



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 208 (Substitute S-1 as reported)
Senate Bill 307 (Substitute S-1 as reported)
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Sponsor: Senator Joe Hune
Committee: Agriculture

Date Completed: 7-26-11

RATIONALE

The presence of feral swine, or wild boar, in the State has become an increasing concern to many in recent years. At present, there are approximately 65 facilities in Michigan where swine are hunted for sport or are bred for this purpose. According to the Department of Natural Resources (DNR), the vast majority of the feral swine running at large are animals that have escaped from these operations. The DNR and others report that feral swine, which are a different species than domesticated pigs, pose a significant risk to Michigan's wildlife, ecosystems, and agricultural resources, and present a serious threat of disease to humans, wildlife, and livestock, including domesticated pigs and cattle. Legislation enacted in 2010 declared wild swine to be a public nuisance and made it legal for law enforcement and animal control officers to kill swine running at large on public or private property, for a person with a concealed pistol permit or a valid hunting license to kill wild swine on public property, and for a property owner to kill wild swine on his or her own property. Many do not consider these measures adequate to control the feral swine population, however.

In December 2010, the DNR issued an order making feral swine and wild boar an invasive species in Michigan. That order was scheduled to take effect on July 8, 2011, but the effective date has been delayed until October 8, 2011. As originally scheduled, according to a DNR press release, the Department plans to begin active enforcement in April 2012. This means that

people who possess, sell, or release the animals will become subject to civil and criminal penalties, and the operations where swine are hunted and bred for hunting will become illegal. Some people believe that these facilities should be regulated by statute, rather than outlawed, and that legislation should be enacted before the DNR order takes effect.

CONTENT

Senate Bill 310 (S-1) would create the "Sporting Swine Marketing Act" to provide for the regulation of sporting swine livestock operations (breeding operations or hunting operations, or both). The bill would do the following:

- **Identify a registered sporting swine livestock operation as an agricultural enterprise, and provide that a registered operation would be considered an agricultural use.**
- **Require the Michigan Department of Agriculture and Rural Development (MDARD) to administer the Act in consultation with the Department of Natural Resources.**
- **Prohibit a person from operating a sporting swine livestock operation unless it was registered by MDARD.**
- **Beginning 60 days after the bill's effective date, prohibit the owner of an existing operation from operating it unless the owner had applied for registration.**

- Establish application and inspection fees, and require fee revenue to be deposited into a new "Sporting Livestock Fund".
- Allow money in the Fund to be used only for the administration of the proposed Act and the Privately Owned Cervidae Producers Marketing Act.
- Require an applicant for registration to submit a business plan, including biosecurity measures, a disease surveillance plan, and a proposed site plan.
- Require DNR approval of the site plan for an existing operation that was 200 acres or larger or for a proposed operation.
- Require MDARD to approve an application within 60 days if an operation met specified criteria.
- Provide that an operation could not be located within a particular deer management unit unless the owner had a verified wildlife risk mitigation plan.
- Provide that an approved application would be valid for three years and would authorize the construction of an operation; but, for an operation not in existence on the bill's effective date, would not authorize it to be populated with sporting swine.
- Require an existing operation, within six months of the bill's effective date, to come into compliance with the proposed Act and request an inspection from MDARD.
- Require an applicant, after construction of a new operation, to request an inspection.
- Require an operation to be inspected annually, and allow an owner to contract with individuals certified by MDARD to conduct an inspection in the second and third years of registration.
- Require an operation to be maintained to prevent sporting swine from escaping, and prescribe criteria for fencing.
- Prohibit a live swine from leaving an operation unless it was from a qualified pseudo rabies-negative and validated brucellosis-free herd.
- Require that there be fewer than 65 sporting swine livestock operations in the State with an approved

- application or registration until two years after the bill's effective date.
- Prohibit feral swine from being captured and used in sporting swine livestock operations.
- Specify that a sporting swine that escaped would be considered a feral swine.
- Require herd testing protocol to be followed if a sporting swine were found positive for a reportable disease under the Animal Industry Act.
- Require sporting swine to have identification, and establish record-keeping requirements.
- Establish requirements for the transfer of a registration.
- Prescribe administrative sanctions and criminal penalties for a violation of the proposed Act.

