

HOUSE BILL No. 6601

December 11, 2018, Introduced by Rep. Vaupel and referred to the Committee on
Agriculture.

A bill to create the Michigan equine commission; to impose certain assessments and provide for the collection of those assessments; to provide for certain remedies and penalties; and to prescribe the powers and duties of the commission and certain state agencies and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan equine promotion act".

3 Sec. 2. As used in this act:

4 (a) "Coggins test" means a test for equine infectious anemia
5 administered by a veterinarian licensed to practice in this state.

6 (b) "Commission" means the Michigan equine commission created
7 under section 3.

8 (c) "Department" means the department of agriculture and rural

1 development.

2 (d) "Director" means the director of the department, or the
3 director's designee.

4 (e) "Equine" means a horse or any member of the family
5 equidae.

6 (f) "Financial institution" means a state or nationally
7 chartered bank, savings and loan association, savings bank, or
8 credit union, whose deposits are insured by an agency of the United
9 States government and that maintains a principal or branch office
10 located in this state under the laws of this state or the United
11 States.

12 (g) "Horse feed" means feed specifically formulated for
13 horses, including concentrates and complete feeds, that is
14 manufactured by a licensed feed manufacturer and offered for sale
15 in this state.

16 (h) "Licensed feed distributor or guarantor" means a horse
17 feed distributor or guarantor licensed under the feed law, 1975 PA
18 120, MCL 287.521 to 287.539.

19 (i) "Licensed feed manufacturer" means a horse feed
20 manufacturer licensed under the feed law, 1975 PA 120, MCL 287.521
21 to 287.539.

22 (j) "Michigan equine organization" means an incorporated,
23 licensed, or officially recognized equine organization in this
24 state that is organized for the purpose of promoting and
25 representing breeds, disciplines, events, or activities of equine.

26 Sec. 3. (1) The Michigan equine commission is created within
27 the department. The commission shall consist of 11 members

1 appointed by the governor from nominees submitted by Michigan
2 equine organizations. A member shall serve for a term of 3 years
3 and may be appointed for a second term. Each member shall have a
4 vote equal to the other members of the commission. The director may
5 serve as an ex officio member on the commission with no vote.

6 (2) The commission shall include the following members:

7 (a) One member from each of the following segments of the
8 equine industry:

9 (i) Horse show and competition.

10 (ii) Horse racing.

11 (iii) Trail riding.

12 (iv) Equine education.

13 (b) One member who is an equine veterinarian licensed in this
14 state.

15 (c) One member representing the horse feed industry or another
16 equine-related business that is not included in the industry
17 segments listed in subdivision (a).

18 (d) Five members from the equine community at large
19 representing different breeds and segments of the equine industry.

20 (3) If the commission is unable to seat a member from a
21 category listed in subsection (2) due to a lack of availability,
22 the commission may seat a member from another category listed in
23 that subsection.

24 Sec. 4. The director shall do all of the following:

25 (a) Ensure that the commission is self-supporting.

26 (b) Supervise commission activities to ensure commission
27 operations are in accordance with the rules established under

1 section 14.

2 (c) Coordinate the administrative activities of the commission
3 and the department.

4 (d) Confer and cooperate with the legally constituted
5 authorities of other states and the United States to effectuate the
6 provisions and intent of this act.

7 Sec. 5. (1) The commission shall do all of the following:

8 (a) Annually elect a chairperson, secretary, and treasurer
9 from the members of the commission.

10 (b) Meet not less than twice each calendar year and at other
11 times if determined necessary by the commission chairperson or at
12 the request of 4 or more commission members.

13 (c) Receive and distribute funds and make arrangements for the
14 financial affairs of the commission, including banking, accounting,
15 and other services as needed.

16 (d) Establish a process for applying for, receiving, or
17 accepting grants or contributions of money, property, labor, or
18 other things of value from individuals, the federal government or
19 any of its agencies, this state, a municipality, or other public or
20 private agencies to be used for the purposes of this act.

21 (e) Develop an equine promotion program in accordance with the
22 requirements of this act.

23 (f) Develop and maintain a list of equine owners in this state
24 that are directly affected by the activities of the commission, as
25 determined by the commission.

26 (g) Prepare an annual report that provides a full description
27 of the commission's activities including, but not limited to, a

1 detailed and audited financial statement. The commission shall
2 provide the report to the governor and the director and make the
3 report available to any person directly affected by this act as
4 determined by the commission.

5 (2) The commission shall reimburse a commission member for
6 actual expenses and provide a per diem payment, as determined by
7 the commission not to exceed \$70.00, while attending meetings of
8 the commission or while engaged in the performance of official
9 responsibilities delegated by the commission.

