

# HOUSE BILL No. 4400

March 25, 2015, Introduced by Rep. Jenkins and referred to the Committee on Appropriations.

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  
5 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 operate a livestock yard where livestock are kept and sold at  
5 public or private sale, the application shall include that  
6 information. The application shall include additional information  
7 as requested by the director.

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

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

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

22 (4) For each renewal application postmarked or delivered  
23 after October 1 of each year, a late fee of an additional \$10.00  
24 shall be imposed for each business day the application is late.  
25 The late fee for a new application submitted after a person is  
26 operating as a class I, II, III, or IV operation as described in

1 subsection (2) shall be an additional \$10.00 per business day the  
2 application is late. However, the total late fee shall not exceed  
3 \$100.00.

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

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

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

1 determination of the completeness of an application does not  
2 operate as an approval of the application for the license and  
3 does not confer eligibility of an applicant determined otherwise  
4 ineligible for issuance of a license.

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

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

23 (10) Each person operating a livestock auction or buying  
24 station shall file with his or her application for a license a  
25 surety bond effective during the period for which the license is  
26 issued or other security. A surety bond shall be issued by a  
27 surety company registered in this state to indemnify persons from

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

27 (11) Each licensee shall keep records and shall furnish,

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

12 (12) If during any licensing year the bond filed by a  
13 licensee becomes less than required by this act because of an  
14 increase in gross dollar volume of livestock sales, or because of  
15 a claim outside this state, the director may issue an order  
16 requiring the licensee to file an additional bond to cover the  
17 increase in gross dollar volume of livestock sales. Failure to  
18 comply with the orders of the director is grounds for suspension  
19 or revocation of license. A bond or other security shall be  
20 conditioned upon the faithful performance of the licensee's  
21 duties as a dealer or broker and on the provisions of law  
22 relating to the purchase of livestock by the licensee and for the  
23 payment by the licensee of all livestock purchased by or  
24 consigned to the licensee as a dealer or broker in livestock. If  
25 a bond or other security required under this act is canceled, the  
26 license that is approved under that bond or other security is  
27 considered immediately suspended without notice. An opportunity

1 for a hearing shall be provided to the licensee under the  
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
3 24.328.

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

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

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

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

25 (17) As used in this section, "completed application" means  
26 an application complete on its face and submitted with any  
27 applicable licensing fees as well as any other information,

1 records, approval, security, or similar item required by law or  
2 rule of a local unit of government, a federal agency, or a  
3 private entity but not of another department or agency of this  
4 state.

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