



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

ANIMAL INDUSTRY ACT REVISIONS

**House Bill 5832 as enrolled
Public Act 458 of 2002
Second Analysis (6-29-02)**

**Sponsor: Rep. Mike Pumford
House Committee: Agriculture and
Resource Management
Senate Committee: Farming,
Agribusiness, and Food Systems**

THE APPARENT PROBLEM:

Bovine tuberculosis (TB) is a disease caused by the bacterium *Mycobacterium bovis*. Typically found in cattle, the disease can also be found in deer, elk, bison, goats, carnivores such as coyotes, and even humans. The disease is commonly spread through respiration, as animals inhale the bacteria exhaled by an infected animal. Other animals that come in close contact with an infected animal, often through the consumption of water and feed contaminated by the infected animal, are also at risk for contracting the disease.

In 1979, the state was determined to be free of bovine tuberculosis in cattle and deer. However, in November 1994, a white-tailed deer killed in Alpena County was diagnosed with bovine TB. Subsequent tests in 1995 confirmed the presence of bovine TB in the wild deer population in nearby counties in the northeast Lower Peninsula. In August 1998, the U.S. Department of Agriculture suspended the state's TB-free status. The following February, the USDA classified the state as having a split-state status, though the classification was never formalized through a signed memorandum of understanding. The USDA acknowledged the presence of the disease in the northeast Lower Peninsula, while the remainder of the state was allowed to retain its bovine TB-free status.

Under new USDA rules governing bovine TB, the state's status has since been changed to "modified accredited" in recognition of the fact that the disease has been detected in livestock as well. The entire state is viewed as having the disease, though it is generally confined to the northeast Lower Peninsula. A "modified accredited" state is one that has bovine TB prevalent in less than 0.1 percent of the total number of herds of cattle and bison in the state for the most recent year. Currently the state has been attempting to regain its classification as a split-status

state. Under this rule, a portion of a state has a different TB status than the remainder of the state.

Public Act 323 of 2000 amended the Animal Industry Act to reflect the change in the state's TB status and to allow the state to take steps at eradicating the TB problem. In order to achieve split-state status, the state has to submit an application to the USDA and demonstrate that the state has a strategy and program in place in eradicate the disease. Legislation has been introduced to help the state to achieve split-state status, to protect against the possibility of an outbreak of other communicable animal diseases, and to provide for general revisions of the Animal Industry Act.

THE CONTENT OF THE BILL:

The bill would revise the livestock inspection and zoning procedures in the Animal Industry Act (P.A. 466 of 1988), whose purpose is to protect the health, safety, and welfare of humans and animals by preventing the importation of certain animals, eradicating infectious and contagious diseases, and preventing and controlling the contamination of livestock.

Disease. The bill would amend to definition of "disease" to mean any animal health condition with the potential for economic impact, public or animal health concerns, or food safety concerns.

State or Federal Veterinary Medical Officer. Under the act, "official test" is defined to mean a sample of a specific material collected from an animal by an accredited veterinarian or other person authorized by the director of the Department of Agriculture (MDA), and analyzed by a laboratory certified by the U.S. Department of Agriculture (USDA) or the MDA. The bill would add that an official test could be

House Bill 5832 (6-29-02)

conducted by a state or federal veterinary medical officer. The act requires that an accredited veterinarian administer an official vaccination. The bill specifies that a state or federal veterinary medical officer could also administer an official vaccination.

Duties of the Director. The bill would add that, upon demand of the director of the MDA, a person transporting livestock would be required to produce documentation that states the shipment origin and destination, registration or permit copies or documentation, or any other proof that may be required by the act. In addition, the bill states that the director of the MDA could waive any testing requirement after epidemiologic review.

Privately Owned Cervids. The bill adds “privately owned cervids” (deer, moose, elk, caribou) to several provisions in the act. The act defines a “terminal operation” to mean a facility for cattle and goats to allow for continued growth and finishing until such time as they are shipped directly to slaughter. The bill would add a facility for privately owned cervids to the definition of “terminal operation”. The bill would also add “privately owned cervids” to several provisions pertaining to a terminal operation (see MCL 287.713a).

