



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5653 (Substitute H-2 as passed by the House)
 Sponsor: Representative Carl F. Gnodtke
 House Committee: Agriculture and Forestry
 Senate Committee: Agriculture and Forestry

Date Completed: 5-14-96

CONTENT

The bill would amend the Animal Industry Act to do the following:

- **Regulate the importation of aquaculture into this State.**
- **Expand the options of the Director of the Department of Agriculture regarding illegally imported livestock.**
- **Increase the maximum amount of State indemnification per animal for slaughtered livestock; allow the Department to provide for up to \$10,000 in indemnification from any line item in the Department's budget; and provide that indemnification over \$10,000 would be subject to legislative appropriations.**
- **Prohibit a person from exposing swine to, or feeding swine, garbage, offal, or carcasses.**
- **Revise provisions concerning the importation and movement of poultry.**
- **Revise requirements regarding fairs and exhibitions, particularly concerning swine.**
- **Allow the Director to recover costs and attorney fees incurred in prosecutions under the Act.**
- **Authorize the Director to impose an administrative fine for violations of the Act.**
- **Require the Department to keep a data base of captive cervidae premises.**

aquaculture into this State without a prior entry permit from the Director and one of the following issued by an accredited veterinarian or a fish health official:

- Official interstate health certificate.
- Official interstate certificate of veterinary inspection.
- Fish disease inspection report.

("Fish disease inspection report" would mean a document available from the Great Lakes Fishery Commission completed by a fish health official giving evidence of inspections and diagnostic work performed. "Fish health official" would mean a fish health specialist identified by member agencies of the Great Lakes Fish Disease Control Committee to the chair of that committee responsible for conducting fish-hatchery inspections and issuing inspection reports.)

The bill also would prohibit a person from importing aquaculture from a hatchery or other facility with a record of an emergency fish disease within the past two years. In addition, a person could not import aquaculture exhibiting clinical signs of disease.

Currently, the Act defines "aquaculture" as aquatic organisms such as fish, crustaceans, mollusks, reptiles, and amphibians, reared or cultivated under controlled conditions. The bill, instead, would define "aquaculture" as the commercial husbandry of aquaculture species on the approved list of aquaculture species under the Michigan Aquaculture Development Act (proposed by enrolled House Bill 5555), including the culturing, producing, growing, using, propagating, harvesting, transporting, importing, exporting, or marketing of any products, coproducts, or by-products of fish, crustaceans, mollusks, reptiles,

Aquaculture

The Act currently requires livestock, except for aquaculture, imported into this State to be accompanied by a particular certificate or other document. The bill would remove the exception for aquaculture. A person could not import

and amphibians, reared or cultured under controlled conditions in an aquaculture facility.

“Aquaculture facility” would mean a farm or farm operation engaged in any aspect of aquaculture in privately controlled waters capable of holding all life stages of aquacultural species with a barrier or enclosure designed to prevent their escape into waters of the State. The term would not include any facility not regulated under the proposed Michigan Aquaculture Development Act.

Importation/Movement of Livestock

The bill would prohibit a person from importing or moving intrastate livestock known to be affected with or exposed to tuberculosis or brucellosis, as determined by an official test, without permission of the Director.

If the Director determined that there was a threat to public health or a threat to the health of animals in this State, he or she could require additional testing and vaccination requirements for animals imported or to be imported into the State.

Currently, if an animal is imported into this State without the required official tests or documents, the Director may quarantine the animal; require that the required tests or documents be performed or obtained at the owner’s expense; and/or require the animal to be returned to the state of origin within 10 days. Under the bill, the Director also could do the following:

- Order the slaughter, destruction, or other disposition of the livestock, if the Director determined that the control or eradication of a disease or condition of the livestock was warranted. Livestock determined to be imported without meeting import requirements would not be subject to indemnification.
- Allow a direct movement of the animal or animals to slaughter by permit.
- Allow legal importation into another state.

Destruction/Indemnification

Currently, if the Director determines that the control or eradication of a disease or condition of livestock warrants the slaughter, destruction, or other disposition of the livestock, the Director must order that action and notify the Attorney General of the order. The Attorney General then must notify the Senate and House Appropriations Committees and the Department of Management and Budget

(DMB). Under the bill, the Director would have to notify the Appropriations Committees and the DMB, as well as the Attorney General.

The Act permits the Director to allow indemnification for the slaughter, destruction, or other disposition of livestock. Indemnification must be based upon 75% of the fair market value of that type of livestock on the date of the appraisal, not to exceed \$1,000 for each animal, less any compensation from any other source. The bill would increase that amount to \$1,250.

