

## MARKET CONDITIONS Act 91 of 1915

AN ACT to provide for the investigation and improvement of marketing conditions and establishing the office of market director and prescribing the duties and powers thereof; and to prescribe penalties for the violation of the provisions of this act.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—Am. 1937, Act 322, Eff. Oct. 29, 1937.

*The People of the State of Michigan enact:*

### **285.31 Investigation of market conditions; director and employes.**

Sec. 1. That the state board of agriculture is hereby authorized to undertake the investigation and improvement of market conditions for Michigan products and appoint a competent and experienced person as director of markets and such other competent and experienced persons as may be necessary to carry out the intent of this act. The state board of agriculture shall direct and control the purposes of this act and fix the compensation of directors and employes.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7918;—CL 1929, 5033;—CL 1948, 285.31.

**Compiler's note:** The office of market director was abolished and the powers and duties thereof transferred to the state department of agriculture. See MCL 285.2.

### **285.32 Director; duties, powers, assistance to cooperative associations.**

Sec. 2. The director of markets shall investigate production and marketing farm products and for the exercise of such authority shall have the power to summon witnesses, issue subpoenas, compel attendance of witnesses and the production of evidence. The director of markets shall assist in organization of cooperative and other associations for improving the relations and services among producers, distributors and consumers and afford them such services under adequate rules and regulations as relate to standardizing, grading, packing, handling, storage and sale of products within the state of Michigan not contrary to law, and enforce such rules and regulations by actions or proceedings in any court of competent jurisdiction.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7919;—CL 1929, 5034;—CL 1948, 285.32.

**Administrative rules:** R 285.523.1 et seq. and R 285.537.1 et seq. of the Michigan Administrative Code.

### **285.32a "Farm product" defined; permissive grading system; compliance with MCL 289.701 et seq. and MCL 290.601 et seq.**

Sec. 2a. (1) For purposes of this section and sections 2b and 2c, "farm product" means fresh fruit or vegetables.

(2) The director of markets shall not impose any mandatory system of grading on a farm product subject to this act. However, a person producing, distributing, or selling a farm product may identify a farm product as conforming to a grade or grading system if either of the following conditions are met:

(a) The grade or grading system conforms with either of the following:

(i) The standards established by the secretary of the United States Department of Agriculture.

(ii) The standards described in section 2b.

(b) The grade or grading system used by the person has been approved by the department of agriculture as at least comparable to the grading system described in section 2b and has been registered with the department.

(3) The permissive grading system provided by this section and sections 2b and 2c does not apply to table stock potatoes subject to Act No. 220 of the Public Acts of 1929, as amended, being sections 290.151 to 290.162 of the Michigan Compiled Laws.

(4) A person who identifies a farm product according to the permissive grading system provided in this section and sections 2b and 2c shall comply, in addition, with all of the applicable labeling requirements of the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws, and the weights and measures act of 1964, Act No. 283 of the Public Acts of 1964, being sections 290.601 to 290.634 of the Michigan Compiled Laws.

**History:** Add. 1985, Act 83, Imd. Eff. July 5, 1985.

### **285.32b Identification of farm product as meeting certain grade; use of specific market name or logo; identification of tomatoes; definitions.**

Sec. 2b. (1) A person producing, distributing, or selling a farm product may identify that farm product as meeting 1 of the following grades if the product actually conforms to the standards of that grade:

(a) "Fresh market #1" means that the farm product is part of a lot that reflects the overall quality of the

entire crop and that meets all of the following:

(i) Is free from mold, decay, breakdown, sunscald, worms, or wormholes.

(ii) Is not misshapen.

(iii) Is free from serious damage by mechanical devices, disease, insects, freezing, or other causes seriously affecting the edible or shipping quality of the product.

(iv) Contains not more than a total of 10% of all of the defects described in subparagraphs (i) to (iii), and contains not more than 2% of the defect described in subparagraph (i).

(v) Contains not more than 5% of the farm products that are smaller than the minimum size marked on the container or otherwise specified.

(b) "Fresh market #2" means that the farm product is part of a lot that meets the same standards as the "fresh market #1" grade, but from which superior quality farm products have been picked out.

(2) A specific market name or logo may be used in conjunction with the grades described in subsection (1)(a) and (b) of this section if the market name has been registered with the department of agriculture as required by section 2a as part of the grade or grading system.