The act defines “whole herd” to mean any isolated group of cattle and goats 12 months of age or older maintained on common grounds for any purpose, or two or more groups of cattle or goats under common ownership or supervision geographically separated but that have an interchange or movement of cattle and goats without regard to health status as determined by the director of the MDA. Again, the bill would add privately owned cervids to the definition of “whole herd”. The bill would also define “whole herd test”.

The act requires that all privately owned cervids imported into this state, except those consigned directly to a state or federally inspected slaughter facility, to be, among other requirements, isolated from all other animals until they receive two official negative TB tests. The bill would delete a requirement that the second test take place within 90 days prior to importation.

Surveillance Zones. The act defines “surveillance zone” to mean any area in the state with the defined dimensions that is bovine TB free and located adjacent or contiguous to an infected zone as determined by the department in consultation with the USDA. The bill would delete the requirement that the surveillance zone be free of bovine TB.

Bovine Tuberculosis Risk Areas. The act defines areas that are “high-risk areas” or “potential high-risk areas” for bovine tuberculosis (TB). A high-risk area is an area in which bovine TB has been diagnosed in livestock. The bill would specify that the director would designate an area as a high-risk area. The bill would delete language that states that a high-risk area does not include an area where tests indicate a lack of bovine TB diagnosis at least 36 months after the date the area was designated as a high-risk area.

A “potential high-risk area” is an area in which bovine TB has been diagnosed in wild animals only. Again, the bill would specify that the director would designate an area as a potential high-risk area. The bill would also delete language that states that a potential high-risk area does not include an area where cattle and goat herds are whole herd tested resulting in the lack of any additional bovine TB infected animals being found in wild animals, domestic animals, or livestock.

Under the act, cattle and goats that originate from an area not designated as a high-risk area and that move intrastate must meet certain requirements until the zone, area or the entire state from which they originate receives TB-free status. Also, cattle and goats that originate from an area that has been designated as a high-risk area must meet certain requirements until the zone, area, or state from which they originate is no longer designated as a high-risk area. The act requires that cattle and goats that do not meet either of the above requirements be sold through a livestock auction market for slaughter only. The bill states that the slaughter would have to occur within five days of the sale, and that the buyer of the livestock would have to provide the director, upon his or her request, verification that the slaughter has indeed occurred within five days of the sale. If a buyer did not comply with the provisions of the bill, he or she would be subject to the penalties and sanctions of the act.

Intrastate Movement. The act defines “intrastate” to mean movement from one location to another within the state, except that it does not include the movement of livestock from one location within the state to another within the state when both locations are part of the same livestock operation. The bill would specify that when intrastate movement causes livestock to cross from one zone to another zone, livestock must meet the testing requirement for their zone of origin. The act prohibits the importation or intrastate movement of livestock known to be infected with or exposed to TB or brucellosis. The bill would also prohibit the importation or interstate

movement of livestock known to be infected with or exposed to chronic wasting disease.

Whole Herd Testing. The act requires that all cattle and goat herds located in high-risk areas be whole herd tested for bovine TB at least once per year. The bill would specify that when 36 months of testing fails to disclose a newly affected herd within the high-risk area or any portion of the high-risk area, the director could remove the high-risk designation from all or part of that area.

In addition, the act requires that all cattle and goat herds located in potential high-risk areas be whole herd tested for bovine TB within six months after the director has established a potential high-risk area or have a written plan with a targeted testing date. The bill would add that when all herds meet the testing requirements, the director could remove the potential high-risk area designation.

Under the act, all cattle and goat herds located outside of a high-risk area or a potential high-risk area in this state are required to be tested between January 1, 2000 and December 31, 2003. Under the bill, livestock assembled at feedlots where all animals are fed for slaughter before 24 months of age would be exempt from the testing requirements.