The bill would delete requirements that indemnification be subject to annual appropriations by the Legislature and not be paid from Department funds, and that any agreement entered into between the Department and a livestock owner contain a provision indicating that indemnification must be subject to appropriations by the Legislature. The bill specifies instead that the Department could provide for indemnity not to exceed \$10,000 per order, from any line item in the annual budget for the Department in the applicable fiscal year. Any agreement greater than \$10,000 entered into between the Department and an owner would have to contain a provision indicating that indemnification would have to be subject to specific appropriations by the Legislature and not be paid from Department funds.

The Act provides that the right to indemnity from the State does not apply to livestock determined to be imported without meeting import requirements, required testing, and required vaccination. The bill also provides that the right to indemnity would not apply to livestock determined by the Department to have been illegally moved within this State.

Currently, livestock ordered to be slaughtered, destroyed, or otherwise disposed of because of tuberculosis must be branded on the left jaw with a letter “T”. The bill would require branding on the left hip, instead of jaw, and would require tuberculosis reactor cattle and bison also to be identified by a permanent and legible tuberculosis tattoo and spray of yellow paint on the left ear. Livestock ordered to be slaughtered, destroyed, or disposed of because of brucellosis would have to be branded with a letter “B” on the left hip, rather than jaw.

Quarantine

The Act authorizes the Director to declare a quarantine on animals or premises in any district

or region of this State for the purpose of controlling or preventing the spread of a known or suspected infectious, contagious, or toxicological disease. The bill would delete reference to “any district or region”.

In addition to the Act’s current quarantine provisions, the bill would prohibit a person from importing into this State an animal species from an area under quarantine for that species for any infectious, contagious, or toxicological disease unless permission were granted from the Director.

Swine

The bill would prohibit a person from exposing swine to garbage, or using garbage, offal, or carcasses as feed for swine. The Director would have full access to inspect any premises or conveyance upon reasonable grounds to believe or suspect that garbage, offal, or carcasses were being used as feed for swine or that garbage, offal, or carcasses could expose swine to a communicable disease. The Director would have to quarantine swine determined to have been exposed to, in contact with, or fed garbage, offal, or carcasses. The quarantine would have to continue until the Director determined that the swine were not a threat to animal or public health.

The bill would define “garbage” as animal meat wastes, including poultry and fish wastes, or other animal material from the handling, processing, preparation, cooking, and consumption of foods; garbage would include any refuse of any type that had been associated with any animal meat material at any time during the handling, preparation, cooking, or consumption of food. “Offal” would mean waste parts resulting from the processing of animals, poultry, and fish. “Carcasses” would mean the dead bodies of animals, poultry, or fish. None of the terms would include rendered products, i.e., waste material derived in whole or in part from meat of any animal or other animal material and other refuse of any character whatsoever that had been associated with any such material at any time during the handling, preparation, cooking, or consumption of food that had been ground and heat-treated to a minimum temperature of 230 degrees Fahrenheit to make products including animal protein meal, poultry protein meal, fish protein meal, grease, or tallow; rendered products also would include bakery wastes, eggs, candy wastes, and domestic dairy products including milk.

Poultry

Currently, all poultry and hatching poultry eggs imported into this State must be accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection or a “report of sales of hatching eggs, chicks, and poulters” for participants in the National Poultry Improvement Plan (NPIP), and must meet all current requirements outlined in that plan. Under the bill, poultry and hatching eggs would have to be accompanied by an interstate certificate or report, as presently specified, or by an owner shipper statement or sales invoice if consigned directly to slaughter, or a “permit for movement of restricted animals”, if prior approval were granted by the Director.

The bill would repeal a section providing that, to control and eradicate poultry diseases, the Director may assure that each commercial hatchery and hatchery supply flock within the State qualifies as “United States pullorum-typhoid, MG, MM, and MS clean” (MCL 287.718). Under the bill, poultry and hatching eggs, other than those moving directly from premises of origin to premises of final destination within this State, would have to meet one or both of the following:

- Originate directly from a U.S. pullorum-typhoid clean flock as defined in Title 9 of the Code of Federal Regulations (CFR), and all amendments to that publication subsequently adopted pursuant to rules promulgated by the Director.
- Have a negative official test for salmonella pullorum-typhoid within 90 days before change of ownership and remain segregated from all poultry of unknown or positive salmonella pullorum-typhoid test status.