Senate Bill 208 (S-1) would amend the Animal Industry Act to specify that the right to indemnity from the State for animals ordered by the MDARD Director to be slaughtered, destroyed, or otherwise disposed of would not apply to sporting swine on a sporting swine livestock operation. If the Director ordered a disease eradication effort for such an operation, MDARD would have to develop a herd depopulation plan, which could allow for normal sporting swine harvest techniques.

Senate Bill 307 (S-1) would amend the Code of Criminal Procedure to include a felony violation of the Sporting Swine Marketing Act in the sentencing guidelines as a Class F felony against the public order, with a statutory maximum of four years.

Senate Bill 308 (S-1) would amend the Privately Owned Cervidae Producers Marketing Act to provide that a cervidae livestock facility could be operated as both such a facility and a sporting swine livestock operation if the owner met the applicable requirements of the Act and the Sporting Swine Marketing Act. A cervidae livestock facility that was also registered as a sporting swine livestock operation and had paid all applicable fees under that Act would be exempt from paying fees under the Privately Owned Cervidae Producers Marketing Act.

Senate Bill 309 (S-1) would amend the Natural Resources and Environmental Protection Act to do the following:

- Delete from the definition of "game" sporting swine located on a registered sporting swine livestock operation.
- Remove such swine from the DNR's authority to regulate game.
- Include feral swine as a prohibited mammal species.

The bill also would prohibit the Natural Resources Commission from listing as a prohibited or restricted species sporting swine regulated under the Sporting Swine Marketing Act. The DNR could not enforce any order under Part 413 (Transgenic and Nonnative Organisms) that was inconsistent with this provision.

All of the bills are tie-barred to each other. A detailed description of Senate Bill 310 (S-1) follows.

Agricultural Enterprise

A registered sporting swine livestock operation would be an agricultural enterprise and would be considered part of the State's farming and agricultural industry. Registered operations would be a form of agriculture, and the operations and their equipment would be considered agricultural facilities and equipment. A registered sporting swine livestock operation also would be considered an agricultural use.

The Commission on Agriculture and Rural Development would have to establish generally accepted agricultural and management practices under the Michigan Right to Farm Act that applied to sporting swine livestock operations.

Sporting swine products and sporting swine lawfully produced, purchased, possessed, or acquired from within this State or imported into the State would be the exclusive and private property of the owner.

Sporting Swine Movement

Any movement, importing, or exporting of sporting swine or sporting swine products would have to comply with the Animal Industry Act and the Pseudorabies and

Swine Brucellosis Control and Eradication Act. A live swine could not leave a sporting swine livestock operation unless the owner complied with the following:

- The swine contained identification as provided in the bill.
- The swine originated from a herd that was qualified pseudorabies-negative and validated brucellosis-free, unless otherwise approved by the MDARD Director.
- The swine was moving to another registered operation, a commercial or custom slaughter facility, or another location approved by MDARD.

Registration Requirement

A person would be prohibited from operating a sporting swine livestock operation unless he or she obtained a registration from MDARD or unless exempt by law. A sporting swine livestock operation could be operated as both such an operation and a cervidae livestock facility if the owner met the applicable requirements of the proposed Act and those of the Privately Owned Cervidae Producers Marketing Act. Zoos accredited under the Association of Zoos and Aquariums or other accreditations or standards acceptable to MDARD would be exempt from the proposed Act.

Beginning 60 days after the Act's effective date, an owner could not operate a sporting swine livestock operation that existed on that date unless the owner had submitted an application for registration.

Registration Application

A person who wished to obtain a sporting swine livestock operation registration would have to submit an application and fee to MDARD. The owner of an operation that was in existence on the Act's effective date could submit an application beginning on that date. An application for a new operation could be submitted beginning 60 days after the Act's effective date.

As part of the application, the person would have to submit a business plan that included all of the following:

- The address of the operation and the size, location, and legal description of

the land upon which it would be conducted.

