

HOUSE BILL No. 4747

May 8, 2001, Introduced by Reps. Birkholz, Scranton, Stewart, Middaugh, Bovin, Shackleton, Ehardt, Vander Veen and Voorhees and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1988 PA 466, entitled
"Animal industry act,"
by amending sections 26a and 44 (MCL 287.726a and 287.744), section 26a as added and section 44 as amended by 2000 PA 323; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 26a. (1) As used in this section:

2 (a) "Agar gel immunodiffusion test (AGID)" means an official
3 laboratory test for diagnosis of equine infectious anemia in
4 which precipitates are formed by combination of equine infectious
5 anemia antigens and antibodies that diffuse through gel and is
6 also known as the Coggins test.

7 (b) "Approved laboratory" means a state, federal, or private
8 veterinary diagnostic laboratory approved by the United States
9 department of agriculture, animal and plant health inspection

1 service, veterinary services to conduct approved official
2 laboratory tests for equine infectious anemia.

3 (c) "Calendar year" means the current ~~12-month~~ 13-MONTH
4 period commencing with ~~January~~ DECEMBER 1 and ending
5 December 31 OF THE FOLLOWING YEAR.

6 (d) "Change of ownership AND LOCATION" means a transfer of
7 ownership of ~~equines~~ EQUIDAE from 1 person to another person
8 either through selling, bartering, trading, leasing, or donating
9 the equine ALONG WITH A CHANGE OF LOCATION OF THE EQUIDAE.

10 (e) "Equine herd" means any of the following:

11 (i) All animals of the family equidae under common ownership
12 or supervision that are grouped on 1 or more parts of any single
13 premises, lot, farm, or ranch.

14 (ii) All animals of the family equidae under common owner-
15 ship or supervision on 2 or more premises that are geographically
16 separated but in which the ~~equines~~ EQUIDAE have been inter-
17 changed or had contact with ~~equines~~ EQUIDAE from different
18 premises.

19 (iii) All animals of the family equidae on common premises,
20 such as community pastures or grazing association units, but
21 owned by different persons.

22 (f) "Equine infectious anemia" means an infectious disease
23 of ~~equines~~ EQUIDAE caused by a lentivirus, equine infectious
24 anemia virus.

25 (g) "Equine infectious anemia laboratory test form" means
26 the official federal government form, veterinary services

1 form 10-11, required to submit blood samples to an approved
2 laboratory for equine infectious anemia testing.

3 (h) "Equine infectious anemia test-positive equine" means
4 any animal of the family equidae that has been subjected to an
5 official equine infectious anemia test whose result is positive
6 for equine infectious anemia.

7 (i) "Exposed equine" OR "EXPOSED EQUIDAE" means animals in
8 the family equidae that have been exposed to equine infectious
9 anemia by reason of associating with ~~equines~~ EQUIDAE known or
10 later found to be affected with ~~this disease~~ EQUINE INFECTIOUS
11 ANEMIA.

12 (j) "Official equine infectious anemia test" means any test
13 for the laboratory diagnosis of equine infectious anemia that
14 utilizes a diagnostic product that is both of the following:

15 (i) Produced under license from the secretary of agriculture
16 of the United States department of agriculture or the secretary's
17 authorized representative, under chapter 145, 37 Stat. 832,
18 21 U.S.C. 151, 154, 154a, 157, and 159, popularly known as the
19 virus-serum-toxin act of March 4, 1913.

20 (ii) Conducted in an approved laboratory.

21 (k) "Permit" means an official document, vs form 1-27 or
22 comparable state form, that is issued by a state or federal rep-
23 resentative or by an accredited veterinarian, required to accom-
24 pany all equine infectious anemia test-positive ~~equine~~ EQUIDAE
25 and those ~~equine infectious anemia exposed equines~~ EXPOSED
26 EQUIDAE that are being moved under official seal during their
27 movement to the specified destination.

