

## CERTIFICATE OF FREE SALE FOR NURSERY STOCK

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<http://www.house.mi.gov/hfa>

**Senate Bill 1058 as passed by the Senate**

**Sponsor: Sen. Kevin Daley**

**House Committee: Agriculture**

**Senate Committee: Agriculture**

**Revised 6-21-22**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 1058, which is identical to House Bill 5746, would amend the Insect Pest and Plant Disease Act to allow the Department of Agriculture and Rural Development (MDARD) to do one or both of the following:

- Inspect, audit, or certify nurseries in Michigan at the request of, or based on records voluntarily supplied by, a nursery dealer, nursery grower, or plant grower.
- Issue *certificates of free sale* as described below.

*Certificate of free sale* would mean a document issued by MDARD that verifies that the nursery stock listed is propagated, grown, or cultivated in Michigan for at least 28 days and is legally sold or distributed in Michigan and on the open market with the approval of MDARD.

A nursery dealer, nursery grower, or plant grower would have to submit an application for a certificate of free sale on a form and in a manner prescribed by MDARD.

MDARD would have to grant or deny an application within 10 business days after receiving a completed application and the application fee described below. MDARD would have to issue a certificate of free sale if it determines that the application meets the requirements of the act and its rules. If MDARD determines that the application does not meet those requirements, it would have to deny the application and send a written notice to the nursery dealer, nursery grower, or plant grower stating the reasons for the denial.

The application fee for a certificate of free sale would be \$60, but it would be paid only if MDARD issues a certificate of free sale. The fee for a duplicate copy of a certificate of free sale would be \$10.

**[Note:** The bill requires MDARD to grant or deny an application for a certificate within 10 business days *after* receiving the application *and fee*. However, it also requires a nursery dealer, nursery grower, or plant grower to pay an application fee *only after MDARD has issued the certificate*. This seems potentially unclear.]

The fees would have to be deposited in the Agriculture Licensing and Inspection Fees Fund created under the act.

A certificate of free sale would be valid for one year.

Proposed MCL 286.217a

## FISCAL IMPACT:

As described in detail above, Senate Bill 1058 would amend the Insect Pest and Plant Disease Act, which establishes, under the authority of MDARD, a regulatory program for plant nursery dealers, nursery growers, and plant growers. Specifically, the bill would establish a fee for the issuance of a “certificate of free sale” under the act by MDARD.

Note that a certificate of free sale does not mean that the product is to be sold or distributed free of charge. Instead, “certificate of free sale” is a term used in trade to indicate that a product meets regulatory requirements and is free to be sold. The New York Department of Agriculture and Markets states:

A Certificate of Free Sale is a document required by certain countries or foreign governments for commodities which certifies that the imported food items are normally and freely sold in New York State and are approved for export. In New York, a Certificate of Free Sale is a document prepared by the Department containing information about a product’s regulatory or marketing status. This certificate is for food and dairy products that may be legally marketed in the United States.<sup>1</sup>

MDARD currently issues certificates of free sale under various regulatory programs, and has done so for a number of years. But only the Food Law currently recognizes “free sale letters.” Specifically, section 2125 of the Food Law establishes a fee for “free sale letters.” The fee was \$25 under the Food Law as originally enacted in 2000 and through September 30, 2015. The fee was increased to \$60 under 2015 amendments to the Food Law.<sup>2</sup>

Under House Bill 5744, which would amend the Food Law, the \$60 fee for a “certificate of free sale” would be the same as, and would replace, the current \$60 fee for a “free sale letter.”

Senate Bill 1058 would establish a \$60 “certificate of free sale” fee in the Insect Pest and Plant Disease Act, which is the same fee level as the certificate of free sale fee under the Food Law.

MDARD currently incurs costs associated with the work of preparing and issuing certificates of free sale. The proposed fees would, at least in part, offset those costs.

Total revenue from the proposed \$60 certificate of free sale fee cannot be readily estimated at this time. Revenue from the fee would be credited to the Agriculture Licensing and Inspection Fee Fund, a state restricted fund that supports various MDARD regulatory programs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>1</sup> <https://agriculture.ny.gov/food-safety/certificate-free-sale-food-products>.

<sup>2</sup> <http://legislature.mi.gov/doc.aspx?2015-HB-4470>