

HOUSE BILL No. 5901

May 12, 2004, Introduced by Reps. Shaffer, Richardville, Shackleton, Stahl, Palsrok, Voorhees, Amos, LaJoy, Meyer, Garfield, Nitz, DeRoche, Milosch, Pumford, Hummel, Koetje, Steil, Bisbee, Hune, Tabor, DeRossett, Ehardt, Gaffney, Newell, Caswell, Taub, Walker, Moolenaar, Acciavatti, Kooiman, Hoogendyk, Huizenga, Caul, Nofs and Sheen and referred to the Committee on Agriculture and Resource Management.

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 2003 PA 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 3. (1) A person desiring to act as a dealer, broker,
2 or agent shall file an application with the department for a
3 license to engage in ~~that~~ **the business of dealer, broker, or**
4 **agent**. The application shall state the nature of the business,
5 the ~~post-office~~ **mailing** address of the applicant, and the
6 ~~post-office~~ **mailing** address at or from which the business is to

1 be conducted. If the applicant desires to operate a livestock
 2 yard where livestock is kept and sold at public or private sale,
 3 the application shall so state. The application may state
 4 additional information as requested by the director.

5 (2) ~~Beginning~~ **Subject to subsection (5) and beginning**
 6 October 1, 2003 through September 30, 2007, the ~~departments~~
 7 **department** shall charge and collect the following fees for
 8 initial and renewal license applications, which shall be
 9 deposited into the general fund:

- 10 (a) Class I (livestock auction)..... \$400.00.
 11 (b) Class II (collection point/buying station)..... \$250.00.
 12 (c) Class III (horse auction)..... \$150.00.
 13 (d) Class IV (dealer/broker/agent)..... \$50.00.

14 (3) ~~Through~~ **Subject to subsection (5) and through**
 15 September 30, 2003 or after September 30, 2007, the only fee the
 16 department shall charge and collect for the issuance and renewal
 17 of licenses under this section is a fee of \$5.00 for a dealer,
 18 broker, or agent license.

19 (4) A licensee who buys or sells livestock by weight shall
 20 employ a registered weighmaster to do all the weighing. The
 21 duties, qualifications, and requirements for registration of
 22 weighmasters shall be established by the director **by promulgation**
 23 **of a rule** under section 9.

24 (5) **Beginning the effective date of the amendatory act that**
 25 **amended this subsection, the department shall issue an initial or**
 26 **renewal dealer, broker, or agent license not later than 6 months**
 27 **after the applicant files a completed application. If the**

1 application is considered incomplete by the department, the
2 department shall notify the applicant in writing within 10 days
3 after receipt of the incomplete application, describing the
4 deficiency and requesting the additional information. The
5 6-month period is tolled upon notification by the department of a
6 deficiency until the date the requested information is received
7 by the department.

8 (6) If the department fails to issue or deny a license within
9 the time required by this section, the department shall return
10 the license fee and shall reduce the license fee for the
11 applicant's next renewal application, if any, by 15%. The
12 department shall not discriminate against an applicant in the
13 processing of the application based upon the fact that the
14 application fee was refunded or discounted under this
15 subsection.

16 (7) Beginning January 31, 2005, the director shall submit a
17 report by January 31 of each year to the standing committees and
18 appropriations subcommittees of the senate and house of
19 representatives concerned with agriculture issues. The director
20 shall include all of the following information in the report
21 concerning the preceding calendar year:

22 (a) The number of initial and renewal applications the
23 department received and completed within the 6-month time period
24 described in subsection (5).

25 (b) The number of applications requiring a request for
26 additional information.

27 (c) The average time for an applicant to respond to a request

1 for additional information.

2 (d) The number of applications rejected, categorized by
3 reason for rejection.

4 (e) The amount of money returned to licensees and registrants
5 under subsection (6).

6 (f) The number of applications not issued within the 6-month
7 period.

8 (g) The average processing time for initial and renewal
9 applications granted after the time period described in
10 subsection (5).

11 (8) ~~-(5)-~~ The application for that license and bond shall be
12 submitted to the director on or before October 1 of each year.
13 Each license issued under this section shall be for a period of 1
14 year commencing October 1 and ending the following September 30.

