 notification by the director of a deficiency until the date the
13 requested information is received by the director. The
14 determination of the completeness of an application does not
15 operate as an approval of the application for the license and does
16 not confer eligibility of an applicant determined otherwise
17 ineligible for issuance of a license. The director shall not
18 discriminate against an applicant in the processing of the
19 application based upon the fact that the license fee was refunded
20 or discounted under this subsection.

21 (7) If the director fails to issue or deny a license within
22 the time required by this section, the director shall return the
23 license fee and shall reduce the license fee for the applicant's
24 next renewal application, if any, by 15%. The failure to issue a
25 license within the time required under this section does not allow
26 the department to otherwise delay the processing of the
27 application, and that application, upon completion, shall be placed

1 in sequence with other completed applications received at that same
2 time.

3 (8) Beginning October 1, 2005, the director shall submit a
4 report by December 1 of each year to the standing committees and
5 appropriations subcommittees of the senate and house of
6 representatives concerned with agricultural issues. The director
7 shall include all of the following information in the report
8 concerning the preceding fiscal year:

9 (a) The number of initial and renewal applications the
10 department received and completed within the 90-day time period
11 described in subsection (6).

12 (b) The number of applications denied.

13 (c) The number of applicants not issued a license within the
14 90-day time period and the amount of money returned to licensees
15 and registrants under subsection (7).

16 (9) As used in this section, "completed application" means an
17 application complete on its face and submitted with any applicable
18 licensing and inspection fees as well as any other information,
19 records, approval, security, or similar item required by law or
20 rule from a local unit of government, a federal agency, or a
21 private entity but not from another department or agency of the
22 state of Michigan.

23 Sec. 11. (1) Each nonresident nurseryman, dealer, or grower,
24 who solicits or takes orders for or sells nursery stock in this
25 state through resident or nonresident agents, shall each year
26 obtain a license from the director, for which the fee shall be
27 ~~\$50.00~~ **AS PRESCRIBED IN SECTION 9**. The director may waive the

1 license fee requirement if there is a reciprocal agreement with the
2 appropriate authority of the state in which the applicant's
3 principal place of business is located waiving the requirements for
4 Michigan nurserymen, plant growers, or dealers in that state. The
5 director may enter into reciprocal agreements with responsible
6 officers of other states under which nursery stock owned or handled
7 by nurserymen, plant growers, or dealers of those states may be
8 sold in this state without the payment of the license fee provided
9 for in this section.

10 (2) The director may deny an ~~out-of-state~~ **OUT-OF-STATE**
11 nurseryman or nursery stock dealer the right to ship nursery stock
12 into this state if the **DEPARTMENT DETERMINES THAT THE** nurseryman or
13 nursery stock dealer ~~violates~~ **HAS VIOLATED** this act or a rule
14 promulgated under this act.