

# SENATE BILL No. 386

April 22, 2003, Introduced by Senators BERNERO, SWITALSKI and LELAND 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).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

SENATE BILL No. 386

1           Sec. 3. (1) ~~Each~~ **A person desiring to act as a** dealer,  
2 broker, or agent ~~engaged in such business for the purposes~~  
3 ~~aforesaid~~ shall file an application with the department for a  
4 license to ~~transact such~~ **engage in that** business. The  
5 application shall state the nature of the business, the  
6 ~~postoffice~~ **post-office** address of the applicant, and the

1 ~~postoffice~~ **post-office** address at or from which the business is  
 2 to be conducted. If the applicant ~~shall~~ **desires to** operate a  
 3 livestock yard where livestock is kept and sold at public or  
 4 private sale, the application shall so state. The application  
 5 may state ~~such~~ additional information as **requested by** the  
 6 director. ~~of agriculture shall require. The application for~~  
 7 ~~license to engage in the business of dealer, broker or agent as~~  
 8 ~~herein defined shall be accompanied by a license fee of \$5.00~~  
 9 ~~payable to the director of agriculture and deposited to the~~  
 10 ~~general fund. When any livestock is purchased or sold by weight,~~  
 11 ~~such licensees~~

12 (2) The departments shall charge and collect the following  
 13 fees for initial and renewal license applications, which shall be  
 14 deposited into the general fund:

- 15 (a) Class I (livestock auction)..... \$800.00.  
 16 (b) Class II (collection point/buying station)..... \$500.00.  
 17 (c) Class III (horse auction)..... \$300.00.  
 18 (d) Class IV (dealer/broker/agent)..... \$50.00.

19 (3) A licensee who buys or sells livestock by weight shall  
 20 employ a registered weighmaster ~~who shall be required~~ to do all  
 21 the weighing. The duties, qualifications, and requirements for  
 22 registration of weighmasters shall be established by the director  
 23 ~~of agriculture~~ under ~~the provisions of~~ section 9. ~~of this~~  
 24 ~~act.~~

25 (4) The application for ~~such~~ **that** license and bond shall be  
 26 ~~made~~ **submitted** to the director ~~of agriculture~~ on or before  
 27 October ~~first~~ 1 of each year. Each license issued **under this**

1 **section** shall be for a period of 1 year commencing October 1 and  
2 ending the following September 30.

3 (5) Each dealer, broker, or agent operating or conducting a  
4 livestock auction shall file with his **or her** application for a  
5 license ~~and for~~ **a surety bond effective during** the period for  
6 which ~~such~~ **the** license ~~shall be~~ **is** issued. ~~a~~ **The** surety  
7 bond **shall be issued** by a surety company registered in ~~the~~ **this**  
8 state ~~of Michigan~~ to indemnify persons from whom livestock is  
9 purchased or for whom livestock is sold ~~;~~ or ~~with such~~  
10 ~~sureties~~ **other security** and in such amounts, form, and  
11 sufficiency as ~~shall be~~ approved by the director. ~~of~~  
12 ~~agriculture.~~ The amount of the bond shall be an amount equal to  
13 the amount of gross dollar volume of livestock business conducted  
14 during the average week of the previous licensing year by the  
15 applicant, but in no case less than \$1,500.00. If the average  
16 gross weekly livestock business conducted by the applicant during  
17 the previous licensing year was greater than \$25,000.00, the bond  
18 shall be increased above \$25,000.00, at the rate of \$1,000.00 for  
19 each \$5,000.00 or part thereof above \$25,000.00 on the average  
20 gross dollar-volume of weekly livestock business conducted during  
21 the previous year. A licensee who owns or operates more than 1  
22 livestock yard or livestock auction may file 1 bond in an amount  
23 determined by the ~~foregoing~~ formula **described in this**  
24 **subsection.** Any dealer, broker, or agent operating or conducting  
25 a livestock yard or livestock auction who has filed a surety bond  
26 for ~~such~~ **the** livestock yard or livestock auction ~~which~~ **and**  
27 indemnifies persons from whom livestock is purchased or for whom