15 (9) ~~-(6)-~~ Each dealer, broker, or agent operating or
16 conducting a livestock auction shall file with his or her
17 application for a license a surety bond effective during the
18 period for which the license is issued. The surety bond shall be
19 issued by a surety company registered in this state to indemnify
20 persons from whom livestock is purchased or for whom livestock is
21 sold or other security and in such amounts, form, and sufficiency
22 as approved by the director. The amount of the bond shall be an
23 amount equal to the amount of gross dollar volume of livestock
24 business conducted during the average week of the previous
25 licensing year by the applicant, but in no case less than
26 \$1,500.00. If the average gross weekly livestock business
27 conducted by the applicant during the previous licensing year was

1 greater than \$25,000.00, the bond shall be increased above
2 \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part
3 thereof above \$25,000.00 on the average gross dollar-volume of
4 weekly livestock business conducted during the previous year. A
5 licensee who owns or operates more than 1 livestock yard or
6 livestock auction may file 1 bond in an amount determined by the
7 formula described in this subsection. Any dealer, broker, or
8 agent operating or conducting a livestock yard or livestock
9 auction who has filed a surety bond for the livestock yard or
10 livestock auction and indemnifies persons from whom livestock is
11 purchased or for whom livestock is sold in accordance with the
12 terms of any federal act is exempt from the bonding requirements
13 of this subsection provided the bond is equivalent in amount to
14 that which would be required by this act. The bond shall be for
15 a ~~livestock~~ dealer or broker and his or her agents in which the
16 department is the obligee for the benefit and purpose of
17 protecting all persons selling or consigning livestock to the
18 licensed dealer, broker, or agent against the licensed dealer's,
19 broker's, or agent's failure to pay amounts due on livestock
20 purchased by or consigned to them.

21 (10) ~~(7)~~ Each licensee shall keep records and shall
22 furnish, upon request, information concerning his or her
23 purchases and sales as may be required by the director for the
24 purpose of establishing the amount of bond required under
25 subsection ~~(6)~~ (9). The director, in fixing the amount of the
26 bond, shall take into consideration the dollar volume of
27 livestock business and other information furnished by the

1 ~~livestock~~ dealer, broker, or his or her agent. If a dealer,
2 broker, or agent did not operate a livestock auction the previous
3 licensing year, the bond shall be for an amount as shall be
4 established by the director after consideration of all
5 information available on the probable weekly gross dollar volume
6 of business to be conducted by the dealer, broker, or agent
7 during the licensing year.

8 (11) ~~(8)~~ If during any licensing year the bond filed by any
9 licensee becomes less than required by this act because of an
10 increase in gross dollar volume of livestock sales, the director
11 may issue an order requiring the licensee to file an additional
12 bond to cover the increase in gross dollar volume of livestock
13 sales. Failure to comply with the orders of the director is
14 grounds for suspension or revocation of license. A bond shall be
15 conditioned upon the faithful performance of the licensee's
16 duties as a dealer **or broker** and on the provisions of law
17 relating to the purchase of livestock by the ~~livestock~~ dealer
18 **or broker** and for the payment by the ~~livestock~~ dealer **or broker**
19 of all livestock purchased by or consigned to the ~~livestock~~
20 dealer **or broker** as a dealer **or broker** in livestock.

21 (12) ~~(9)~~ A license issued under this section allows the
22 holder to conduct the business of dealer or broker at or from the
23 place named in the application. A legal entity engaged in the
24 business of transporting livestock or negotiating or soliciting
25 the transportation or transfer of livestock that is not engaged
26 in the buying, selling, reselling, exchanging, negotiating, or
27 soliciting the sale, resale, or exchange of livestock must obtain

1 a license under this section but is not required to comply with
2 bonding provisions of this section.

3 **(13)** ~~—(10)—~~ A dealer, broker, or agent shall keep adequate
4 records of the producers' proceeds account in compliance with
5 section 3a and of all sales and purchases for a period of 2 years
6 in the manner required by the director. The records shall be
7 open to reasonable inspection by the department.

8 **(14)** ~~—(11)—~~ A dealer, broker, or agent shall notify the
9 director of a change of address within 5 days after that change.
10 Any change in ownership of any livestock auction or market shall
11 be reported to the director within 5 days by the licensee. Each
12 dealer or broker shall file with the director on January 1 of
13 each year a sworn statement of average weekly sales and a
14 statement showing the number and kinds of livestock purchased and
15 sold during the previous year.