In addition, the bill would allow the director of the MDA to order testing for any reportable disease in any geographical area or in any herd to accomplish surveillance necessary for the state to participate in the National TB Eradication program; to complete epidemiologic investigations for any reportable disease; or in any instance where a reportable disease is suspected. The bill would also permit the director to establish a surveillance program for cattle and goats to replace the testing protocol and meet the intrastate movement requirements.

Further, the bill would prohibit a person from selling, offering for sale, moving, or transferring any livestock that originate from a herd or area under order for testing by the director unless the livestock have met the requirements of the order. If a person did not have a herd tested, the director would notify the person responsible the management of the herd of the necessity for testing and the deadline for the testing to occur. The director would also quarantine any herd that has not been tested until state or federal veterinarians or accredited veterinarians can complete the tests.

Bovine TB Testing Requirements. The bill would delete a requirement that accredited veterinarians

attend yearly bovine TB educational seminars approved by the director of the MDA in order to be eligible for continued contract and payment by the MDA or the USDA. However, they would still be required to attend an initial educational seminar.

The bill would also delete a requirement that the director, in consultation with the livestock industry and veterinary profession, pay a veterinarian for chutes and gates on a 50-50 cost share basis as approved by the agriculture commission. In addition, the bill would allow a terminal operation to accept any individual livestock that have not been tested for bovine TB as long as the herd of origin has been tested or when other requirements of the director have been met.

Official Identification. The act requires all cattle, goats, and privately owned cervids to bear official identification before they leave a premises. The bill would also require sheep to bear proper identification. In addition, livestock entering a terminal operation would be required to bear official identification or have the identification be applied within 10 days of arrival.

Quarantine. The act allows the director to quarantine animals, structures, and all or parts of the state for the purpose of controlling or preventing the spread of a known or suspected disease. The bill would allow the director to also quarantine any equipment or vehicles.

Branding and Identification. The act requires that livestock ordered to be slaughtered, destroyed, or otherwise disposed of due to brucellosis be branded. The act also requires that animals exposed in a brucellosis-infected herd or quarantined herd to be branded before a permit is issued for the slaughter of that animal. The act allows the director to refrain from branding and slaughtering under certain circumstances. The bill would add that the director could refrain from branding if the animals are moved under an official seal and secured transport unit.

Livestock Sold at a Livestock Auction Market. The bill would require that cattle, bison, goats, and privately owned cervids consigned for slaughter or that do not meet intrastate testing requirements for movement be sold for slaughter only and be moved directly to slaughter. In addition, the livestock auction markets or sale yard management would be prohibited from selling livestock to any buyer that does not certify, in a signed statement, that such animals removed from the premises would be moved directly to a slaughter establishment and slaughtered

within five days. Prior to removal of the animals by the buyer, the sale management would require that the buyer provide the slaughter destination information for each animal removed from the premises.

Penalties. The act lists several prohibited activities that are punishable by a fine of not less than \$1,000 and not more than \$50,000, or by imprisonment of not more than five years, or both. The bill would add to that list, intentionally infecting or contaminating an animal with, or intentionally exposing an animal to, a reportable disease other than for bona fide research as approved by a research institution licensed by the state or a federal agency.

Enacting Section. The bill would repeal section 43a of the act (MCL 287.743a), which prohibits a person from providing false information or otherwise resisting, impeding, or hindering the director. However, that provision would be added to section 8 of the act (MCL 287.708).

MCL 287.703 et al.

BACKGROUND INFORMATION:

Since 1995, there have been more than 750,000 TB tests conducted on cattle, bison, and goats in the state. An additional 16,500 privately owned cervids have also been tested or are currently under surveillance. So far, there have been 20 cattle herds that have been diagnosed with bovine TB. In addition to the tests on livestock, over 88,000 tests have been conducted on white-tailed deer and elk. Positive tests have been returned in over 30 carnivores including coyotes, bobcats, and bears.

