

HOUSE BILL No. 5993

May 15, 2018, Introduced by Rep. Marino and referred to the Committee on Oversight.

A bill to amend 1931 PA 189, entitled
"The insect pest and plant disease act,"
by amending section 9 (MCL 286.209), as amended by 2012 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) A person growing or desiring to sell nursery stock
2 in this state shall, on or before October 31 of each year, apply to
3 the director for a license. A person that is a nursery dealer that
4 only purchases nursery stock grown in this state by a nursery
5 grower in this state that holds a valid nursery license and
6 certificate of inspection is not required to apply for a license,
7 but instead shall, on or before October 31 of each year, register
8 with the director as a nursery dealer. The fee to register as a
9 nursery dealer is \$35.00. The annual nursery license fee is

1 \$100.00. The annual license fee for plant growers or plant dealers
2 is \$100.00. The annual license fee for nursery dealers is \$100.00.
3 For persons growing less than 1/4 acre of nursery stock or
4 utilizing less than 200 square feet of greenhouse space, the fee
5 for a license is \$40.00. License fees provided for in this act are
6 due and payable at the office of the director on or before October
7 31 of each year. The fees imposed in this subsection are subject to
8 subsection (8).

9 (2) The agriculture licensing and inspection fees fund is
10 created within the state treasury. The state treasurer may receive
11 license and inspection fees and administrative and civil fines
12 received pursuant to this act and other acts, as provided for by
13 law, that are administered by the department for deposit into the
14 agriculture licensing and inspection fees fund. The state treasurer
15 may also receive money or other assets from any other source for
16 deposit into the agriculture licensing and inspection fees fund.
17 The state treasurer shall direct the investment of the agriculture
18 licensing and inspection fees fund and shall credit to the
19 agriculture licensing and inspection fees fund interest earnings
20 from fund investments. Money in the agriculture licensing and
21 inspection fees fund at the close of the fiscal year ~~shall~~**MUST**
22 remain in the fund and ~~shall~~ not lapse to the general fund. The
23 department shall expend money from the agriculture licensing and
24 inspection fees fund, upon appropriation, for the purpose of
25 administering and carrying out those duties required by law under
26 this act and other acts, as provided by law, that are administered
27 by the department. The department shall be the administrator of the

1 agriculture licensing and inspection fees fund for auditing
2 purposes.

3 (3) Subject to subsection (4), license fees, inspection fees,
4 and other noncriminal fees collected under this section and section
5 6 and administrative fines imposed under this act ~~shall~~**MUST** be
6 deposited into the agriculture licensing and inspection fees fund,
7 to be used, upon appropriation, by the director in administering
8 and carrying out those duties required by law under this act and to
9 develop and improve training and outreach programs for the purpose
10 of safeguarding plants or plant products from unwanted plant pests.

11 (4) The horticulture fund is created within the state
12 treasury. The state treasurer may receive money or other assets
13 from any source for deposit into the horticulture fund. Up to
14 \$70,000.00 of the funds generated through licensing may be
15 deposited into the horticulture fund each year. The state treasurer
16 shall direct the investments of the horticulture fund. The state
17 treasurer shall credit interest and earnings from horticulture fund
18 investments to the horticulture fund. Assets in the horticulture
19 fund at the close of the fiscal year ~~shall~~**MUST** remain in the
20 horticulture fund and ~~shall~~ not lapse to the general fund. The
21 director shall administer the horticulture fund and shall expend
22 money from the horticulture fund, upon appropriation, to provide
23 for research projects, to develop and improve training programs,
24 and to develop outreach materials for the purposes of safeguarding
25 plants or plant products from unwanted plant pests. The director
26 shall administer the horticulture fund with advice and consultation
27 from the horticultural advisory committee created in subsection

1 (5).

2 (5) There is created a horticulture advisory committee.
3 Members of this committee, to be named by the director, ~~shall~~**MUST**
4 include representatives from the horticulture industry.

5 (6) This section does not apply to persons engaged in fruit
6 growing that are not nursery growers but desire to sell or exchange
7 surplus small fruit plants of their own growing, or to farmers or
8 other persons that may sell or give away wild shade trees, wild
9 shrubs, wild vines, wild hardy perennials, or wild evergreens from
10 their own premises.

11 (7) The director shall issue an initial or renewal license
12 under this section not later than 90 days after a completed
13 application for the license is received by the department. If the
14 application is considered incomplete by the director, the director
15 shall notify the applicant in writing, or make the information
16 electronically available, within 30 days after receipt of the
17 incomplete application, describing the deficiency and requesting
18 the additional information. The 90-day period is tolled upon
19 notification by the director of a deficiency until the date the
20 requested information is received by the director. The
21 determination of the completeness of an application does not
22 operate as an approval of the application for the license and does
23 not confer eligibility of an applicant determined otherwise
24 ineligible for issuance of a license. The director shall not
25 discriminate against an applicant in the processing of the
26 application based upon the fact that the license fee was refunded
27 or discounted under subsection (8).

1 (8) If the director fails to issue or deny a license within
2 the time required by this section, the director shall return the
3 license fee and shall reduce the license fee for the applicant's
4 next renewal application, if any, by 15%. The failure to issue a
5 license within the time required under this section does not allow
6 the department to otherwise delay the processing of the
7 application, and that application, upon completion, shall ~~shall~~ **MUST** be
8 placed in sequence with other completed applications received at
9 that same time.

10 ~~—— (9) The director shall submit a report by December 1 of each~~
11 ~~year to the standing committees and appropriations subcommittees of~~
12 ~~the senate and house of representatives concerned with agricultural~~
13 ~~issues. The director shall include all of the following information~~
14 ~~in the report concerning the preceding fiscal year:~~

15 ~~—— (a) The number of initial and renewal applications the~~
16 ~~department received and completed within the 90-day time period~~
17 ~~described in subsection (7).~~

18 ~~—— (b) The number of applications denied.~~

19 ~~—— (c) The number of applicants not issued a license within the~~
20 ~~90-day time period and the amount of money returned to licensees~~
21 ~~and registrants under subsection (8).~~

22 **(9)** ~~(10)~~ As used in this section, "completed application"
23 means an application complete on its face and submitted with any
24 applicable licensing and inspection fees as well as any other
25 information, records, approval, security, or similar item required
26 by law or rule from a local unit of government, a federal agency,
27 or a private entity but not from another department or agency of

1 this state.