

Act No. 69
Public Acts of 2015
Approved by the Governor
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Rep. Jenkins

ENROLLED HOUSE BILL No. 4400

AN ACT to amend 1937 PA 284, entitled “An act to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers’ proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act,” by amending section 3 (MCL 287.123), as amended by 2012 PA 317.

The People of the State of Michigan enact:

Sec. 3. (1) A person desiring to obtain a license under this act to act as a dealer, broker, agent, or livestock trucker, or to operate a livestock auction, buying station, or collection point shall submit to the department an application for a license. The application shall state the nature of the business, the post office address of the applicant, the post office address at or from which the business is to be conducted, and any additional contact information. If the applicant desires to operate a livestock yard where livestock are kept and sold at public or private sale, the application shall include that information. The application shall include additional information as requested by the director.

(2) Except as otherwise provided in this section, until October 1, 2019, the department shall charge the following nonrefundable fees for initial and renewal license applications:

- (a) Class I (livestock auction operator) \$400.00.
- (b) Class II (buying station operator)..... \$250.00.
- (c) Class III (dealer/broker/agent/collection point operator)..... \$50.00.
- (d) Class IV (livestock trucker) \$25.00.

(3) Each class of license listed in subsection (2) allows a person to operate at all classes listed below that class without requiring additional licensing. The licensee shall provide to the department a list of all individuals employed by and operating in license classes under his or her license.

(4) For each renewal application postmarked or delivered after October 1 of each year, a late fee of an additional \$10.00 shall be imposed for each business day the application is late. The late fee for a new application submitted after a person is operating as a class I, II, III, or IV operation as described in subsection (2) shall be an additional \$10.00 per business day the application is late. However, the total late fee shall not exceed \$100.00.

(5) The department shall deposit administrative and noncriminal fines received under this act and license or other administrative fees received under this section into the agriculture licensing and inspection fees fund created in section 9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209, to be used, upon appropriation, by the department in administering and carrying out those duties required by law under this act.

(6) A licensee who buys or sells livestock by weight shall employ a weighmaster to do all of the weighing. The duties, qualifications, and requirements for registration of weighmasters shall be established by the department by rule promulgated under section 9.

(7) The department shall issue an initial or renewal license under this section not later than 60 days after the applicant submits a completed application. Receipt of the application is considered the date the application is received by the department. If the application is considered incomplete by the department, the department shall notify the applicant in writing or electronically, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 60-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(8) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(9) The application for a license or the renewal of a license, and proof of bonding or other security requirements, shall be submitted to the director on or before October 1 of each year. Each license issued under this section shall be for a period of 1 year commencing October 1 and ending the following September 30.

(10) Each person operating a livestock auction or buying station shall file with his or her application for a license a surety bond effective during the period for which the license is issued or other security. A surety bond shall be issued by a surety company registered in this state to indemnify persons from whom livestock is purchased or for whom livestock is sold. The surety bond or other security shall be in such amounts, form, and sufficiency as approved by the director. The amount of the bond or other security shall be equal to the amount of gross dollar volume of livestock business conducted during the average week of the previous licensing year by the applicant, but shall not be less than \$1,500.00. If the average gross weekly livestock business conducted by the applicant during the previous licensing year was greater than \$25,000.00, the bond shall be increased above \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part thereof above \$25,000.00 of average gross dollar volume of weekly livestock business conducted during the previous year. A licensee who owns or operates more than 1 livestock auction or buying station may file 1 bond in an amount determined by the formula described in this subsection. A licensee operating a livestock auction or buying station who has filed a surety bond for the livestock auction or buying station and indemnifies persons from whom livestock is purchased or for whom livestock is sold in accordance with the terms of any federal act is exempt from the bonding requirements of this subsection if the bond is equivalent in amount to that which would be required by this act. The department shall be the obligee on the bond for the benefit and purpose of protecting all persons selling or consigning livestock to the licensee against the licensee's failure to pay amounts due on livestock purchased by or consigned to them.

(11) Each licensee shall keep records and shall furnish, upon request, information concerning his or her purchases and sales as may be required by the director for the purpose of establishing the amount of bond required under subsection (10). The director, in establishing the amount of the bond, shall take into consideration the dollar volume of livestock business and other information furnished by the licensee. If a licensee did not operate a livestock auction the previous licensing year, the bond shall be for an amount established by the director after consideration of all information available on the probable weekly gross dollar volume of business to be conducted by the licensee during the licensing year.

(12) If during any licensing year the bond filed by a licensee becomes less than required by this act because of an increase in gross dollar volume of livestock sales, or because of a claim outside this state, the director may issue an order requiring the licensee to file an additional bond to cover the increase in gross dollar volume of livestock sales. Failure to comply with the orders of the director is grounds for suspension or revocation of license. A bond or other security shall be conditioned upon the faithful performance of the licensee's duties as a dealer or broker and on the provisions of law relating to the purchase of livestock by the licensee and for the payment by the licensee of all livestock purchased by or consigned to the licensee as a dealer or broker in livestock. If a bond or other security required under this act is canceled, the license that is approved under that bond or other security is considered immediately suspended without notice. An opportunity for a hearing shall be provided to the licensee under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(13) A licensee bonded as required under this act shall submit a notice to the department not later than 60 days prior to canceling a bond.

(14) A license issued under this section allows the holder to conduct the business of dealer or broker at or from the place named in the application. A person engaged in the business of transporting livestock or negotiating or soliciting the transportation or transfer of livestock that is not engaged in the buying, selling, reselling, exchanging, negotiating,

or soliciting the sale, resale, or exchange of livestock shall obtain a license under this section but is not required to comply with bonding or other security provisions of this section.

(15) A dealer, broker, livestock trucker, or agent shall notify the director of a change of address within 5 days after that change.

(16) Any change in ownership of a livestock auction shall be reported to the director within 5 days by the licensee. Each dealer or broker shall file with the director on January 1 of each year a sworn statement of average weekly sales and a statement showing the number and species of livestock purchased and sold during the previous year.

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

(18) Notwithstanding any other provision of this section, the department shall waive any fee otherwise required under subsection (2)(c) and (d) if the individual responsible for paying the fee is, and provides proof satisfactory to the department that he or she is, an honorably discharged veteran of the armed forces of the United States.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor