HB-4400, As Passed House, May 26, 2015HB-4400, As Passed Senate, May 26, 2015

SUBSTITUTE FOR

HOUSE BILL NO. 4400

A bill 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:

1 Sec. 3. (1) A person desiring to obtain a license under this

2 act to act as a dealer, broker, agent, or livestock trucker, or

3 to operate a livestock auction, buying station, or collection

4 point shall submit to the department an application for a

license. The application shall state the nature of the business, 1 the post office address of the applicant, the post office address 2 at or from which the business is to be conducted, and any 3 additional contact information. If the applicant desires to 4 5 operate a livestock yard where livestock are kept and sold at public or private sale, the application shall include that 6 information. The application shall include additional information 7 as requested by the director. 8

9 (2) Except as otherwise provided in this section, until
10 September 30, 2015, OCTOBER 1, 2019, the department shall charge
11 the following nonrefundable fees for initial and renewal license
12 applications:

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

19 (3) Each class of license listed in subsection (2) allows a 20 person to operate at all classes listed below that class without 21 requiring additional licensing. The licensee shall provide to the 22 department a list of all individuals employed by and operating in 23 license classes under his or her license.

24 (4) For each renewal application postmarked or delivered
25 after October 1 of each year, a late fee of an additional \$10.00
26 shall be imposed for each business day the application is late.

H02356'15 (H-1)

JCB

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 6 noncriminal fines received under this act and license or other 7 administrative fees received under this section into the 8 9 agriculture licensing and inspection fees fund created in section 10 9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209, to be used, pursuant to UPON appropriation, by the 11 12 department in administering and carrying out those duties 13 required by law under this act.

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

19 (7) The department shall issue an initial or renewal license 20 under this section not later than 60 days after the applicant 21 submits a completed application. Receipt of the application is 22 considered the date the application is received by the department. If the application is considered incomplete by the 23 24 department, the department shall notify the applicant in writing or electronically, within 30 days after receipt of the incomplete 25 application, describing the deficiency and requesting the 26 27 additional information. The 60-day period is tolled upon

H02356'15 (H-1)

JCB

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.

7 (8) If the department fails to issue or deny a license within the time required by this section, the department shall 8 return the license fee and shall reduce the license fee for the 9 10 applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this subsection 11 12 does not allow the department to otherwise delay the processing 13 of the application, and that application, upon completion, shall be placed in sequence with other completed applications received 14 at that same time. The department shall not discriminate against 15 16 an applicant in the processing of the application based upon the 17 fact that the license fee was refunded or discounted under this subsection. 18

(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

H02356'15 (H-1)

JCB

issued or other security. A surety bond shall be issued by a 1 surety company registered in this state to indemnify persons from 2 whom livestock is purchased or for whom livestock is sold. The 3 surety bond or other security shall be in such amounts, form, and 4 5 sufficiency as approved by the director. The amount of the bond 6 or other security shall be equal to the amount of gross dollar volume of livestock business conducted during the average week of 7 the previous licensing year by the applicant, but shall not be 8 9 less than \$1,500.00. If the average gross weekly livestock 10 business conducted by the applicant during the previous licensing year was greater than \$25,000.00, the bond shall be increased 11 12 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 13 weekly livestock business conducted during the previous year. A 14 licensee who owns or operates more than 1 livestock auction or 15 16 buying station may file 1 bond in an amount determined by the 17 formula described in this subsection. A licensee operating a 18 livestock auction or buying station who has filed a surety bond 19 for the livestock auction or buying station and indemnifies 20 persons from whom livestock is purchased or for whom livestock is 21 sold in accordance with the terms of any federal act is exempt 22 from the bonding requirements of this subsection if the bond is 23 equivalent in amount to that which would be required by this act. 24 The bond shall be for a licensee in which the department is SHALL BE the obligee ON THE BOND for the benefit and purpose of 25 protecting all persons selling or consigning livestock to the 26 27 licensee against the licensee's failure to pay amounts due on

JCB

1 livestock purchased by or consigned to them.

2 (11) Each licensee shall keep records and shall furnish, upon request, information concerning his or her purchases and 3 sales as may be required by the director for the purpose of 4 5 establishing the amount of bond required under subsection (10). 6 The director, in establishing the amount of the bond, shall take into consideration the dollar volume of livestock business and 7 other information furnished by the licensee. If a licensee did 8 not operate a livestock auction the previous licensing year, the 9 10 bond shall be for an amount established by the director after consideration of all information available on the probable weekly 11 12 gross dollar volume of business to be conducted by the licensee 13 during the licensing year.

14 (12) If during any licensing year the bond filed by a 15 licensee becomes less than required by this act because of an increase in gross dollar volume of livestock sales, or because of 16 17 a claim outside this state, the director may issue an order requiring the licensee to file an additional bond to cover the 18 19 increase in gross dollar volume of livestock sales. Failure to 20 comply with the orders of the director is grounds for suspension 21 or revocation of license. A bond or other security shall be 22 conditioned upon the faithful performance of the licensee's 23 duties as a dealer or broker and on the provisions of law 24 relating to the purchase of livestock by the licensee and for the 25 payment by the licensee of all livestock purchased by or consigned to the licensee as a dealer or broker in livestock. If 26 27 a bond or other security required under this act is canceled, the

H02356'15 (H-1)

JCB

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.

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

(14) A license issued under this section allows the holder 9 to conduct the business of dealer or broker at or from the place 10 named in the application. A person engaged in the business of 11 12 transporting livestock or negotiating or soliciting the 13 transportation or transfer of livestock that is not engaged in the buying, selling, reselling, exchanging, negotiating, or 14 soliciting the sale, resale, or exchange of livestock shall 15 obtain a license under this section but is not required to comply 16 with bonding or other security provisions of this section. 17

18 (15) A dealer, broker, livestock trucker, or agent shall
19 notify the director of a change of address within 5 days after
20 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.

27

(17) As used in this section, "completed application" means

H02356'15 (H-1)

JCB

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.

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