1 ~~(1) "Public highways, roads, or streets" means state~~
2 ~~highway; county or township roads; city or village streets; or~~
3 ~~Michigan institutional roads as defined in 1951 PA 51,~~
4 ~~MCL 247.651 to 247.675.~~

5 (1) ~~(m)~~ "Restricted ~~equines~~ EQUIDAE" means equine infec-
6 tious anemia test-positive ~~equine~~ EQUIDAE or ~~equine~~ exposed
7 ~~to equine infectious anemia test positive equine~~ EQUIDAE.

8 (2) All ~~equines~~ EQUIDAE being moved into Michigan from
9 other states must have had an official equine infectious anemia
10 test with a negative result within the calendar year or the pre-
11 vious 30 days before entry and must be accompanied by an official
12 interstate health certificate or official interstate certificate
13 of veterinary inspection documenting the date, laboratory, acces-
14 sion number, and results of the latest equine infectious anemia
15 test, signed by an accredited veterinarian. THE TESTING REQUIRE-
16 MENT OF THIS SUBSECTION DOES NOT APPLY TO EQUIDAE THAT ARE BOTH 6
17 MONTHS OR YOUNGER AND NURSING.

18 (3) All ~~equines~~ EQUIDAE entered in exhibitions, exposi-
19 tions, or fairs must have had an official equine infectious
20 anemia test with a negative result within the calendar year or
21 the previous 30 days which is documented on the equine infectious
22 anemia laboratory test form. A fair, exhibition, exposition, or
23 show authority is responsible for assuring that all participating
24 ~~equines~~ EQUIDAE are test-negative for equine infectious
25 anemia. THE TESTING REQUIREMENT OF THIS SUBSECTION DOES NOT
26 APPLY TO EQUIDAE THAT ARE BOTH 6 MONTHS OR YOUNGER AND NURSING.

1 (4) All ~~equines~~ EQUIDAE, before change of ownership AND
2 LOCATION within the state, must have had an official equine
3 infectious anemia test with a negative result within the calendar
4 year or previous 30 days. All change of ownership AND LOCATION
5 transactions must be accompanied by a certificate signed by an
6 accredited veterinarian documenting the date, laboratory, acces-
7 sion number, and results of the latest equine infectious anemia
8 test or by an equine infectious anemia laboratory test form. THE
9 TESTING REQUIREMENT OF THIS SUBSECTION DOES NOT APPLY TO EQUIDAE
10 THAT ARE BOTH 6 MONTHS OR YOUNGER AND NURSING.

11 (5) All ~~equines~~ EQUIDAE entering horse auctions or sales
12 markets licensed under 1974 PA 93, MCL 287.111 to 287.119, and
13 1937 PA 284, MCL 287.121 to 287.131, must have an official equine
14 infectious anemia test with a negative result within the calendar
15 year or previous 30 days before sale. If an equine infectious
16 anemia test is not possible before each sale, then the ~~equines~~
17 EQUIDAE must be held on the sale premises until the test results
18 are known. THE TESTING REQUIREMENT OF THIS SUBSECTION DOES NOT
19 APPLY TO EQUIDAE THAT ARE BOTH 6 MONTHS OR YOUNGER AND NURSING.

20 (6) ~~Equines transported or providing transportation on~~
21 ~~public highways, roads, or streets must have an official equine~~
22 ~~infectious anemia test with a negative result within the calendar~~
23 ~~year or previous 30 days~~ BEGINNING ON THE EFFECTIVE DATE OF THE
24 AMENDATORY ACT THAT ADDED THIS SENTENCE AND EXCEPT AS OTHERWISE
25 PROVIDED FOR EQUIDAE DESCRIBED IN SUBSECTION (2), (3), (4), OR
26 (5), ALL EQUIDAE SHALL BE TESTED AT LEAST EVERY 3 YEARS. THE
27 TESTING UNDER THIS SUBSECTION SHALL BE COMPLETED NOT LATER THAN

