

HOUSE BILL No. 5127

June 23, 2009, Introduced by Reps. Simpson, Huckleberry, Mayes, Espinoza, Terry Brown, Daley, Kurtz, Tyler, Hansen, Cushingberry, Valentine, Segal, Barnett, Haase, Byrum, Nerat, Schuitmaker, Melton, Gonzales, Spade, Sheltroun, Byrnes, Angerer, Kandreas, Ball, Neumann and Haveman and referred to the Committee on Agriculture.

A bill to amend 1988 PA 466, entitled
"Animal industry act,"
(MCL 287.701 to 287.745) by adding section 8a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 8A. (1) THE DEPARTMENT AND THE COMMISSION OF AGRICULTURE
2 HAVE THE SOLE AUTHORITY TO REGULATE LIVESTOCK HEALTH AND WELFARE.
3 THE DEPARTMENT SHALL ENFORCE THE STANDARDS ADOPTED UNDER SUBSECTION
4 (2), ANY OTHER STANDARDS DEVELOPED AND ADOPTED UNDER SUBSECTION
5 (8), AND RULES PROMULGATED UNDER SUBSECTION (11).

6 (2) THE FOLLOWING STANDARDS, IN THE FORM AS THEY EXIST ON THE
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, ARE
8 ADOPTED AND INCORPORATED BY REFERENCE AS THE ANIMAL CARE STANDARDS
9 TO BE RECOGNIZED AND UTILIZED BY THE DEPARTMENT:

10 (A) PORK QUALITY ASSURANCE PLUS, PUBLISHED BY THE NATIONAL

1 PORK BOARD, 2007.

2 (B) NATIONAL DAIRY FARM PROGRAM: FARMERS ASSURING RESPONSIBLE
3 MANAGEMENT, PUBLISHED BY THE NATIONAL MILK PRODUCERS FEDERATION,
4 2009.

5 (C) UNITED EGG PRODUCERS-ANIMAL HUSBANDRY GUIDELINES FOR
6 UNITED STATES EGG-LAYING FLOCKS, PUBLISHED BY THE UNITED EGG
7 PRODUCERS, 2008.

8 (D) NATIONAL CHICKEN COUNCIL ANIMAL WELFARE GUIDELINES,
9 PUBLISHED BY THE NATIONAL CHICKEN COUNCIL, 2005.

10 (E) ANIMAL CARE BEST MANAGEMENT PRACTICES FOR THE CARE OF
11 TURKEYS, PUBLISHED BY THE NATIONAL TURKEY FEDERATION, 2004.

12 (F) BEEF QUALITY ASSURANCE PROGRAM, PUBLISHED BY THE NATIONAL
13 CATTLEMAN'S BEEF ASSOCIATION, 2009.

14 (G) VEAL QUALITY ASSURANCE PROGRAM, PUBLISHED BY THE AMERICAN
15 VEAL ASSOCIATION, 2001.

16 (3) FARMS SUBJECT TO THIS ACT SHALL COMPLY WITH THE STANDARDS
17 ADOPTED UNDER SUBSECTION (2) NOT LATER THAN JULY 1, 2020.

18 THEREAFTER, THE DEPARTMENT AND THE COUNCIL SHALL REVIEW THE ANIMAL
19 CARE STANDARDS NOT LESS THAN EVERY 5 YEARS TO MAKE RECOMMENDATIONS
20 TO THE COMMISSION OF AGRICULTURE REGARDING ANY CHANGES, INCLUDING
21 IMPLEMENTATION GUIDELINES.

22 (4) THE DEPARTMENT SHALL ESTABLISH A SYSTEM FOR AUDITING THE
23 COMPLIANCE BY FARMS WITH THE ANIMAL CARE STANDARDS ADOPTED UNDER
24 THIS SECTION. THE SYSTEM SHALL PROVIDE FOR THE TRAINING OF PRIVATE
25 THIRD-PARTY ENTITIES THAT ARE APPROVED BY THE DEPARTMENT TO CONDUCT
26 THE AUDITS AND CERTIFY FARMS THAT COMPLY WITH THE ANIMAL CARE
27 STANDARDS ADOPTED UNDER THIS SECTION. THE DEPARTMENT SHALL IMPOSE

1 AND COLLECT FEES SUFFICIENT, AS APPROVED BY THE COMMISSION OF
2 AGRICULTURE, TO COVER THE COSTS OF ESTABLISHING THE APPROVAL OF
3 THIRD-PARTY ENTITIES TO CONDUCT FARM AUDITS AND ADMINISTER THE FARM
4 CERTIFICATION PROCESS. AN AUDIT CONDUCTED BY A THIRD-PARTY ENTITY
5 UNDER THIS SUBSECTION IS CONSIDERED A PRIVATE TRANSACTION BETWEEN
6 THAT ENTITY AND THE OWNER OR OPERATOR OF THE FARM, AND THAT OWNER
7 OR OPERATOR IS RESPONSIBLE FOR THE COST OF THAT AUDIT, NOT THE
8 DEPARTMENT OR THIS STATE. THE DEPARTMENT SHALL ESTABLISH THE
9 APPROVAL, CERTIFICATION, AND AUDIT SYSTEMS NOT LATER THAN 24 MONTHS
10 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
11 SECTION.