10 (3) The commission may adopt procedures and promulgate rules
11 necessary for the exercise of its powers and the performance of its
12 duties under this act in accordance with the administrative
13 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

14 (4) In compliance with the open meetings act, 1976 PA 267, MCL
15 15.261 to 15.275, the commission shall conduct its business at a
16 public meeting and provide public notice of the time, date, and
17 place of the meeting.

18 (5) Except as otherwise provided in this subsection, the
19 commission shall make available to the public, in compliance with
20 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
21 a writing prepared, owned, used, in the possession of, or retained
22 by the commission in the performance of an official function. All
23 of the following apply to the disclosure of information under this
24 subsection:

25 (a) Information relating to specific assessments imposed upon
26 a specific person under this act, as well as names and addresses of
27 equine owners, are exempt from disclosure.

1 (b) Information regarding the aggregate amounts of penalties
2 levied under this act is not exempt from disclosure.

3 (c) The director or the department may obtain information
4 necessary to confirm compliance with this act.

5 (d) The director or the department may disclose statistical
6 information so long as that disclosure does not reveal a specific
7 assessment imposed upon a specific person under this act.

8 Sec. 6. The purpose and objectives of the commission's
9 activities may include, but are not limited to, the following:

10 (a) Promoting the equine industry in this state.

11 (b) Disseminating educational programs and materials regarding
12 the equine industry and its positive impact on the citizens of this
13 state.

14 (c) Aiding in the development of practices within the equine
15 industry that lead to enhanced opportunities for the equine
16 industry of this state.

17 (d) Promoting research related to the purposes of this act.

18 Sec. 7. (1) The commission shall impose an assessment of \$5.00
19 for each ton of horse feed sold in this state. A licensed feed
20 manufacturer, or licensed feed distributor or guarantor, that sells
21 horse feed in this state shall collect the assessment imposed by
22 the commission under this subsection and remit the assessment to
23 the commission at least quarterly.

24 (2) The commission shall impose an assessment of \$3.00 for
25 each Coggins test administered in this state. A licensed
26 veterinarian who administers a Coggins test in this state shall
27 collect the assessment imposed by the commission under this

1 subsection and remit the assessment to the commission at least
2 quarterly, as determined by the commission.

3 (3) A person that is required to collect and remit assessments
4 under this act shall do all of the following:

5 (a) Maintain an accurate record of the details concerning each
6 assessment collected and make the record available to the
7 department upon request.

8 (b) File a report annually with the commission indicating the
9 amount of assessments collected and the amount and type of feed
10 sold or the number of Coggins tests administered.

11 (4) A person that is required to collect an assessment under
12 this act may offset the costs associated with collection and
13 remittance activities by withholding 0.1% of the assessments
14 collected. A person may withhold the amount described in this
15 subsection beginning on the date the person first remits to the
16 commission the assessments due under this act and ending 2 years
17 after that date.

18 (5) The commission shall specify the date that assessments
19 collected under this act are due for remittance to the commission
20 and provide reasonable notice of that date. If a person does not
21 remit the collected assessments to the commission by the date
22 specified, the person is subject to an interest charge of 1% of the
23 total amount due for each month that the remittance remains
24 outstanding.

25 (6) The commission shall adopt procedures and promulgate rules
26 governing the receipt of money described in this section in
27 accordance with the administrative procedures act of 1969, 1969 PA

1 306, MCL 24.201 to 24.328.

2 Sec. 8. If a licensed feed manufacturer, licensed feed
3 distributor or guarantor, or licensed veterinarian fails to collect
4 or remit an assessment that is due under this act, the commission
5 may file a written complaint with the director. All of the
6 following apply to a complaint filed under this section:

7 (a) Upon receipt of the complaint, the director shall conduct
8 an investigation of the allegations raised in the complaint.

9 (b) If the director finds upon investigation that a licensed
10 feed manufacturer, licensed feed distributor or guarantor, or
11 licensed veterinarian failed to collect or remit an assessment that
12 is due under this act, the director shall provide by certified mail
13 to the licensed feed manufacturer, licensed feed distributor or
14 guarantor, or licensed veterinarian a notice of the finding,
15 including a statement of the amount that should have been collected
16 or remitted. The director shall provide this notice not more than
17 10 days after the date of the finding. The notice shall require the
18 licensed feed manufacturer, licensed feed distributor or guarantor,
19 or licensed veterinarian to remit the stated amount within 30 days
20 after the date of the notice.

21 (c) If the finding in subdivision (b) concerns a failure to
22 collect an assessment, the director shall compute the amount that
23 reasonably should have been collected and impose on the licensed
24 feed manufacturer, licensed feed distributor or guarantor, or
25 licensed veterinarian an assessment in that amount. The notice
26 provided under subdivision (b) shall inform the licensed feed
27 manufacturer, licensed feed distributor or guarantor, or licensed

1 veterinarian of this assessment and provide a statement describing
2 its calculation.

