

HOUSE BILL NO. 6199

June 09, 2022, Introduced by Reps. Alexander, Steven Johnson, Tisdell, Bollin, Beeler, Calley, Meerman, Rendon, Bellino, Lightner, Clements, Eisen, Allor and Outman and referred to the Committee on Oversight.

A bill to amend 1945 PA 72, entitled

"An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts,"

by amending sections 1 and 5 (MCL 286.251 and 286.255), section 5 as amended by 2002 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. ~~(1) It shall be the duty of the commissioner of~~
 2 ~~agriculture whenever it comes to his attention~~ **It is the duty of**
 3 **the director, when he or she knows or has reason to know** that any
 4 ~~of the dangerous insects or infectious diseases exist or are~~
 5 supposed to exist within this state, to proceed without delay ~~to~~
 6 **and** examine the trees, shrubs, vines, plants, or fruits supposed to
 7 be infested or infected and all other ~~such trees, shrubs, vines,~~
 8 plants, or fruit, as he ~~may deem~~ **or she considers** advisable. If
 9 upon examination destructive insects or dangerously infectious
 10 diseases ~~are found to exist,~~ a distinguishing mark ~~shall~~ **must** be
 11 placed on the trees, shrubs, vines, or plants and a written notice
 12 ~~shall~~ **must** be served ~~upon~~ **on** the owner **of the trees, shrubs, or**
 13 **vines,** or his **or her** agent, with recommendations. ~~When~~

14 **(2) If** the owner or his **or her** agents cannot be found ~~it shall~~
 15 ~~be the duty of in accordance with subsection (1), the commissioner~~
 16 ~~of agriculture~~ **director** or his ~~deputies to give~~ **or her deputy shall**
 17 **provide** general notice ~~in the following manner~~ to every owner,
 18 possessor, or occupier of land and to every person or persons,
 19 firm, or corporation having charge of any land in this state,
 20 ~~whereon~~ **where** neglected, abandoned, or semi-abandoned fruit trees
 21 are growing, to cut and destroy ~~such plants;~~ **4 the fruit trees.**
 22 **Four notices must be provided under this subsection, and each**
 23 **notice must** not **be** less than 1 foot square ~~shall~~ **and must** be
 24 printed in clear readable type and posted ~~1 in each of in 4~~
 25 conspicuous places in the area. ~~, at~~ **At least 1 to be notice under**
 26 **this subsection must be posted** on the property. The ~~posting of such~~
 27 notices ~~shall take place under this subsection must be posted~~ at
 28 least 15 days ~~prior to~~ **before** the date upon which the trees must be
 29 cut. At the time of posting, ~~said notices~~ a copy of the ~~same shall~~

~~be mailed~~ **notices under this subsection must be mailed** to every owner, possessor, or occupant or occupier of land and to every person or persons, firm, or corporation financially interested therein, or having charge of any lands in this state, ~~whereon~~ **where** neglected or abandoned trees are growing, ~~whose postoffice~~ **if a mailing** address is known.

~~(3) In case the~~ **After receiving a notice under subsection (1) or (2), if an** owner refuses to accept the opinion of the inspector or inspectors, regarding the nature of an insect or a disease, or the remedy, ~~that shall be employed he or she~~ may appeal ~~within 10~~ days, to the ~~commissioner of agriculture~~ **director** by serving a written notice of ~~such~~ **the** appeal. The ~~commissioner of agriculture~~ **director** shall as soon as practicable investigate the matter and order the proper treatment, and his **or her** opinion or orders ~~shall~~ **be** final. ~~In cases where~~ **If** the owner appeals to the ~~commissioner of agriculture,~~ **director under this subsection** and the findings of the original inspector or inspectors are approved, ~~the~~ **any** expense incurred as a result of appeal ~~shall~~ **must** be paid by the owner.

(4) Within 24 hours after issuing a notice under subsection (1) or (2), the director or his or her agent shall notify the senate and house of representatives in writing.

(5) As used in this section, "director" means the director of the department of agriculture and rural development.

Sec. 5. ~~(1) The director of the department of agriculture and his or her inspectors, deputies, assistants, and employees may enter~~ **do both of the following:**

(a) Enter upon any premises in ~~the~~ **this** state for the purpose of examining trees, shrubs, vines, and plants for the presence of

destructive insects or diseases. ~~, and, if any such~~

(b) If any insects or diseases are found, may, under the provisions of this act, take the steps ~~as may be necessary to exterminate them. No damage shall be awarded for the destruction of any trees, shrubs, vines, plants, or fruit or for injury to same if done by the director of the department of agriculture or his or her authorized inspectors and assistants, in accordance with the provisions of this act, and the director considers it necessary in order to suppress dangerous insects and diseases, when the trees, shrubs, vines, and plants have already been attacked by dangerous insects or diseases. Whenever any~~ **the insects or diseases.**

(2) If a dangerous plant disease ~~, or destructive insect, which is new to or which has not become widely prevalent or distributed through or within the~~ **this** state, is found upon any trees, shrubs, vines, or plants, ~~in case and~~ it is considered necessary ~~in order to prevent the spread and the dissemination of said the plant disease or destructive insect, or disease, the director of the department of agriculture may cause any tree, shrub, vine, or plant likely to be attacked by such the plant disease or destructive insect, or disease, and which are any tree, shrub, vine, or plant growing within 3,000 feet of where the dangerous plant disease or dangerous insect or disease has been is found, to be treated with approved remedies, or, if this is not feasible, to be destroyed. However, if it becomes necessary to destroy any trees, shrubs, vines, or plants which have not already become attacked by said new and dangerous insect or disease, the~~

(3) The owner **of the trees, shrubs, vines, or plants destroyed under subsection (2)** shall be ~~recompensed~~ **compensated** for ~~their the~~ actual value ~~, the of the trees, shrubs, vines, or plants. The~~

1 amount ~~to~~ **of compensation under this subsection must** be fixed by 3
2 parties, 1 **party** to be selected by the owner, another **party to be**
3 **selected** by the director, ~~of the department of agriculture,~~ and the
4 third party to be selected by the other 2 ~~so selected.~~ **parties.** The
5 **director shall approve and certify to the state treasurer the**
6 amount awarded. ~~, when approved by the director of the department~~
7 ~~of agriculture, shall be certified to the~~ **The** state treasurer ~~, who~~
8 shall draw a warrant on the state treasurer for the payment of the
9 same from the general fund of ~~the~~ **this** state.

10 (4) As used in this section, "director" means the director of
11 the department of agriculture and rural development.