12 (5) A FARM THAT IS CERTIFIED UNDER THIS SECTION IS CONSIDERED
13 IN COMPLIANCE WITH THE ANIMAL CARE STANDARDS ESTABLISHED UNDER THIS
14 SECTION UNTIL OTHERWISE DETERMINED. THE DEPARTMENT MAY REQUEST THE
15 SUBMISSION OF INFORMATION OR DOCUMENTS PERIODICALLY, BUT NOT LONGER
16 THAN 5 YEARS FROM THE DATE OF THE LAST CERTIFICATION. ANY
17 INFORMATION SUBMITTED BY THE FARM OR ON BEHALF OF THE FARM TO THE
18 DEPARTMENT IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
19 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

20 (6) IF A PRIVATE THIRD-PARTY ENTITY CONDUCTING AN AUDIT
21 DETERMINES THAT A FARM IS NOT IN COMPLIANCE WITH THE ANIMAL CARE
22 STANDARDS, THE THIRD-PARTY AUDITOR SHALL NOTIFY THE DEPARTMENT AND
23 THE DEPARTMENT SHALL NOTIFY THE OWNER OR OPERATOR OF THE FARM IN
24 WRITING. THE DEPARTMENT SHALL GIVE THAT OWNER OR OPERATOR A
25 REASONABLE TIME TO ACHIEVE COMPLIANCE, AS RECOMMENDED BY THE
26 COMMISSION OF AGRICULTURE.

27 (7) THE DEPARTMENT SHALL ESTABLISH A PROGRESSIVE ENFORCEMENT

1 PROCESS DESIGNED TO AID FARMS IN ACHIEVING COMPLIANCE WITH THE
2 ANIMAL CARE STANDARDS. THE OWNER OR OPERATOR OF A FARM THAT
3 CONTESTS THE FINDING OF NONCOMPLIANCE MAY REQUEST A CONTESTED CASE
4 HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
5 306, MCL 24.201 TO 24.328, AND MAY EXERCISE ANY RIGHT TO APPEAL OR
6 JUDICIAL REVIEW UNDER THAT ACT.

7 (8) THE COUNCIL MAY REVIEW ANIMAL CARE STANDARDS NOT ADDRESSED
8 IN SUBSECTION (2) AND RECOMMEND TO THE COMMISSION OF AGRICULTURE
9 AND THE DEPARTMENT THE DEVELOPMENT AND ADOPTION OF ADDITIONAL
10 STANDARDS NOT ADDRESSED UNDER SUBSECTION (2) ON A SPECIES-BY-
11 SPECIES BASIS. THE COMMISSION OF AGRICULTURE, UPON RECOMMENDATION
12 OF THE COUNCIL, MAY PROVIDE EXEMPTIONS FROM COMPLIANCE WITH THE
13 STANDARDS ADOPTED UNDER THIS SECTION REGARDING FARMS INVOLVED IN
14 SPECIALIZED MARKETS FOR RESEARCH OR EDUCATIONAL PURPOSES.

15 (9) STATE FUNDS SHALL NOT BE USED TO EDUCATE THE PUBLIC OR
16 PROMOTE ANIMAL CARE STANDARDS INCONSISTENT WITH THE ANIMAL CARE
17 STANDARDS DEVELOPED, ADOPTED, OR PROMULGATED UNDER THIS SECTION.

18 (10) A LOCAL UNIT OF GOVERNMENT SHALL NOT ENFORCE ANY
19 ORDINANCE INVOLVING ANIMAL CARE STANDARDS REGARDING LIVESTOCK
20 SUBJECT TO THIS ACT. THIS ACT PREEMPTS ANY LOCAL ORDINANCE,
21 REGULATION, OR RESOLUTION THAT PURPORTS TO EXTEND OR REVISE IN ANY
22 MANNER THE PROVISIONS OF THIS ACT OR ANIMAL CARE STANDARDS ADOPTED
23 UNDER THIS SECTION. THERE IS A PRESUMPTION THAT THE RAISING,
24 KEEPING, CARE, TREATMENT, MARKETING, OR SALE OF ANIMALS IN
25 COMPLIANCE WITH THE STANDARDS ADOPTED UNDER THIS SECTION DOES NOT
26 CONSTITUTE CRUELTY TO, OR THE INHUMANE TREATMENT OF, LIVESTOCK.

27 (11) THE DIRECTOR OF THE DEPARTMENT, IN CONSULTATION WITH THE

1 COUNCIL AND THE COMMISSION OF AGRICULTURE, MAY PROMULGATE RULES
2 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
3 24.201 TO 24.328, TO UPDATE, SUBSTITUTE, OR AMEND ANY ANIMAL CARE
4 STANDARDS ADOPTED UNDER THIS SECTION.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No.____ or House Bill No. 5128(request no.
7 03311'09) of the 95th Legislature is enacted into law.