1 livestock is sold in accordance with the terms of any federal act  
2 ~~shall be~~ **is** exempt from the bonding requirements of this  
3 ~~section~~ **subsection** provided the bond is equivalent in amount to  
4 that which would be required by this act. The bond shall be for  
5 a livestock dealer or broker and his **or her** agents in which the  
6 department ~~of agriculture shall be~~ **is** the obligee ~~but which~~  
7 ~~shall be~~ for the benefit and purpose of protecting all persons  
8 selling or consigning livestock to ~~such~~ **the** licensed dealer,  
9 broker, or agent against the licensed dealer's, broker's, or  
10 agent's failure to pay amounts due on livestock purchased by or  
11 consigned to them.

12 (6) Each licensee shall keep ~~such~~ records and shall  
13 furnish, upon request, ~~such~~ information concerning his **or her**  
14 purchases and sales as may be required by the director for the  
15 purpose of establishing the amount of bond required ~~hereunder~~  
16 **under subsection (5)**. The director, in fixing the amount of the  
17 bond, shall take into consideration the dollar volume of  
18 livestock business and other information furnished by the  
19 livestock dealer, broker, or his **or her** agent. If a dealer,  
20 broker, or agent did not operate a livestock auction the previous  
21 licensing year, the bond shall be for an amount as shall be  
22 established by the director after ~~his~~ consideration of all  
23 information available ~~to him~~ on the probable weekly gross  
24 dollar volume of business ~~which will~~ **to** be conducted by the  
25 dealer, broker, or agent during the licensing year.

26 (7) If during any licensing year the bond filed by any  
27 licensee becomes less than required by this act because of an

1 increase in gross dollar volume of livestock sales, the director  
 2 may ~~require~~ **issue an order requiring** the licensee to file an  
 3 additional bond to cover the increase in gross dollar volume of  
 4 livestock sales. Failure to comply with the orders of the  
 5 director ~~shall be reason~~ **is grounds** for suspension or  
 6 revocation of license. ~~Such~~ **A** bond shall be conditioned upon  
 7 the faithful performance of ~~his~~ **the licensee's** duties as a  
 8 dealer and on the provisions of law relating to the purchase of  
 9 livestock by ~~such~~ **the** livestock dealer ~~—~~ and for the payment  
 10 by ~~said~~ **the** livestock dealer of all livestock purchased by or  
 11 consigned to ~~such~~ **the** livestock dealer as a dealer in  
 12 livestock. ~~The fees collected by the director of agriculture~~  
 13 ~~shall be turned over to the state treasury and shall be credited~~  
 14 ~~to the general fund. The said~~

15 **(8) A license shall entitle issued under this section**  
 16 **allows** the holder ~~thereof~~ to conduct the business of dealer or  
 17 broker ~~as defined in this act~~ at or from the place named in the  
 18 application. ~~∴ Provided, however, That every business,~~  
 19 ~~association, partnership or corporation~~ **A legal entity** engaged  
 20 in the business of transporting livestock ~~—~~ or negotiating or  
 21 soliciting the transportation or transfer of livestock ~~—, and who~~  
 22 ~~shall~~ **that is** not ~~be~~ engaged in the buying, selling,  
 23 reselling, exchanging, ~~or~~ negotiating, or soliciting **the** sale,  
 24 resale, or exchange of ~~such~~ livestock ~~—, shall be required to~~  
 25 **must** obtain ~~the~~ **a** license ~~provided for in~~ **under** this section  
 26 but ~~shall~~ **is** not ~~be~~ required to comply with bonding  
 27 provisions of this ~~act~~ **section.**

1           (9) ~~Every~~ A dealer, broker, or agent shall keep adequate  
2 records of the producers' proceeds account ~~as defined~~ in  
3 **compliance with** section 3a ~~of this act~~ and of all sales and  
4 purchases for a period of 2 years in ~~such~~ **the** manner ~~as shall~~  
5 ~~be~~ required by the director. ~~of agriculture, and which~~ **The**  
6 records shall be open to **reasonable** inspection by the department.  
7 ~~of agriculture. Any~~

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