

HOUSE BILL No. 6339

July 23, 2008, Introduced by Reps. Condino, Kathleen Law, Byrum, Espinoza and Mayes
and referred to the Committee on Agriculture.

A bill to amend 1988 PA 466, entitled
"Animal industry act,"
by amending sections 31 and 44 (MCL 287.731 and 287.744), section
31 as amended by 2003 PA 271 and section 44 as amended by 2002 PA
458, and by adding section 17.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 17. (1) A PERSON SHALL NOT RELEASE SWINE AND SHALL NOT
2 ALLOW THE RELEASE OF SWINE OWNED OR POSSESSED BY THAT PERSON.

3 (2) IF A SWINE IS RELEASED, THE PERSON WHO WAS IN POSSESSION
4 OF THE SWINE SHALL NOTIFY A LOCAL ANIMAL CONTROL OFFICER APPOINTED
5 UNDER THE DOG LAW OF 1919, 1919 PA 339, MCL 287.261 TO 287.290, OR
6 LOCAL LAW ENFORCEMENT AGENCY WITHIN 2 HOURS OF THE DISCOVERY OF THE
7 RELEASE, UNLESS THE SWINE HAS BEEN RECOVERED WITHIN THAT TIME.

1 (3) A PERSON SHALL NOT IMPORT INTO THIS STATE LIVE FERAL SWINE
2 OR ANY CROSSES OF FERAL SWINE WITHOUT PERMISSION FROM THE DIRECTOR.

3 (4) BEGINNING 180 DAYS AFTER THE EFFECTIVE DATE OF THE
4 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT DO ANY
5 OF THE FOLLOWING:

6 (A) OWN, POSSESS, INCLUDING, BUT NOT LIMITED TO, POSSESSION IN
7 CONFINEMENT ON A SHOOTING PRESERVE, OR TRANSFER OWNERSHIP OR
8 POSSESSION OF LIVE SWINE FOR THE PURPOSE OF SHOOTING.

9 (B) OWN, POSSESS, INCLUDING, BUT NOT LIMITED TO, POSSESSION IN
10 CONFINEMENT ON A SHOOTING PRESERVE, OR TRANSFER OWNERSHIP OR
11 POSSESSION OF LIVE SWINE FOUND RUNNING AT LARGE. THIS SUBDIVISION
12 DOES NOT PROHIBIT EITHER OF THE FOLLOWING:

13 (i) THE TEMPORARY POSSESSION OF TRAPPED SWINE THAT WERE RUNNING
14 AT LARGE IF THE TRAPPED SWINE ARE PROMPTLY EUTHANIZED.

15 (ii) THE POSSESSION BY AN OWNER OF HIS OR HER OWN SWINE THAT
16 ARE IDENTIFIED BY AN OFFICIAL IDENTIFICATION AND THAT ARE CAPTURED
17 BY THE OWNER FOR RETURN TO THE OWNER'S FACILITY. ANY SWINE RETURNED
18 TO A FACILITY UNDER THIS SUBPARAGRAPH SHALL BE ISOLATED FROM ALL
19 OTHER ANIMALS UNTIL OFFICIAL TESTING WITH NEGATIVE RESULTS ARE
20 OBTAINED FOR PSEUDORABIES VIRUS AND SWINE BRUCELLOSIS. THE TESTING
21 SHALL BE DONE BETWEEN 30 AND 60 DAYS AFTER THE SWINE ARE RETURNED
22 TO THE FACILITY.

23 (C) ENGAGE IN SHOOTING OF CONFINED SWINE. THIS SUBDIVISION
24 DOES NOT PROHIBIT SHOOTING TO DEPOPULATE CONFINED SWINE IF THE
25 PERSON SHOOTING THE SWINE DOES NOT PAY CONSIDERATION FOR SHOOTING
26 OR THE OPPORTUNITY TO SHOOT THE SWINE.

27 Sec. 31. (1) Any species having the potential to spread

1 serious diseases or parasites, to cause serious physical harm, or
2 to otherwise endanger native wildlife, human life, livestock,
3 domestic animals, or property, as determined by the director, shall
4 not be imported into this state. An order of the director under
5 this subsection applies to a genetically engineered variant of the
6 species identified in the order, unless the order expressly
7 provides otherwise. An order of the director under this subsection
8 may be limited to a genetically engineered organism.

