

**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

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

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.

1 The late fee for a new application submitted after a person is
2 operating as a class I, II, III, or IV operation as described in
3 subsection (2) shall be an additional \$10.00 per business day the
4 application is late. However, the total late fee shall not exceed
5 \$100.00.

6 (5) The department shall deposit administrative and
7 noncriminal fines received under this act and license or other
8 administrative fees received under this section into the
9 agriculture licensing and inspection fees fund created in section
10 9 of the insect pest and plant disease act, 1931 PA 189, MCL
11 286.209, to be used, ~~pursuant to~~ **UPON** appropriation, by the
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
23 department. If the application is considered incomplete by the
24 department, the department shall notify the applicant in writing
25 or electronically, within 30 days after receipt of the incomplete
26 application, describing the deficiency and requesting the
27 additional information. The 60-day period is tolled upon

1 notification by the department of a deficiency until the date the
2 requested information is received by the department. The
3 determination of the completeness of an application does not
4 operate as an approval of the application for the license and
5 does not confer eligibility of an applicant determined otherwise
6 ineligible for issuance of a license.

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

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

25 (10) Each person operating a livestock auction or buying
26 station shall file with his or her application for a license a
27 surety bond effective during the period for which the license is

1 issued or other security. A surety bond shall be issued by a
2 surety company registered in this state to indemnify persons from
3 whom livestock is purchased or for whom livestock is sold. The
4 surety bond or other security shall be in such amounts, form, and
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
7 volume of livestock business conducted during the average week of
8 the previous licensing year by the applicant, but shall not be
9 less than \$1,500.00. If the average gross weekly livestock
10 business conducted by the applicant during the previous licensing
11 year was greater than \$25,000.00, the bond shall be increased
12 above \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or
13 part thereof above \$25,000.00 of average gross dollar volume of
14 weekly livestock business conducted during the previous year. A
15 licensee who owns or operates more than 1 livestock auction or
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**
25 **BE** the obligee **ON THE BOND** for the benefit and purpose of
26 protecting all persons selling or consigning livestock to the
27 licensee against the licensee's failure to pay amounts due on

1 livestock purchased by or consigned to them.

2 (11) Each licensee shall keep records and shall furnish,
3 upon request, information concerning his or her purchases and
4 sales as may be required by the director for the purpose of
5 establishing the amount of bond required under subsection (10).
6 The director, in establishing the amount of the bond, shall take
7 into consideration the dollar volume of livestock business and
8 other information furnished by the licensee. If a licensee did
9 not operate a livestock auction the previous licensing year, the
10 bond shall be for an amount established by the director after
11 consideration of all information available on the probable weekly
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
16 increase in gross dollar volume of livestock sales, or because of
17 a claim outside this state, the director may issue an order
18 requiring the licensee to file an additional bond to cover the
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
26 consigned to the licensee as a dealer or broker in livestock. If
27 a bond or other security required under this act is canceled, the

1 license that is approved under that bond or other security is
2 considered immediately suspended without notice. An opportunity
3 for a hearing shall be provided to the licensee under the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 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.

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

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.

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

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

1 an application complete on its face and submitted with any
2 applicable licensing fees as well as any other information,
3 records, approval, security, or similar item required by law or
4 rule of a local unit of government, a federal agency, or a
5 private entity but not of another department or agency of this
6 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.