3 (d) If the amount due under subdivision (b) is not remitted
4 within 30 days, or the licensed feed manufacturer, licensed feed
5 distributor or guarantor, or licensed veterinarian is not in
6 compliance with a written agreement for a full payment of the
7 amount due, the director may file an action in a court of competent
8 jurisdiction to collect the amount due. Venue in the action is the
9 place where the licensed feed manufacturer, licensed feed
10 distributor or guarantor, or licensed veterinarian has its primary
11 place of business.

12 (e) In an action filed under subdivision (d), if the director
13 prevails, the court shall award the director all costs and expenses
14 in bringing the action, including, but not limited to, reasonable
15 and actual attorney fees, court costs, and audit expenses. If the
16 director does not prevail, the director shall charge the commission
17 for reasonable and actual attorney fees, court costs, and expenses
18 incurred in bringing the action.

19 Sec. 9. (1) Money, assets, or other items of value collected
20 or received under this act, whether collected from assessments,
21 received as grants or gifts, earned from royalties or license fees,
22 or derived from any activities performed by the commission, are not
23 state money and shall be deposited in a financial institution in
24 this state.

25 (2) The commission shall disburse or expend money in the
26 commission's account only for the necessary expenses incurred by
27 the commission in carrying out the purposes of this act. The

1 commission may use not more than 33% of the assessments received
2 under this act for the commission's administrative expenses.

3 (3) A certified public accountant shall audit all expenditures
4 of the commission at least annually. Not more than 30 days after
5 completion of the audit, the certified public accountant shall give
6 copies of the audit to the members of the commission and the
7 director. The commission or director shall publish annually an
8 activity and financial report and make it available to interested
9 parties.

10 Sec. 10. (1) After the first 5 full calendar years of
11 operation, the commission shall conduct a referendum to determine
12 if the commission shall be renewed. If more than 50% of the equine
13 owners directly affected by the activities of the commission, as
14 determined by the commission, that pay more than 50% of the
15 assessments vote in favor of the commission's termination, the
16 commission shall be terminated.

17 (2) Upon the submission of a written petition to terminate the
18 commission signed by 2,500 of the equine owners directly affected
19 by the activities of the commission, as determined by the
20 commission, during the previous calendar year, the director, not
21 more than 100 days after the date on which the petition is
22 submitted shall conduct a referendum to determine if the commission
23 shall be terminated. If more than 50% of the equine owners directly
24 affected by the activities of the commission, as determined by the
25 commission, that pay more than 50% of the assessments due under
26 this act vote in favor of the commission's termination, the
27 commission shall be terminated.

1 (3) Upon its termination, the commission shall distribute any
2 unexpended money remaining in the commission's account to an
3 appropriate equine entity or entities as determined by the
4 commission.

5 Sec. 11. The director may institute an action necessary to
6 enforce compliance with this act, a rule promulgated under this
7 act, or a program or marketing plan adopted under this act. In
8 addition to any other remedy provided by law, the director may
9 apply to a court of competent jurisdiction for relief by injunction
10 to protect the public interest without alleging or proving that an
11 adequate remedy at law does not exist.

12 Sec. 12. (1) Except as provided in subsections (2) and (3), an
13 individual who violates this act is guilty of a misdemeanor
14 punishable by a fine of up to \$1,000.00 per day that the individual
15 is in violation of this act.

16 (2) A member of the board who intentionally violates section
17 5(4) is subject to the penalties prescribed in the open meetings
18 act, 1976 PA 267, MCL 15.261 to 15.275.

19 (3) If the board arbitrarily and capriciously violates section
20 5(5), the board is subject to the penalties prescribed in the
21 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

22 Sec. 13. (1) Except as provided in subsections (2) and (3),
23 prosecution for violation of this act may be instituted in any
24 county in which any of the defendants reside, in which the
25 violation was committed, or in which any of the defendants have a
26 principal place of business. State and county law enforcement
27 officers shall enforce this act.

1 (2) A prosecution for a violation of section 5(4) shall be
2 instituted in the manner provided for in the open meetings act,
3 1976 PA 267, MCL 15.261 to 15.275.

4 (3) A prosecution for a violation of section 5(5) shall be
5 instituted in the manner provided for in the freedom of information
6 act, 1976 PA 442, MCL 15.231 to 15.246.

7 Sec. 14. The director shall promulgate rules for the
8 implementation of this act in accordance with the administrative
9 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

10 Enacting section 1. This act takes effect 90 days after the
11 date it is enacted into law.