- A proposed site plan for the operation, including the proposed size and location of each enclosure.
- Whether the operation would include a breeding operation or a shooting operation, or both.
- Biosecurity measures to be used, including a disease surveillance plan, fencing, and appropriate animal identification.
- The proposed method of flushing wild cervidae species from enclosures, unless the operation were already registered as a cervidae livestock facility.
- A proposed record-keeping system.

The business plan also would have to include the current zoning of the property and whether the local unit where the operation would be located had an ordinance regarding fences and whether the proposed facility would violate that ordinance, unless the property was currently registered as a cervidae livestock facility. If a variance from an ordinance had been granted or were being considered, the applicant would have to include that information.

The Department would have to process applications in the order that they were received. Notwithstanding any other provision of the proposed Act, a sporting swine livestock operation in existence on the Act's effective date could continue in operation during the application process until MDARD made a decision on an application.

Upon receiving an application for an operation that would be constructed after the Act's effective date, MDARD would have to forward a copy of the application to the DNR, as well as to the local unit of government where the operation would be located unless it were registered as a cervidae livestock operation or the local unit had a zoning ordinance under which the land was zoned agricultural. Within 30 days after receiving the application, the local unit could respond, indicating that the proposed application would violate an existing ordinance. In that case, the applicant would have to obtain a variance from the local unit; failure to do so would void the application.

Application Approval

Within 60 days after receiving an application for registration, MDARD would have to approve it if all of the requirements described below were met.

The owner would have to agree to meet the requirements of the proposed Act and comply with the business plan submitted to the Department.

The disease surveillance plan within the business plan would have to include the following, as applicable:

- For a shooting operation, ongoing testing for pseudorabies virus and brucellosis using a 95/10 sampling methodology or as otherwise determined by the Director.
- For a breeding operation, testing to maintain qualified pseudorabies-negative herd status and validated swine brucellosis-free herd status, or as otherwise determined by the Director.

The property on which the operation was or would be located could not be within deer management unit number 452 identified on the 2010 deer management unit map published by the DNR, unless the owner had a verified wildlife risk mitigation plan (a written plan that contained structural and management requirements intended to reduce the risk that a herd would become infected with bovine tuberculosis, approved by MDARD and verified by regulatory personnel to be in effect).

The property could not be under a quarantine under the Animal Industry Act.

For a proposed operation, and for an existing operation that was 200 acres in size or larger, the DNR would have to have approved a site plan for the operation (as discussed below). This would not apply if the operation were a registered cervidae livestock facility.

Until two years after the effective date of the proposed Act, there would have to be fewer than 65 sporting swine livestock operations in the State with an approved application or registration.

If MDARD determined that a proposed operation did not comply with these requirements, the Department would have

to affirm the denial of the application in writing and specify the deficiencies needed to be addressed or corrected in order for the application to be approved. If the deficiencies were not addressed or corrected to MDARD's satisfaction, the denial would stand as the decision of the Department. If an application were denied, the applicant could not apply again for at least four years from the affirmation of denial.

Subject to inspection requirements, an approved application would be valid for three years unless MDARD granted an extension. An approved application would authorize the construction of a sporting swine livestock operation, but for an operation not in existence on the Act's effective date, would not authorize it to be populated with sporting swine.

The Department could not approve an application for a person who was convicted of a felony under the proposed Act or the Privately Owned Cervidae Producers Marketing Act.

DNR Approval of Site Plan

Upon receiving an application for registration of a new sporting swine livestock operation that required the DNR to approve a site plan, the Department would have to review the proposed site plan. Within 30 days after receiving the application, the DNR would have to approve the site plan if the proposed size and location of the enclosures would not place unreasonable stress on wildlife habitat or migration corridors. The DNR would have to disapprove the site plan if it did not meet those conditions, and specify the reasons for that determination.

The DNR would have to give written notice of its decision to MDARD.

The Department would have to enter into a memorandum of understanding with the DNR Director containing a process for reviewing the siting of new sporting swine livestock operations.

Registration Issuance or Denial

Within six months after the Act's effective date, a sporting swine livestock operation existing on that date would have to come into compliance with the Act and submit a written request to MDARD for an inspection.

For an operation that did not exist on the Act's effective date, after the operation was constructed in compliance with an approved application, the applicant would have to request an inspection.

