

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1282 (as enrolled)
Sponsor: Senator George A. McManus, Jr.
Senate Committee: Farming, Agribusiness and Food Systems
House Committee: Agriculture

PUBLIC ACT 552 of 1998

Date Completed: 2-23-99

RATIONALE

Bovine tuberculosis (TB) is caused by a bacteria that mainly affects the respiratory system. It is capable of affecting most warm-blooded animals, spread primarily by close contact with infected animals, and intensified by crowding and stress. A hunter-killed deer in southwestern Alpena County was discovered to have bovine tuberculosis in 1994, and bovine TB was confirmed in free-ranging (wild) deer in the northeast Lower Peninsula in 1995. Reportedly, while there have been numerous cases of bovine TB in domestic livestock and captive deer/elk herds in the United States, the disease has never before been determined to be self-sustaining in free-ranging wildlife in North America. According to the Department of Natural Resources (DNR), however, in Alpena, Alcona, Montmorency, Oscoda, and Presque Isle Counties, as of September 1998, 151 white-tailed deer out of 8,751 tested between 1995 and 1998 were infected with bovine TB; and five coyotes of 54 tested and two raccoons out of 37 tested were infected. No deer was infected with bovine TB from over 15,000 tested from outside the five-county area, and no elk out of 2,055 tested was infected.

In March 1998, the Michigan Agriculture Commission issued an Enforced Restriction Area Order imposing a mandatory feeding ban, and the Natural Resources Commission approved an order implementing restrictions on baiting (placing or scattering food to attract deer). By halting supplemental feeding, restricting baiting, banning the establishment of new captive deer/elk herds, and reducing the overall deer population in the Enforced Restriction Area, the Departments hope to lower deer concentrations and reduce the risk of transmitting bovine TB among animals. (The Enforced Restriction Area covers public and private land in the northeastern part of the Lower Peninsula in an area east of I-75 and north of M-55, including the five-county area and portions of Cheboygan, Crawford, Iosco, Ogemaw, and

Roscommon Counties.) The Department of Agriculture also has developed and implemented surveillance for bovine TB in the 28 captive cervidae herds within the Enforced Restriction Area. All herds were issued quarantines and movement restrictions were initiated pending surveillance results.

After a cow in Alpena County tested positive for bovine TB last June, the U.S. Department of Agriculture (USDA) on August 13, 1998, formally suspended Michigan's TB-free status, which the State had held since 1979. On January 6, 1999, two more cattle herds in Alcona County tested positive for bovine TB. State officials announced on February 1, 1999, that the USDA intends to adopt a split-state status recognizing that bovine TB is limited to the Enforced Restriction Area and only requiring cattle testing in that area.

There are still serious concerns that further outbreaks of bovine TB could cause a significant negative impact on livestock owners in Michigan, leading to mandatory animal testing, destruction or slaughter of infected livestock, and tremendous overall economic losses. Therefore, some people believe that additional actions should be taken to eliminate and prevent the disease by requiring negative bovine TB tests for *all* importation and movement of captive deer and elk. It also was suggested that indemnification for livestock infected or exposed to bovine TB should be increased.

CONTENT

The bill amended the Animal Industry Act to establish requirements for the importation and movement of captive cervidae (deer, elk, moose, and caribou living under the husbandry of humans) by doing the following:

- Requiring captive cervidae less than six

months of age imported into the State, except those consigned to a slaughter facility, to originate from an official tuberculosis accredited or qualified herd, or to remain at the destination on the interstate health certificate or certificate of veterinary inspection until the animal receives an official negative TB test.

- Requiring captive white-tailed deer and captive elk moving from one premises to another within the State, to originate from an official TB accredited or qualified herd or from a herd that has received an official negative TB test.
- Requiring owners of a captive white-tailed deer or elk farm that does not possess an official TB accredited or qualified herd status to have captive cervidae, as well as cattle and goats in contact with these animals, tested for tuberculosis.
- Requiring owners of captive cervidae ranches to have a veterinarian visually inspect the animals for evidence of TB, if the animals are removed from the herd.
- Requiring the Department of Agriculture to conduct a surveillance program for bovine TB of free-ranging deer, and report the results to the Legislature and the Governor by September 1, 1999.

The bill also increased from \$1,250 to \$3,000 the maximum amount per animal that may be paid as indemnification for livestock that is infected or exposed to disease or toxicological contamination. The increase applies until January 1, 2005. After January 1, 2005, indemnification will revert to the current level of 75% of the market value of the livestock with a maximum of \$1,250 per animal.