1 DECEMBER 31, 2001, AND EQUIDAE SHALL BE TESTED AT LEAST EVERY 3
2 YEARS THEREAFTER. THE TESTING REQUIREMENT OF THIS SUBSECTION
3 DOES NOT APPLY TO EQUIDAE THAT ARE BOTH 6 MONTHS OR YOUNGER AND
4 NURSING. THE OWNER OR OPERATOR OF AN APPROVED LABORATORY SHALL
5 REPORT ALL RESULTS, BOTH NEGATIVE AND POSITIVE, OF EQUINE INFEC-
6 TIOUS ANEMIA TO THE DEPARTMENT. A POSITIVE EQUINE INFECTIOUS
7 ANEMIA TEST RESULT SHALL BE REPORTED AS SOON AS PRACTICABLE AND A
8 NEGATIVE TEST SHALL BE REPORTED WITHIN 10 BUSINESS DAYS AFTER THE
9 TEST IS ADMINISTERED. THIS SECTION DOES NOT PROHIBIT AN OWNER OF
10 EQUIDAE OR ORGANIZATION SPONSORING AN EVENT INVOLVING EQUIDAE
11 FROM REQUIRING AN AGAR GEL IMMUNODIFFUSION TEST FOR EQUIDAE
12 INVOLVED IN ANY EQUIDAE GROUP ACTIVITY OR THAT ARE COMMINGLING
13 WITH OR IN PROXIMITY TO OTHER EQUIDAE.

14 (7) THE DEPARTMENT SHALL TEST ANY EQUIDAE LOCATED WITHIN A
15 1/4-MILE RADIUS OF ANY EQUINE INFECTIOUS ANEMIA TEST-POSITIVE
16 EQUINE AT THE EXPENSE OF THE DEPARTMENT. IF THE DIRECTOR DETER-
17 MINES THAT A LARGE NUMBER OF EQUIDAE ARE EQUINE INFECTIOUS ANEMIA
18 TEST-POSITIVE, THE DIRECTOR MAY REQUIRE TESTING OF ALL EQUIDAE
19 WITHIN AN AREA LARGER THAN THE 1/4-MILE RADIUS DESCRIBED IN THIS
20 SUBSECTION.

21 (8) ~~(7)~~ The director shall quarantine ~~equines~~ EQUIDAE
22 that test positive to an official equine infectious anemia test
23 and their herd of origin. ~~Equines~~ EQUIDAE that test positive
24 to an official equine infectious anemia test may, with approval
25 from the director, be moved or quarantined to a premises that
26 confines them a minimum of 1 quarter mile away from any other
27 equine. ~~Equines~~ EQUIDAE that test positive to an official

1 equine infectious anemia test may, with approval from the
2 director, be segregated and quarantined in an insect-free enclo-
3 sure as determined by the director.

4 (9) ~~(8)~~ The owner or agent of an equine herd that is the
5 source of an equine infectious anemia test-positive equine shall
6 allow the director to test, in accordance with the following
7 schedule, the complete source herd with an official equine infec-
8 tious anemia test after the official equine infectious anemia
9 test-positive ~~equine~~ EQUIDAE have been removed or segregated
10 from the herd in a manner approved by the director:

11 (a) Between November 1 and April 30, a source herd may be
12 tested at any time and qualify for quarantine release if all
13 tested ~~equine~~ EQUIDAE are negative to an official equine infec-
14 tious anemia test.

15 (b) Between May 1 and October 31, a source herd may be
16 tested after waiting a minimum of 45 days after the official
17 equine infectious anemia test-positive ~~equine~~ EQUIDAE have been
18 removed or segregated from the herd. If all ~~equine~~ EQUIDAE
19 tested are negative to the official equine infectious anemia
20 test, the quarantine may be released.

21 (10) THE OWNER OF AN EQUINE INFECTIOUS ANEMIA TEST-POSITIVE
22 EQUINE SHALL PROVIDE TO THE DEPARTMENT RECORDS, REFLECTING THE
23 TIME PERIOD DURING WHICH THE EQUINE INFECTIOUS ANEMIA
24 TEST-POSITIVE EQUINE BOTH HAD BEEN ON THE PREMISES AND HAD BEEN A
25 MEMBER OF THE EQUINE HERD, THAT INCLUDE AT LEAST THE FOLLOWING
26 INFORMATION:

1 (A) THE NAMES AND ADDRESSES OF PREVIOUS OWNERS.

2 (B) THE MOVEMENT OF EQUIDAE IN AND OUT OF THE EQUINE HERD OR
3 IN AND OUT OF THE PREMISES OF THE EQUINE.