Within 30 days after receiving a request, MDARD would have to inspect the operation. If the Department determined that the operation complied with the Act, it would have to issue a registration within 30 days after completing the inspection.

If it determined after an inspection that a proposed operation did not comply with the Act, MDARD would have to deny issuance of a registration. Within 30 days after completing the inspection, the Department would have to give the applicant written notice of the reasons for the denial, and specify the deficiencies to be corrected.

The applicant could request a second inspection after the specified deficiencies had been corrected. The Department would not be required to make more than two preregistration inspections of the same proposed operation per application.

Upon receiving a second denial and without filing a second application, a person could request, and MDARD would have to provide, an informal review of the denial. The review would have to include input from the applicant, MDARD, and the DNR, if applicable. After the informal review, MDARD would have to issue a registration within 30 days if it determined that the operation complied with the Act. If it determined that the operation did not comply with the Act, MDARD would have to affirm the denial and specify the deficiencies needed to be addressed or corrected.

A person denied registration could request a hearing under the Administrative Procedures Act on the denial or on any limitations placed upon the issuance of a registration.

A registration would be valid for three years.

Registration Fees; Fund

The Department would have to charge the fees listed in Table 1 and forward all fees collected to the State Treasurer for deposit into the Sporting Livestock Fund.

Table 1

Purpose	Fee
Application	\$500
Initial inspection	
≤ 40 acres	\$500
> 40 acres	\$1,000
Second preregistration inspection	\$500
Renewal application	\$2,250
Second- & third-year inspection by MDARD	
≤ 40 acres	\$250
> 40 acres	\$500

The Sporting Livestock Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The Treasurer would have to direct investment of the Fund and credit to it interest and earnings from investments. For auditing purposes, MDARD would be the administrator of the Fund.

Money in the Fund could be spent, upon appropriation, only to administer the proposed Act and the Privately Owned Cervidae Producers Marketing Act. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund.

Registration Renewal

The Department would have to establish an expedited process for renewal of a registration. An application for renewal, and an application fee, would have to be submitted at least 60 days before the current registration expired. A renewal submitted later than 60 days before the registration expired would require submission of an application for registration.

The Department would have to make a decision on a renewal application within 30 days after it was submitted. If MDARD failed to process the application in a timely and complete manner, the current registration would be extended until the Department completed the processing.

Unless MDARD indicated otherwise in writing at the time it sent its renewal application, there would be a presumption that the Department would renew the registration upon timely submission of the completed renewal application and fee.

Transfer of Registration

If the owner of a sporting swine livestock operation intended to transfer his or her registration, the owner would have to give MDARD a written notice of the proposed transfer. The notice would have to contain the transferee's name, address, and telephone number, and the proposed date of transfer. The notice would have to be accompanied by a nonrefundable fee of \$250.

Within 30 days after receiving the notice, MDARD would have to review the proposed transferee's eligibility to receive a registration. If the transferee were eligible, the Department would have to approve the transfer and issue a registration to the transferee. The term of the registration would not be extended from the term provided in the registration being transferred, however.

Registration Modification; Decommissioning

The owner of a sporting swine livestock operation would have to apply for a modification of his or her registration before any change in the activities for which the registration was issued. An application for modification would have to be submitted in the same manner as an application for registration.

The owner of a sporting swine livestock operation could submit a request to MDARD for decommissioning of the operation. After conducting an inspection, the Department would have to approve the request as long as the decommissioning was conducted in a manner that did not create a risk to the environment, free-ranging animals, and domestic livestock.

Inspections

An owner would have to grant MDARD or its authorized agent access at all reasonable hours to any sporting swine livestock operation to inspect and determine if the Act was being violated, and to secure samples or specimens of any sporting swine. An inspection would have to be conducted under practices designed not to jeopardize the health of the sporting swine.

A sporting swine livestock operation would have to be inspected annually. An owner

could contract with individuals certified by MDARD to conduct an inspection during the second and third years of a registration, to confirm compliance with the Act and other requirements of law. The Department could not certify an individual to conduct inspections if he or she were an owner, operator, or employee of a sporting swine livestock operation.