9 ~~(2) The director may require compliance with any or all of the~~
10 ~~following before~~ **BEFORE** the importation of a wild animal or an
11 exotic animal species not regulated by the fish and wildlife
12 service of the United States department of interior or the
13 department of natural resources of this state, **THE DIRECTOR MAY**
14 **ISSUE AN ORDER REQUIRING 1 OR MORE OF THE FOLLOWING:**

15 (a) ~~Physical examination~~ **THE ANIMAL BE PHYSICALLY EXAMINED** by
16 an accredited veterinarian ~~be conducted~~ after importation to
17 determine the health status ~~, AND~~ proper housing, husbandry, and
18 confinement of ~~any~~ **THE** animal. ~~permitted to enter this state.~~

19 (b) ~~Negative test results~~ **THE ANIMAL TEST NEGATIVE** to specific
20 official tests required by the director within a time frame before
21 importation into this state as determined by the director.

22 (c) ~~Identification prior to~~ **THE ANIMAL BE IDENTIFIED BEFORE**
23 importation in a manner approved by the director.

24 (3) An order of the director under subsection (2) applies to a
25 genetically engineered variant of the species identified in the
26 order, unless the order expressly provides otherwise. An order of
27 the director under subsection (2) may be limited to a genetically

1 engineered organism.

2 (4) An official interstate health certificate or official
3 interstate certificate of veterinary inspection signed by an
4 accredited veterinarian from the state of origin shall accompany
5 all wild animal or exotic animal species imported into this state.
6 The official interstate health certificate or official interstate
7 certificate of veterinary inspection shall comply with ~~all the~~
8 ~~requirements of section 20(1)(a), (b), (c), (d), (e), and (f)~~
9 **SECTION 20(1) .**

10 (5) A wild animal or exotic animal species permitted to enter
11 this state shall receive housing, feeding, restraining, and care
12 that is approved by the director.

13 ~~—— (6) A person shall not import or release live feral swine or~~
14 ~~any crosses of feral swine in this state for any purpose without~~
15 ~~permission from the director.~~

16 Sec. 44. (1) A person who commits 1 or more of the following
17 is guilty of a felony punishable by a fine of not less than
18 \$1,000.00 and not more than \$50,000.00, or imprisonment ~~of~~ **FOR** not
19 more than 5 years, or both, and shall not receive any
20 indemnification payments at the discretion of the director:

21 (a) Intentionally contaminating or exposing livestock to an
22 infectious, contagious, or toxicological disease for the purpose of
23 receiving indemnification from the state or causing the state to
24 destroy affected livestock.

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

27 (c) Intentionally violating a condition of quarantine

1 authorized under section 12 or movement restrictions and other
2 requirements authorized under section 9.

3 (d) Intentionally importing into this state, without
4 permission from the director, diseased livestock or livestock
5 exposed to an infectious, contagious, or toxicological disease.

6 (e) Intentionally misrepresenting the health, medical status,
7 or prior treatment for an infectious, contagious, or toxicological
8 disease of livestock to facilitate movement or transfer of
9 ownership to another person.

10 (f) Intentionally infecting or contaminating an animal with,
11 or intentionally exposing an animal to, a reportable disease other
12 than for bona fide research as approved by a research institution
13 licensed by ~~the~~ **THIS** state ~~of Michigan~~ or a federal agency.

14 **(G) INTENTIONALLY RELEASING OR ALLOWING THE RELEASE OF FERAL**
15 **SWINE.**

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

23 (3) The court may allow the department to recover reasonable
24 costs and attorney fees incurred in a prosecution resulting in a
25 conviction for a violation of ~~subsections (1) and~~ **SUBSECTION (1) OR**
26 **(2)**. Costs assessed and recovered under this subsection shall be
27 paid to the state treasury and credited to the department for the

1 enforcement of this act.

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

7 (a) Issue a warning.

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

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

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

24 (6) The remedies and sanctions under this act are independent
25 and cumulative. The use of a remedy or sanction under this act does
26 not bar other lawful remedies and sanctions and does not limit
27 criminal or civil liability. Notwithstanding the provisions of this

1 act, the department may bring an action to do 1 or more of the
2 following:

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

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