4 (11) ~~(9)~~ The director may conduct epidemiological investi-
5 gations on all ~~equine~~ EQUIDAE that have possible exposure to
6 official equine infectious anemia test-positive ~~equine~~ EQUIDAE
7 to determine the need for additional quarantining and official
8 equine infectious anemia testing.

9 (12) ~~(10)~~ Official equine infectious anemia test-positive
10 ~~equine~~ EQUIDAE shall not be destroyed or removed from the orig-
11 inal test location or premises without prior permission from the
12 director.

13 (13) ~~(11)~~ If the owner chooses to destroy the official
14 equine infectious anemia test-positive equine, permission shall
15 first be obtained from the director. The director shall issue a
16 quarantine release and be present when the ~~equine~~ EQUIDAE are
17 destroyed or an accredited veterinarian may document and certify
18 that the official equine infectious anemia test-positive equine
19 has been destroyed.

20 (14) ~~(12)~~ Unless immediately destroyed, official equine
21 infectious anemia test-positive ~~equine~~ EQUIDAE shall be identi-
22 fied by the director with the freeze brand 34a, which shall be in
23 characters not less than 2 inches in height and placed on the
24 left cervical area of the neck or shall be identified in another
25 manner approved by the director.

26 (15) ~~(13)~~ Restricted ~~equines~~ EQUIDAE may move interstate
27 only if accompanied by a permit listing the owner's name and

1 address, points of origin and destination, number of ~~equines~~
2 EQUIDAE included, purpose of the movement, and at least either
3 the individual equine registered breed association registration
4 tattoo or the individual equine registered breed association reg-
5 istration number, or other unique official identification. The
6 permit shall also list the animal's name, age, sex, breed, color,
7 and markings.

8 (16) ~~(14)~~ Equine infectious anemia test-positive ~~equine~~
9 EQUIDAE may only move interstate under permit to the following
10 locations:

11 (a) A Federally inspected slaughter facility.

12 (b) A Federally approved diagnostic or research facility.

13 (c) A herd or farm of origin.

14 (17) ~~(15)~~ The individual issuing the permit must consult
15 with the state animal health official in the state of destination
16 for approval and must determine that the equine infectious anemia
17 test-positive equine to be moved interstate will be maintained in
18 isolation sufficient to prevent the transmission of equine infec-
19 tious anemia to other ~~equines~~ EQUIDAE. The reactor will remain
20 quarantined under state authority at the locations described in
21 subsection ~~(14)~~ (16) until natural death, slaughter, or
22 euthanasia. The carcass shall be disposed of according to provi-
23 sions of 1982 PA 239, MCL 287.651 to 287.683.

24 (18) ~~(16)~~ Individual exposed ~~equines~~ EQUIDAE may be
25 allowed to move from a quarantined area for specific purposes if
26 they have a negative test at the time of movement. The ~~equines~~
27 EQUIDAE must be moved under quarantine and maintained under

1 quarantine at the new premises until tested negative to an
2 official equine infectious anemia test at least 45 days after the
3 last known exposure to an equine infectious anemia test-positive
4 equine.

5 (19) THE DEPARTMENT MAY ESTABLISH A VOLUNTARY PROGRAM
6 REGARDING AN EQUIDAE IDENTIFICATION CARD SYSTEM, FUNDED BY A REA-
7 SONABLE FEE CHARGED TO THE PARTICIPANTS, THAT INCLUDES AT LEAST
8 THE FOLLOWING:

9 (A) A POCKET-SIZE CARD MADE OF DURABLE MATERIAL.

10 (B) A PHOTOGRAPHIC OR GRAPHIC LIKENESS OF THE EQUINE AND A
11 DESCRIPTION OF AT LEAST THE COLOR, BREED, SEX, AGE, MARKINGS,
12 NAME OF OWNER, AND LOCATION OR ADDRESS OF THE EQUINE.

13 (C) AN INDICATION OF A NEGATIVE RESULT FOR AN OFFICIAL
14 EQUINE INFECTIOUS ANEMIA TEST, ALONG WITH THE DATE OF THE TEST.