(3) A person producing, distributing, or selling tomatoes may identify the tomatoes as meeting 1 of the following grades if the tomatoes actually conform to the standards of that grade:

(a) "Michigan No. 1" means tomatoes grown in this state of similar varietal characteristics which are mature but not overripe or soft; which are fairly well formed, free from decay, freezing injury, and from damage caused by dirt, bruises, cuts, sunscald, sunburn, puffiness, scars, catfaces, growth cracks, insects, hail, and free from visible disease at shipping point. In order to allow for variations incident to proper grading and handling, not more than 10%, by count, of the tomatoes in any lot may be below the requirements of this grade but not more than 1/10 of this amount, or 1%, shall be allowed for soft ripe tomatoes or tomatoes affected by decay. However, when a tolerance of 10% is provided, individual containers in the lot shall not exceed 1-1/2 times the tolerance, and when a tolerance of less than 10% is provided, individual containers shall not contain more than double the tolerance.

(b) "Michigan No. 2" means tomatoes grown in this state of similar varietal characteristics which are mature but not overripe or soft; not badly misshapen; free from decay, unhealed cuts, freezing injury, and from serious damage caused by bruises, sunscald, sunburn, catfaces, growth cracks, scars, disease, hail, or mechanical or other means; puffiness; or insects. In order to allow for variations other than size incident to proper grading and handling, not more than a total of 10%, by count, of the tomatoes in any lot may be below the requirements of this grade but not more than 1/10 of this amount, or 1%, shall be allowed for soft ripe tomatoes or tomatoes affected by decay.

(4) As used in subsection (3):

(a) "Badly misshapen" means that the tomato is so badly deformed that its appearance is seriously affected.

(b) "Damage" means any injury which materially affects the appearance or the edible or shipping quality.

The following shall be considered as damage:

(i) Cuts that are not shallow, not well healed, or more than 1/2 inch in length.

(ii) Puffy tomatoes. These tomatoes are usually angular and flat-sided. They are damaged if open space in 1 or more locules materially affects the appearance when the tomato is cut through the center at right angles to a line running from the stem to the blossom end.

(iii) Scars, except catfaces, when aggregating more than 3/4 inch in diameter.

(iv) Catfaces, when scars are rough or deep, when channels are very deep or wide, or, if the catface is fairly smooth, with an area greater than that of a circle 3/4 inch in diameter.

(v) Growth cracks radiating from or concentric to stem scar when not well healed, or when individual radial cracks are more than 1/2 inch in length not to exceed an aggregate length of all radial cracks of 1-1/2 inch, measured from the stem scar. Concentric cracks permitted that do not affect the appearance of the tomato to a greater extent than the maximum radial cracks permitted.

(c) "Fairly well formed" means that the tomato is not decidedly kidney shaped, lopsided, elongated, angular, or otherwise deformed.

(d) "Mature" means that the contents of the seed cavities have begun to develop a jelly or glue-like consistency and the seeds are well developed.

(e) "Serious damage" means any injury that seriously affects the appearance, edible or shipping quality, or that cannot be removed in the ordinary process of trimming without a loss of more than 20%, by weight, of the tomato in excess of that which would occur if the tomato were perfect. The following shall be considered as "serious damage":

(i) Soft ripe tomatoes or tomatoes affected by decay.

(ii) Fresh holes or cuts through the tomato wall.

(iii) Tomatoes showing any effects of freezing.

(iv) Puffiness that causes the tomato to be distinctly light in weight.

(v) Tomatoes actually infested with worms.

(vi) Catfaces that are irregular, dark leathery scars at the blossom end of the tomato. These scars seriously damage the tomato when they are fairly smooth and greater in area than a circle 1 inch in diameter, or when rough or deep, or when channels extend deeply into the tomato.

(vii) Growth cracks that are ruptures or cracks radiating from the stem scar, or cracks concentric to the stem scar. These growth cracks seriously damage the tomato when they are not well healed, or when they are more than 1 inch in length, not to exceed 3 cracks to the tomato, except that very narrow well healed cracks concentric to the stem scar shall not be considered as serious damage unless they are so numerous as to seriously damage the appearance of the tomato.

(f) "Similar varietal characteristics" means that the tomatoes are alike as to firmness of flesh and shade of color, i.e., that soft-fleshed early maturing varieties are not mixed with firm-fleshed mid-season or late varieties, and that bright red varieties are not mixed with varieties having a purplish tinge.