In early 2001, the director of the MDA announced that Alcona, Alpena, Montmorency, and Presque Isle counties were considered to be high-risk areas for bovine TB. The department also named Emmet and Mecosta counties as potential high-risk areas for bovine TB. The creation of these risk areas lifted a quarantine that had been in place on farms east of I-75 and north of M-55.

Recently, the Department of Agriculture announced the creation of bovine TB testing zones, effective March 10, 2002. The three zones are an infected zone, a surveillance zone, and a disease free zone. Each zone has certain identification, testing, and movement requirements. The infected zone includes Alcona, Alpena, Montmorency, and Presque Isle counties. The surveillance zone includes Cheboygan, Crawford, Iosco, Ogemaw, Oscoda, and Otsego

counties. The disease free zone includes all other counties not included in either of the two other zones.

USDA Status Levels. The USDA sets five different TB-status levels. If a state or zone is classified as being “nonaccredited”, the prevalence of bovine TB infected cattle is either unknown, or diagnosed in 0.5 percent of the total number of cattle or bison herds. In order to move to the next level, the state or zone must have the authority to enforce the *Uniform Methods and Rules (UMR)*, maintain a census of the herd, establish a surveillance system, and determine that the disease is prevalent in less than 0.5 percent of the cattle or bison herds.

The next level of classification is the “accreditation preparatory” status. For this level, there must be a herd prevalence rate of less than 0.5 percent. In addition, the state or zone must meet the standards set forth by the UMR. To advance to the next level, the state or zone must follow the UMR, and verify a herd prevalence rate of less than 0.1 percent for one year. States or zones with less than 10,000 herds must have less than 10 infected herds in one year.

The middle status, and the state’s current status, is “modified accredited”. States or zones must have a herd prevalence rate of less than 0.1 percent, a maximum of 5-10 infected herds, or a maximum of 10 infected herds in those states or zones with less than 10,000 herds. In addition, the state or zone must meet the requirements of the UMR for the past year. In order to advance to the next level, states must have a herd prevalence rate of less than 0.01 percent for two consecutive years. For states with less than 30,000 herds, there must be less than 1-3 infected herds.

The next status is “modified accredited advanced”. States or zones at this level must have a herd prevalence rate of less than 0.01 percent. States or zones with less than 30,000 herds must have 103 infected herds. To advance to the next level, a state or zone must not have an infected herd for the previous five years. A state or zone would qualify for the next level (TB-free) in three years if it has depopulated all of the infected herds.

The highest level is “accredited free”. Accredited free status requires no tests prior to movement out of the state or zone. An accredited free state or zone is allowed one infected herd during the previous 12 months. If there were two infected herds within the previous 48 months, the state or zone’s accreditation would decrease accordingly. If there were an infected herd in an accredited free state or zone, that

herd would be eradicated. In addition, a complete epidemiologic investigation would have to be completed within six months of the detection.

The state is currently striving toward becoming designated with split-state status. The first step in achieving this status is the memorandum of understanding. The memorandum, which was recently completed, outlines the duties and responsibilities of the MDA, DNR, and USDA. Following the memorandum is the development of a comprehensive strategic plan. (This is near completion.) Next, the USDA sends a formal program review team to the state to review the area and meet with state officials. (The review has taken place this past week.) Depending on the recommendations and finding of the USDA program review team, the state then sends a formal letter of application to the USDA requesting split-state status. (This letter should be sent mid to late-May or early June.) After the state sends its formal letter of application, the ruling is subject to the federal rule making process.