15 (20) ANY INFORMATION THAT IDENTIFIES THE OWNER OF AN EQUINE
16 THAT IS GATHERED BY THE DEPARTMENT UNDER THIS SECTION IS EXEMPT
17 FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA
18 442, MCL 15.231 TO 15.246.

19 (21) NOTWITHSTANDING SECTION 44(2), A PERSON WHO VIOLATES
20 THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF
21 \$300.00.

22 (22) ~~(17)~~ This section ~~takes effect~~ IS REPEALED
23 EFFECTIVE January 1, ~~2001~~ 2011.

24 Sec. 44. (1) A person who commits 1 or more of the follow-
25 ing is guilty of a felony punishable by a fine of not less than
26 \$1,000.00 and not more than \$50,000.00, or imprisonment of not

1 more than 5 years, or both, and shall not receive any
2 indemnification payments at the discretion of the director:

3 (a) Intentionally contaminating or exposing livestock to an
4 infectious, contagious, or toxicological disease for the purpose
5 of receiving indemnification from the state or causing the state
6 to destroy affected livestock.

7 (b) Intentionally making a false statement on an application
8 for indemnification or reimbursement from the state.

9 (c) Intentionally violating a condition of quarantine autho-
10 rized under section 12 or movement restrictions and other
11 requirements authorized under section 9.

12 (d) Intentionally importing into this state, without permis-
13 sion from the director, diseased livestock or livestock exposed
14 to an infectious, contagious, or toxicological disease.

15 (e) Intentionally misrepresenting the health, medical
16 status, or prior treatment for an infectious, contagious, or tox-
17 icological disease of livestock to facilitate movement or trans-
18 fer of ownership to another person.

19 (2) Except as otherwise provided under ~~subsections (1) and~~
20 ~~(2)~~ SECTION 26A AND SUBSECTION (1), a person who violates this
21 act, a rule promulgated under this act, a quarantine authorized
22 under section 12, or movement restrictions and other requirements
23 authorized under section 9 is guilty of a misdemeanor, punishable
24 by a fine of not less than \$300.00 or imprisonment of not less
25 than 30 days, or both.

26 (3) The court may allow the department to recover reasonable
27 costs and attorney fees incurred in a prosecution resulting in a

1 conviction for a violation of subsections (1) and (2). Costs
2 assessed and recovered under this subsection shall be paid to the
3 state treasury and credited to the department for the enforcement
4 of this act.

5 (4) Except as otherwise provided in subsection (1), the
6 director, upon finding that a person has violated this act, a
7 rule promulgated under this act, a quarantine authorized under
8 section 12, or movement restrictions and other requirements
9 authorized under section 9, may do the following:

10 (a) Issue a warning.

11 (b) Impose an administrative fine of not more than \$1,000.00
12 for each violation after notice and an opportunity for a hearing
13 pursuant to the administrative procedures act of 1969, 1969
14 PA 306, MCL 24.201 to 24.328.

15 (c) Issue an appearance ticket as described and authorized
16 by sections 9a to 9g of chapter 4 of the code of criminal proce-
17 dure, 1927 PA 175, MCL 764.9a to 764.9g, with a fine of not less
18 than \$300.00 or imprisonment of not less than 30 days, or both.

19 (5) The director shall advise the attorney general of the
20 failure of any person to pay an administrative or civil fine
21 imposed under this section. The attorney general shall bring a
22 civil action in a court of competent jurisdiction to recover the
23 fine and costs and fees including attorney fees. Civil penalties
24 and administrative fines collected shall be paid to the state
25 treasury.

26 (6) The remedies and sanctions under this act are
27 independent and cumulative. The use of a remedy or sanction

1 under this act does not bar other lawful remedies and sanctions
2 and does not limit criminal or civil liability. Notwithstanding
3 the provisions of this act, the department may bring an action to
4 do 1 or more of the following:

5 (a) Obtain a declaratory judgment that a method, act, or
6 practice is a violation of this act.

7 (b) Obtain an injunction against a person who is engaging,
8 or about to engage, in a method, act, or practice that violates
9 this act.