**History:** Add. 1985, Act 83, Imd. Eff. July 5, 1985.

### **285.32c Representations on face of container; overfacing container as violation of act.**

Sec. 2c. The shown face of a container of farm products shall represent accurately the size, shape, color, and overall quality of the remaining contents of the container. Overfacing a container of farm products is a violation of this act.

**History:** Add. 1985, Act 83, Imd. Eff. July 5, 1985.

### **285.33 Director; information to producers.**

Sec. 3. The director of markets shall give information to Michigan producers on the market conditions in the various states of the union.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7920;—CL 1929, 5035;—CL 1948, 285.33.

### **285.34 Director; cooperation with United States; auction markets.**

Sec. 4. The director of markets is hereby authorized to cooperate with the United States department of agriculture through any of its agents or employes, and also with any of the joint agents or agencies of the United States and those employed or controlled by the state board of agriculture in market and food investigations, organization, standardizing, grading, packing, handling, storage and sale of products, and to provide for auction markets and licensed auctioneers within the state of Michigan, or otherwise in such manner as may be deemed advisable under established rules of safe-guarding the distribution of farm products and fix reasonable charges or fees for services rendered in the sale of products.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7921;—CL 1929, 5036;—CL 1948, 285.34.

### **285.35 Director; schedule of fees, basis, deposit to general fund.**

Sec. 5. The director of markets shall adopt and may amend from time to time schedules of fees to be charged for standardizing and standard labels for inspection at receiving, shipping or distributing centers or such other services as may be rendered under this act. All such fees shall be made with a view to the minimum cost and to make this department self-sustaining. All fees shall be turned into the state treasury and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7922;—CL 1929, 5037;—Am. 1937, Act 322, Eff. Oct. 29, 1937;—CL 1948, 285.35;—Am. 1949, Act 130, Imd. Eff. May 20, 1949.

### **285.36 Director; bulletins, contents, publication.**

Sec. 6. The director of markets shall publish bulletins setting forth market conditions and prices as far as possible and advising as to the available supplies of products, the approved methods of standards and grades and best means of marketing. He may at his discretion publish the names of producers, distributors and consumers, and advices as to marketing.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7923;—CL 1929, 5038;—CL 1948, 285.36.

### **285.37 Director; transportation delays, report; violation of laws; food spoilage; prevention of waste.**

Sec. 7. The director of markets in addition to his other duties, shall investigate and report to the state railway commission delays and inadequacies of transportation of food supplies. He shall also report to the attorney general the violation of laws in restraint of trade or unlawful combinations to fix prices of food stuffs. When food stuffs are liable to spoil for lack of ready market, he may take such steps as are advisable to

benefit the producer and consumer and in preventing waste: Provided, however, That this provision shall not apply to fruits and vegetables already marketed.

**History:** 1915, Act 91, Eff. Aug. 24, 1915;—CL 1915, 7924;—CL 1929, 5039;—CL 1948, 285.37.

**Compiler's note:** The state railway commission, referred to in this section, was abolished and its powers and duties transferred to public utilities commission by MCL 460.53. The public utilities commission was subsequently abolished and its powers and duties transferred to the public service commission by MCL 460.4.

### **285.38 Commissioner of agriculture; inspection, certificates; exception.**

Sec. 8. The commissioner of agriculture, in person or by some person authorized by him, shall have free access to any place or conveyance wherein farm products are being marketed, transported or held for commercial purposes. The commissioner of agriculture, in person or by some person authorized by him, shall have power to open any bag, crate or other container of such farm products and examine the contents thereof, and may, upon tendering the market price, take samples therefrom. The commissioner of agriculture may employ inspectors to inspect farm products in accordance with established official grades or standards for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the farm products inspected and any other pertinent facts that the commissioner may require. Such a certificate and all federal certificates relative to the condition or quality of such farm products shall be prima facie evidence in all courts of the state of the facts required to be stated therein: Provided, however, That the provisions of this act shall not apply to the grower in the sale of farm products grown by himself when made direct to the consumer.

**History:** Add. 1937, Act 322, Eff. Oct. 29, 1937;—CL 1948, 285.38.

**Former law:** See CL 1915, § 7925; CL 1929, § 5040.

### **285.39 Violation of act; misdemeanor.**

Sec. 9. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

**History:** Add. 1937, Act 322, Eff. Oct. 29, 1937;—CL 1948, 285.39.