Fencing; Escape

A sporting swine livestock operation would have to be maintained to prevent sporting swine from escaping. Fencing would have to be approved by MDARD and comply with specifications in the proposed Act (which prescribes criteria for height, posts, depth, gates, and the proximity of foliage), and any other requirements approved by the Department.

The owner or the owner's designee would have to conduct and document a weekly inspection of fencing.

A sporting swine that escaped from a sporting swine livestock operation would be considered a feral swine. The owner would have to notify MDARD within 48 hours of discovering the escape.

Identification

All imported and exported sporting swine at a sporting swine livestock operation would have to have clearly visible permanent individual official identification as provided for in the Animal Industry Act, as well as a second identification, which could be an electronic ID tag, a tattoo, or a freeze brand. In addition, all sporting swine breeding operations providing animals to sporting swine shooting operations would have to have permanent individual animal identification on all swine before they reached 50 pounds. All sporting swine born naturally on shooting operations also would have to have official ID before they reached 50 pounds.

A sporting swine shooting operation would have one year from the date a registration was issued to tag all animals born on the operation.

Records

A person registered to operate a sporting swine livestock operation would have to maintain records of production, purchases, imports, or exports necessary to establish proof of ownership. Upon request of MDARD or a law enforcement officer, a person transporting sporting swine would have to produce documentation that contained the origin of shipment, registration, shipping destination, and any other proof required under the Animal Industry Act or the Pseudorabies and Swine Brucellosis Control and Eradication Act.

An owner would have to keep records of all sporting swine harvested and all purchases of sporting swine for at least seven years. Records of the number of animals that were bought, sold, or killed on a sporting swine shooting operation, or that died naturally would have to be sent to MDARD quarterly, and could be submitted electronically.

Herd Testing Protocol

If a sporting swine were found to be positive for a reportable disease under the Animal Industry Act, herd testing protocol established by the MDARD Director under that Act would have to be followed. If the protocol indicated that the herd was positive, the Director could issue an order under that Act.

Prohibition

A person would be prohibited from knowingly providing false information in a matter pertaining to the proposed Act, or resisting, impeding, or hindering MDARD in the discharge of its duties under the Act.

Administrative Sanctions; Criminal Penalty

Upon finding that a person had violated any provision of the proposed Act, MDARD could do any of the following:

- Issue a warning.
- Issue an appearance ticket as authorized by the Code of Criminal Procedure.
- Place a quarantine upon the operation disallowing any movement of animals until certain requirements imposed by the Department were met.
- Impose an administrative fine of up to \$1,000 plus the costs of investigation,

for each violation after notice and an opportunity for a hearing.

A person aggrieved by an administrative fine could request a hearing under the Administrative Procedures Act.

The Department would have to advise the Attorney General of a person's failure to pay an administrative fine. The Attorney General would have to bring a civil action to recover the fine. Administrative fines would have to be paid to the Sporting Livestock Fund.

Also, after an opportunity for an administrative hearing, MDARD could deny, suspend, revoke, or limit a registration if the registrant failed to comply with the Act.

In addition, MDARD could bring an action to do either or both of the following:

- Obtain a declaratory judgment that a method, activity, or practice was a violation of the proposed Act.
- Obtain an injunction against a person who was engaging in a method, activity, or practice that violated the Act.

Except as provided below, a person who violated by the Act would be guilty of a misdemeanor punishable by imprisonment for up to 30 days, a fine of not less than \$300 or more than \$1,000, or both.

A court could allow MDARD to recover reasonable costs and attorney fees incurred in a prosecution resulting in a conviction for a violation of the Act.

Additional Prohibitions; Criminal Penalties

A person would be prohibited from releasing or allowing the release of any sporting swine or damaging a fence or gate in a manner that could allow the release of any sporting swine. An owner would be prohibited from abandoning a registered operation without first notifying MDARD.

A person who violated either prohibition would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, a maximum fine of \$500, or both, for a first offense. The penalty for a second or subsequent offense would be imprisonment for up to one year and/or a maximum fine of \$2,000. These penalties would not apply to

a person who unintentionally allowed the release of a sporting swine, if he or she reported the release to MDARD and killed the swine within 48 hours.