Indemnification

Under the bill, the Director of the Michigan Department of Agriculture (MDA) may devise and implement a program to compensate livestock owners for livestock that die or need to be destroyed for humane purposes while the livestock are being tested or under a surveillance program for a reportable disease.

Under the Act, the Director, under MDA rules, may allow indemnification for slaughter, destruction, or other disposition of animals due to livestock

diseases or toxicological contamination. The bill deleted a requirement that all animals be treated as grade status animals for purposes of indemnification.

The Act previously required that indemnification be based on 75% of the fair market value of that type of livestock on the date of the appraisal as if the livestock were grade status and marketable for the purpose for which the livestock was intended, not to exceed \$1,250 for each animal. The bill provides that until January 1, 2005, and except as otherwise provided in the Act, regarding any quarantine on animals or premises issued after January 1, 1998, indemnification must be based upon 90% of the fair market value of that type of livestock on the appraisal date and marketable for the purpose for which the livestock was intended, not to exceed \$3,000 for each animal. After January 1, 2005, however, indemnification will be based upon 75% of the fair market value of that type of livestock on the appraisal date as if the livestock was grade status and marketable for the purpose for which the livestock was intended, not to exceed \$1,250 for each animal.

As previously provided, the amount of indemnification must be reduced by any compensation received, or to be received, from any other source including, but not limited to, indemnification by the U.S. Department of Agriculture (USDA), insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock in accordance with a disease control or eradication program.

Captive Cervidae

Under the bill, all captive cervidae less than six months of age imported into the State, except those consigned directly to a State- or Federally inspected slaughter facility premises, must originate directly from an official tuberculosis accredited or qualified herd as outlined in the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae effective May 15, 1994, approved by Veterinary Services of the Animal and Plant Health Inspection Service of the USDA, and all amendments to those publications thereafter adopted pursuant to rules that the Director may promulgate, or must remain at the destination identified on the official interstate health certificate or official certificate of veterinary inspection until the animal receives an official negative test for

tuberculosis when it is at least six months, but not more than eight months, of age. The bill specifies that for purposes of these provisions, the age of the captive white-tailed deer or captive elk must be determined by the age placed on the official interstate health certificate or official certificate of veterinary inspection. A copy of the official test for tuberculosis and a copy of the official interstate health certificate or official certificate of veterinary inspection must be forwarded to the MDA within 10 days following completion of the testing.

All live captive white-tailed deer and captive elk at least six months of age moving from one premises to another premises within the State, except those consigned directly to a State- or Federally inspected slaughter facility premises, must comply with one of the following:

- Originate directly from an official tuberculosis accredited or qualified herd as outlined in the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae, and all amendments to those publications adopted pursuant to rules that the Director may promulgate, and be accompanied by a copy of the current official letter from the MDA verifying herd status.
- Originate directly from a herd that has received an official negative TB test of all captive cervidae at least 12 months of age and all cattle and goats at least six months of age in contact with the herd, receive an individual negative official test for TB within 90 days prior to movement, and be accompanied by a copy of the official tests for TB verifying that testing.
- Be isolated from all other members of the herd and receive two official negative tests for TB at 90- to 120-day intervals before movement and be accompanied by copies of the official tests for TB verifying that testing.

All live captive white-tailed deer and captive elk less than six months of age moving from one premises to another premises within the State, except those consigned directly to a State- or Federally inspected slaughter facility premises, must comply with one of the following:

- Originate directly from an official tuberculosis accredited or qualified herd as outlined in the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae, and all amendments to those publications, be identified by an official identification, and be accompanied by a copy of the current official letter from the MDA verifying the herd status.

- Originate directly from a herd that has received an official negative TB test of all captive cervidae at least 12 months of age and all cattle and goats at least six months of age in contact with the herd, be individually identified by an official identification, be accompanied by an official permit for movement of captive white-tailed deer and captive elk less than six months of age within Michigan issued by an accredited veterinarian, and remain at the destination stated on the permit until the animal receives an official negative TB test when it reaches six months of age, but not more than eight months of age. For purposes of this provision, the age of the deer or elk must be determined by the age placed on the official permit for movement of captive white-tailed deer and captive elk less than six months of age in Michigan by the accredited veterinarian. A copy of the official test for TB and a copy of the official permit for movement must be forwarded to the Department within 10 days following completion of the testing.