Once the state achieves split-state status, the state is divided into two zones: modified accredited and modified accredited advanced. The modified accredited zone would be divided into three areas. The infected area would include Presque Isle, Montmorency, Alpena, and Alcona counties. The surveillance area would include Cheboygan Otsego, Crawford, Oscoda, Ogemaw, and Iosco counties. The disease-free buffer zone would include Emmet, Antrim, Kalkaska, Roscommon, Gladwin, and Charlevoix counties. There has been an effort to include Ogemaw and Iosco counties in the disease-free zone rather than the surveillance zone. The balance of the counties in the state would be classified as modified accredited advanced.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would result in increased administrative costs to the Department of Agriculture. These costs would be covered by existing resources. The proposed fiscal year 2002-03 budget for the bovine tuberculosis program is \$3.5 million. The bill could result in decreased costs associated with the elimination of the 50/50 cost share program for the purchase of chutes and gates required for animal testing by veterinarians. According to the department, this provision is being eliminated because nearly all of the veterinarians participating in the testing program have been provided the necessary equipment. (5-17-02)

ARGUMENTS:

For:

The loss of the state's bovine TB-free status has serious adverse economic consequences on the state's livestock industry. Michigan dairy and beef cattle are vital components of the state's economy, generating more than a quarter of the state's \$4 billion agricultural economy. The lack of a bovine TB-free designation requires that cattle undergo additional testing and places stringent movement restrictions. These additional tests are costly and time-consuming. As a result, farmers often face production losses. In addition, other states have placed greater restrictions on cattle imported from Michigan, making it extremely difficult to market and sell the animals. Importing states may require further tests, in addition to the tests required in this state, before an animal is transported into the state. In addition, though the state does provide indemnification for animals destroyed due to infection, the loss of the animals themselves places a greater hardship on the industry.

To help combat the loss of economic productivity and revenue due to bovine TB, the state should take whatever steps necessary to upgrade its TB status. By achieving a split-state status, cattle not in the area infected or under surveillance are not required to undergo the additional tests. This will enhance the standing and production of the state's beef and dairy industries.

To that end, the bill will better enable the state's ability to attain split-status, and ultimately accredited free status, by strengthening the state's enforcement ability regarding animal movement. The bill states that when livestock are moved from one zone to another, they would have to meet the testing requirements of the zone of origin. This is extremely important because animals from areas infected or under surveillance are required to undergo more frequent testing. This provides better assurances that cattle from those areas are indeed disease free. The bill would also prohibit the importation or interstate movement of animals infected with or exposed to chronic wasting disease, which has been recently discovered in Wisconsin and Colorado. In addition, the bill would require, upon the demand of the director, a person transporting livestock to produce documentation that states the shipment origin and destination. This allows for greater scrutiny and better enforceability of current movement restrictions, which are vital to combat the spread of bovine TB and other communicable animal diseases.

The bill also clarifies the procedures to establish zones and risk areas, which are necessary in order to achieve split-state status. The bill would delete a requirement that a surveillance zone be free of bovine TB. This provides the department with greater flexibility in determining the creation of the zones and the proper action to be taken to combat the spread of bovine TB in or from that area.

Against:

Many of the provisions of the act were recently enacted to address the spread of bovine TB in the state. But, what is next? There are several other communicable animal diseases that, though currently not present in the state, pose serious threats to the state's livestock industry, as well as the state's animal and public health. These diseases include foot and mouth disease, mad cow disease, and chronic wasting disease, among others. Indeed, chronic wasting disease has recently been discovered in Wisconsin. Should the state have to wait until a full-blown outbreak of another disease occurs, before it enacts legislation enabling it to combat the disease? Language should be included in the bill to expand the testing requirements and other restrictions to include not only bovine TB but also other potentially serious diseases as well.

Response:

Some provisions of the bill state "reportable disease" rather than just bovine TB. The state veterinarian maintains a list of reportable diseases (which includes bovine TB). While most of these diseases are of some importance to the state, there are some on this list that are not of any real concern. The inclusion of additional diseases would place more burdens on cattle farmers as they get ready to move or sell their livestock. Additional tests, at this point, would hinder the livestock industry in its ability to sell and market their product in a cost-effective manner. Furthermore, it is believed that the MDA does have the tools necessary to address other reportable diseases. To halt the spread of chronic wasting disease, the state has already banned deer imported from Wisconsin and other regions with known cases of the disease, and has ordered the testing of 6,000 deer and elk over the next three years.

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.