A person also would be prohibited from intentionally or knowingly causing the ingress of feral swine into a sporting swine livestock operation. A person who violated this prohibition, or who intentionally violated either of the prohibitions described above, would be guilty of a felony punishable by imprisonment for up to four years, a maximum fine of \$50,000, or both.

Report to the Legislature

Within two years after the Act's effective date, and within four years after that date, MDARD, in consultation with the DNR, would have to submit a report to the Legislature. The report would have to be submitted electronically and include all of the following:

- The number of registered sporting swine livestock operations in the State.
- The number of new sporting swine livestock operations in the State that began operating after the Act's effective date.
- The number of known releases from sporting swine livestock operations in the State.
- The number of sporting swine at operations in the State that had been found positive for a reportable disease under the Animal Industry Act.
- The number of violations of the proposed Act and the nature of the violations, including the number of registrations that had been suspended or revoked.
- MDARD's determination as to whether the fees were sufficient to carry out the Department's responsibilities under the Act.
- MDARD's recommendations for changes to the Act.
- Other information the Department considered relevant.

MCL 208.714 (S.B. 208)
777.12m (S.B. 307)
287.955 (S.B. 308)
324.40103 et al. (S.B. 309)

BACKGROUND

Part 413 of the Natural Resources and Environmental Protection Act contains lists of "prohibited" and "restricted" species, and authorizes the Natural Resources Commission to add to or delete from the lists. In December 2010, the Department of Natural Resources issued an order adding the following to the list of prohibited species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, Old world swine, razorback, Eurasian wild boar, and Russian wild boar. This does not include domesticated pigs used in domestic hog production. As mentioned above, the order originally was to take effect on July 8, 2011, but the effective date was postponed to October 8, 2011.

Under Part 413, it is illegal to possess, sell, or introduce (stock, place, or release) a prohibited species. Possession is subject to a maximum civil fine of \$10,000, although a person who knowingly possesses a prohibited species is guilty of a felony, punishable by imprisonment for up to two years and a fine of at least \$2,000 but not more than \$20,000.

A person who sells or offers to sell a prohibited species is subject to a civil fine of at least \$2,000 but not more than \$20,000.

A person who introduces a prohibited species is guilty of a misdemeanor, punishable by imprisonment for up to one year and a fine of at least \$1,000 but not more than \$10,000. If the person knows or should know the identity of the prohibited species, the violation is a felony, punishable by imprisonment for up to two years and a fine of at least \$2,000 but not more than \$20,000. If the violator knows that the introduction is unlawful, the offense is a felony punishable by up to four years' imprisonment and a fine of at least \$2,000 but not more than \$500,000.

In addition to any other civil or criminal sanction imposed, a person who violates Part 413 is liable for any damage to natural resources resulting from the violation.

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

Sporting swine operations represent a viable part of Michigan's agricultural and tourism industries. Like other businesses, sporting swine operations pay taxes, employ workers, and contribute to the local economy. These operations need to be regulated, however, because of the damage that can occur if swine escape. The proposed Sporting Swine Marketing Act is similar to the statute that regulates facilities where privately owned cervidae, such as deer and moose, are bred, raised, and hunted. Sporting swine livestock operations would have to be registered by the State, and would have to meet stringent regulations, including site plan criteria, in order to be registered. Annual inspections would be required, fencing would have to meet uniform standards, sporting swine could not be moved unless they were from disease-free herds, herd testing protocol would have to be followed if a reportable disease were detected, record-keeping and animal identification requirements would apply, and owners would have to pay application and inspection fees. In addition, animals that escaped from sporting swine operations would be considered feral and could be killed on sight, under the laws enacted in 2010, and owners would be subject to criminal penalties for releasing swine or abandoning operations. Criminal penalties also could be imposed on someone who allowed feral swine to enter a sporting swine operation.

Because feral swine can and do pose a threat to the public health, natural resources, and the environment, it is important that the State have regulatory oversight over sporting swine operations, as well as enforcement authority. It also is important to balance the need for regulation with the recognition of private property rights and investments that individuals already have made within the confines of existing law. By limiting the number of registered sporting swine operations to 65 for two years, the legislation essentially would put a moratorium on new swine ranches. The existing operations would be allowed to remain in business if they met the statutory criteria, and the "bad actors" would be weeded out.