Those requirements also would apply to all poultry, except waterfowl, pigeons, and doves, shown at public exhibition in this State. (This would replace the current provision that all poultry shown at public exhibition must meet all current requirements as outlined in the NPIP.)

In addition, all poultry imported into this State, except those consigned directly to a State- or Federally inspected slaughter facility or to a livestock auction market for sale as slaughter poultry, would have to meet one or both of the following requirements:

- Originate directly from a U.S. pullorum-typhoid clean flock as defined in Title 9 of the CFR, and all amendments to that publication subsequently adopted pursuant to rules promulgated by the Director.
- Have a negative official test for salmonella pullorum-typhoid within 90 days before importation and remain segregated from all poultry of unknown or positive salmonella pullorum-typhoid test status.

Fairs and Exhibitions

Currently, a fair, exhibition, exposition, or show authority must notify exhibitors of health tests and certificates required for importation and exhibition in this State, as well as examine and approve required health certificates and show papers prior to the unloading of livestock. The bill, instead, would require a fair, exhibition, exposition, or show authority to do all of the following:

- Notify exhibitors of health tests and certificates required for importation and exhibition.
- Examine and approve required health certificates, reports, test charts, certificates, or other required documentation before displaying, exhibiting, or stabling the animals in the exhibition area or before commingling with other animals.
- Provide shipping arrangements for all exhibited swine that were to be removed from the fair, exhibition, exposition, or show facility for direct movement to slaughter or a livestock auction market.

A fair, exhibition, exposition, or show authority also could require additional testing or vaccination of animals before entry and during the fair, exhibition, exposition, or show.

Currently, livestock with clinical signs of infectious, contagious, or toxicological disease must be removed from the fair, exhibition, or exposition. Under the bill, by permission of the Director, these livestock instead could be isolated on the premises.

The bill also contains specific provisions governing the entry of swine in a fair, exhibition, exposition, or show facility, and the removal of swine from an exhibition facility. Any swine found to be exhibited or removed from exhibition in violation of the Act could be quarantined or ordered slaughtered, destroyed, or disposed of by the Director without being eligible for indemnification.

Currently, the Act defines “exhibition facility” as any facility used or intended to be used for public display, educational event, or competition involving livestock, excluding a public stockyard, an auction saleyard, and a livestock yard. Under the bill, the term would mean any facility used or intended to be used for public view, show, display, swap, exchange, entertainment, advertisement, educational event, or competition involving livestock. It would not include a public stockyard, an auction saleyard, and a livestock yard where livestock were accepted on consignment and the auction method was used in marketing the livestock.

Violations

In addition to the acts currently prohibited, the bill would prohibit a person from giving false information in a matter pertaining to the Act and from resisting, impeding, or hindering the Director in the discharge of his or her duties under the Act.

The bill would allow the Department to recover reasonable costs and attorney fees incurred in a prosecution resulting in a conviction for a violation of the Act. Costs assessed and recovered would have to be paid to the State Treasury and credited to the Department for enforcement of the Act.

Upon finding that a person had violated the Act, or a rule promulgated under it, the Director could do the following:

- Issue a warning.
- Impose an administrative fine of up to \$1,000 for each violation after notice and an opportunity for a hearing under the Administrative Procedures Act.
- Issue an appearance ticket as described and authorized by the Code of Criminal Procedure, with a fine of at least \$300 and/or imprisonment of at least 30 days.

(The bill would delete a provision under which a person authorized by the Director to enforce the animal health laws of the State may issue an appearance ticket for any violation of the Act classified as a misdemeanor.)

The Director would have to advise the Attorney General of the failure of any person to pay an administrative fine imposed under these provisions. The Attorney General would have to bring a civil action to recover the fine and costs and fees.

Captive Cervidae Data Base

The bill would require the Department to keep a current data base on captive cervidae (e.g., deer or elk) premises in the State. The data base would have to include the owner's name and current address, location of captive cervidae, species of captive cervidae at the premises, and the approximate number of captive cervidae at the premises.

MCL 287.703 et al.

Legislative Analyst: S. Margules

FISCAL IMPACT

The Department of Agriculture would incur minimal costs to provide for approvals for (1) importation of animals under quarantine; (2) transport of cattle with certain diseases; and (3) promulgation of administrative rules. There would be no additional cost for permitting the indemnification of destroyed animals as that is currently allowed pursuant to the annual appropriation/budget acts and the Department is already maintaining a data base on captive cervidae. There would be additional revenue to the State of about \$5,000 per year for administrative fines. This assumes five fines of \$1,000 each.

There would be no fiscal impact on local governments.

Fiscal Analyst: A. Rich

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.