Beginning on the bill's effective date, each owner of any captive white-tailed deer farm or captive elk farm that does not possess official tuberculosis accredited or qualified herd status as defined in the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae, and all amendments to those publications, must have an official test for TB conducted on all captive cervidae at least 12 months of age, and all cattle and goats at least six months of age in contact with the captive cervidae. This testing must be completed within 18 months following the bill's effective date. The owner of any captive white-tailed deer farm or captive elk farm that begins operating after the bill's effective date must complete the testing requirement within 18 months following assembly of the herd.

Beginning on the bill's effective date, each owner of any captive cervidae ranch must cause captive cervidae removed from the herd to undergo visual inspection by a specially trained accredited veterinarian, approved by the Director, for evidence of tuberculosis. The number of animals to be inspected must be equal to the number required for establishing an official tuberculosis monitored herd as outlined in the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae and all amendments to those publications. The testing must be conducted over a three-consecutive-year period and be completed within five years following the bill's effective date. The owner of any captive cervidae ranch that begins operating after the bill's

effective date must complete the required testing within five years following assembly of the herd.

Surveillance Programs

The bill requires the State Veterinarian to develop and implement scientifically based surveillance programs for reportable diseases when the Director determines, with advice and consultation from the livestock industry and veterinary profession, that surveillance would aid in the control or eradication of a reportable disease or assist in the economic viability of the industry.

Until January 1, 2001, the Department must consider and regularly review the need to require an official negative TB test for all cattle and goats within 60 days before movement from one premises to another within the State, or require that cattle and goats originate directly from a herd that is accredited TB-free as defined in the Code of Federal Regulations and the Bovine Tuberculosis Eradication Uniform Methods and Rules, and all amendments to those publications. The Director also may require that other species have an official negative TB test before movement from one premises to another within the State.

The Department must coordinate and conduct, and the Department of Natural Resources must actively support and assist as directed by the MDA, a scientifically based surveillance program for bovine TB of free-ranging deer, based upon risk and conducted at a minimum 95% confidence of a 2% infection rate based upon an official determination by the USDA in at least each of the following counties: Cheboygan, Presque Isle, Otsego, Montmorency, Alpena, Crawford, Oscoda, Alcona, Roscommon, Ogemaw, Iosco, and any other adjacent county or counties where one or more free-ranging deer are found to be positive for bovine TB, based upon official determination by USDA. The bill specifies that for purposes of enforcing this provision, the Department may enter upon private or public premises to acquire samples. The DNR and the Department of Community Health must cooperate with the State Veterinarian to fulfill the bill's requirements and the Department must report the results of the study to the Legislature and the Governor by September 1, 1999.

MCL 287.703 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate

Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The presence of bovine TB in the State presents a unique and serious problem that poses a risk to humans, livestock, deer, and other wildlife. Previously, a captive cervidae strategy including quarantine and movement restrictions, was implemented through TB testing of all animals 12 months of age or older within the five-county area most affected by the disease. The bill will help prevent new outbreaks of bovine TB, reduce risks of further spread, and eliminate current exposure, by requiring monitoring and restricting the importation and movement of *all* captive cervidae within the State.

The bill also will help protect Michigan's livestock industry, and help maintain a split-state status that declares bovine TB to exist only in the Enforced Restriction Area. Reportedly, about 95% of Michigan livestock are outside the quarantine area. A TB-free status is vital for the livestock industry because other states determine their import testing requirements based on the status of the state of origin. According to the DNR, the loss of the status could cost cattle farmers an estimated \$67 million for 1999-2003 and \$121 million for 1999-2008.

Supporting Argument

The bill provides for an increase in the indemnification for livestock that are infected or exposed to disease or toxicological contamination. The increased amount will ensure that livestock owners receive fair and adequate indemnification for their loss, and encourage efforts to limit the risk of further contamination of bovine TB.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill will have an indeterminate fiscal impact, depending on the number and value of animals destroyed due to bovine tuberculosis.

To date, \$250,000 has been appropriated to the Michigan Department of Agriculture for indemnification purposes, and \$27,000 has been spent. In addition, \$890,000 was appropriated for testing and \$571,000 spent. The Department has also internally transferred \$480,000 and anticipates requesting additional funding for FY 1998-99.

From the Game and Fish Protection Fund \$500,000 has been appropriated to the Department of Natural Resources for monitoring the wild deer herd.

Fiscal Analyst: G. Cutler

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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.