

SENATE BILL No. 811

September 15, 2009, Introduced by Senators KUIPERS and McMANUS and referred to the Committee on Appropriations.

A bill to amend 1998 PA 381, entitled
"Michigan agricultural processing act,"
by amending sections 2 and 4 (MCL 289.822 and 289.824), section 2
as amended by 2005 PA 282 and section 4 as amended by 2005 PA 283.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Dairy product" means all of the following:

3 (i) Dairy product as that term is defined in section 12 of the
4 manufacturing milk law of 2001, 2001 PA 267, MCL 288.572.

5 (ii) Milk product as that term is defined in section 4 of the
6 grade A milk law of 2001, 2001 PA 266, MCL 288.474.

7 (b) "Fruit and vegetable product" means those plant items used
8 by human beings for human food consumption including, but not

1 limited to, field crops, root crops, berries, herbs, fruits,
2 vegetables, flowers, seeds, grasses, tree products, mushrooms, and
3 other similar products, or any other fruit and vegetable product
4 processed for human consumption as determined by the ~~Michigan~~
5 commission of agriculture.

6 (c) "Generally accepted fruit, vegetable, dairy product, meat,
7 and grain processing practices" means those practices as defined by
8 the ~~Michigan~~ commission of agriculture. The ~~Michigan~~ commission of
9 agriculture shall give due consideration to available ~~Michigan~~
10 department of agriculture information and written recommendations
11 from the Michigan state university ~~college of agriculture and~~
12 ~~natural resources~~ extension and the agricultural experiment station
13 in cooperation with the United States department of agriculture,
14 the United States food and drug administration, the ~~Michigan~~
15 department of ~~environmental quality~~ **NATURAL RESOURCES**, and other
16 professional and industry organizations.

17 (d) "Grain" means dry edible beans, soy beans, small grains,
18 cereal grains, corn, grass seeds, hay, and legume seeds in a raw or
19 natural state.

20 (e) "Person" means an individual, corporation, partnership,
21 association, limited liability company, or other legal entity.

22 (f) "Processing" means the commercial processing or handling
23 of fruit, vegetable, dairy, meat, and grain products for human food
24 consumption and animal feed including, but not limited to, the
25 following:

26 (i) The generation of noise, odors, waste water, dust, fumes,
27 and other associated conditions.

1 (ii) The operation of machinery and equipment necessary for a
2 processing operation including, but not limited to, irrigation and
3 drainage systems and pumps and the movement of vehicles, machinery,
4 equipment, and fruit and vegetable products, dairy products, meat,
5 and grain products and associated inputs necessary for fruit and
6 vegetable, dairy, and grain, food, meat, or feed processing
7 operations on the roadway as authorized by the Michigan vehicle
8 code, 1949 PA 300, MCL 257.1 to 257.923.

9 (iii) The management, storage, transport, utilization, and land
10 application of fruit, vegetable, dairy product, meat, and grain
11 processing by-products consistent with generally accepted
12 agricultural and management practices as established under the
13 Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

14 (iv) The conversion from 1 processing operation activity to
15 another processing operation activity.

16 (v) The employment and use of labor engaged in a processing
17 operation.

18 (g) "Processing operation" means the operation and management
19 of a business engaged in processing.

20 Sec. 4. (1) The ~~Michigan~~ commission of agriculture shall
21 request the director of the ~~Michigan~~ department of agriculture or
22 his or her designee to investigate all nuisance complaints under
23 this act involving a processing operation. If a person is granted a
24 determination by the director of the department of agriculture
25 under this act, the person is considered to have exhausted his or
26 her administrative remedies with regard to that matter. A court
27 shall not proceed with an action for nuisance brought against a

1 processing operation until it finds that the complainant exhausted
2 all administrative remedies.

3 (2) The ~~Michigan~~ commission of agriculture and the director of
4 the ~~Michigan~~ department of agriculture may enter into a memorandum
5 of understanding with the ~~Michigan~~ department of ~~environmental~~
6 ~~quality~~ **NATURAL RESOURCES**. The investigation and resolution of
7 nuisance complaints shall be conducted pursuant to the memorandum
8 of understanding. In the case where no generally accepted fruit,
9 vegetable, dairy product, meat, and grain processing practices have
10 been established, any nuisance complaint received by either the
11 department of ~~environmental quality~~ **NATURAL RESOURCES** or the
12 department of agriculture shall be resolved under section 3 in the
13 following manner:

14 (a) The department of ~~environmental quality~~ **NATURAL RESOURCES**
15 shall assess compliance of an operation or practice with the
16 natural resources and environmental protection act, 1994 PA 451,
17 MCL 324.101 to 324.90106, and shall conduct an inspection within 10
18 working days of receipt of the complaint.

19 (b) The department of agriculture shall assess the processing
20 operation or practice under federal good manufacturing practices as
21 adopted under the food law of 2000, 2000 PA 92, MCL 289.1101 to
22 289.8111, and shall conduct an inspection within 10 working days of
23 receipt of the complaint.

24 (3) Based upon the determinations made in subsection (2), the
25 department of agriculture shall make a finding as to whether a
26 processing operation is in compliance with this act.

27 (4) If the director of the ~~Michigan~~ department of agriculture

1 or his or her designee finds upon investigation that the person
2 responsible for the processing operation is using generally
3 accepted fruit, vegetable, dairy product, meat, and grain
4 processing practices or otherwise in compliance with law as
5 described in section 3(2), the director of the ~~Michigan~~-department
6 of agriculture or his or her designee shall notify that person and
7 the complainant of this finding in writing. If the director of the
8 ~~Michigan~~-department of agriculture or his or her designee
9 identifies the source or potential sources of the problem caused by
10 the use of other than generally accepted fruit, vegetable, dairy
11 product, meat, and grain processing practices or other than
12 compliance with law as described in section 3(2), the director of
13 the ~~Michigan~~-department of agriculture or his or her designee shall
14 advise the person responsible for the processing operation that
15 necessary changes should be made to resolve or abate the problem
16 and to conform with generally accepted fruit, vegetable, dairy
17 product, meat, and grain processing practices or with applicable
18 law as described in section 3(2). The director of the ~~Michigan~~
19 department of agriculture or his or her designee shall determine if
20 those changes are implemented and shall notify the person
21 responsible for the processing operation and the complainant of
22 this determination in writing.

23 (5) A complainant who brings more than 3 unverified nuisance
24 complaints against the same processing operation within 3 years may
25 be ordered by the director of the ~~Michigan~~-department of
26 agriculture to pay to the ~~Michigan~~-department of agriculture the
27 full costs of investigation of any fourth or subsequent unverified

1 nuisance complaint against the same processing operation. As used
2 in this subsection, "unverified nuisance complaint" means a
3 nuisance complaint in which the director of the department of
4 agriculture or his or her designee determines that the processing
5 operation is using generally accepted fruit, vegetable, dairy
6 product, meat, and grain processing practices.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. 807

9 of the 95th Legislature is enacted into law.