Opposing Argument

Feral swine should be eradicated, not regulated. Calling them "livestock" or "sporting swine" does not change their species, or their potential for destruction. The feral nature of these animals is the same whether or not they are behind a fence. According to the DNR, "Experts have told the [Natural Resources Commission] that there are no practical or economical management techniques that can adequately control the spread and negative impact of feral swine... 'Other states have spent millions of dollars on trapping, shooting, and other measures to control feral swine, and have admitted it is a losing battle.'"

Feral swine pose a significant threat to human and animal health through the transmission of disease. Reportedly, feral swine can carry as many as 30 viral and bacterial diseases and at least 37 parasites that affect people, livestock, wildlife, and pets. One disease in particular, pseudorabies, could devastate Michigan's pork industry. Although the State successfully eradicated pseudorabies from its commercial swine herds in 2000, the disease already has been detected in free-roaming wild hogs and in swine at game ranches. Another disease transmitted by feral swine is bovine tuberculosis, which can be a serious threat to the State's dairy and beef industries. The State has spent millions of dollars to combat bovine TB, and trying to regulate feral swine would simply retain one known vector of the disease.

The DNR also has reported, "Damage caused by invasive swine to important species and ecosystems has been documented in virtually every segment of their range in the United States. Feral swine are particularly disruptive of native wildlife, including many desirable game species in Michigan, such as white-tailed deer, pheasant, wild turkey and ruffed grouse...".

In addition, feral swine can damage crops, natural resources, and the ecosystem. According to the DNR, "Feral swine's rooting behavior degrades water quality by contributing to significant soil erosion, and through the introduction of bacteria, including coliform bacteria, into rivers and streams. Rooting behavior also destroys native plant communities.

"Some estimates suggest that invasive swine damage to agricultural crops and the environment conservatively total \$1.5 billion in the United States. As opportunistic feeders, feral swine consume a wide variety of crops, including corn, hay, small grains, vegetables, soybeans, tree fruits and berries. In some states, studies have shown that feral swine's rooting and wallowing behavior in agricultural fields can create holes that damage farming equipment and endanger operators."

Feral swine have been sighted in 65 Michigan counties since 2001, and have been killed or found dead in 51 counties since 2002, according to DNR figures (which are based reports from the public until late 2006). It is essential that the possession of these animals be outlawed before the problem becomes too large to manage. Already, the population of feral swine is estimated to be between 3,000 and 5,000, and the animals reportedly can produce up to three litters in as little as 14 months.

Furthermore, the State cannot afford to regulate and monitor sporting swine operations. The proposed application and inspection fees would not begin to cover the hundreds of thousands of dollars that the operations would cost the State each year. On top of these costs, if sporting swine operations were allowed to remain in Michigan, there would be untold costs to the public, individual residents, and private businesses from destruction to the environment, natural resources, wildlife, wildlife habitat, livestock, crops, agricultural land, and other private property. Because of the physical danger feral swine can pose to hunters, hikers, campers, and others who enjoy the outdoors, the animals also threaten the State's hunting and tourism industries.

Response: Reported estimates of the feral swine population are exaggerated. According to DNR data, only 36 animals were killed or found dead and only 48 were sighted in 2010.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 310 (S-1) would establish a registration and regulatory program specifically for sporting swine livestock operations in the State. It is estimated that

there are approximately 65 swine hunting operations in Michigan, most of which are licensed as cervid hunting facilities. Both the Department of Natural Resources and the Department of Agriculture and Rural Development play a role in the regulation of this agriculture industry. The DNR has estimated that its ongoing costs of providing application services, site review, and inspection for the regulation of these businesses is approximately \$265,000 annually. According to MDARD, its regulatory costs related to disease surveillance and monitoring would be \$315,000 annually, but with some of these costs being borne by existing Department resources, only a total additional amount of \$190,000 would be required to fulfill the bill's provisions. The bill would establish application and registration fees for sporting swine livestock operations, the revenue from which would be deposited in a Sporting Livestock Fund within the Department of Treasury, to be used for the sporting swine livestock program and the Privately Owned Cervidae Producers Marketing Act. The bill would provide for an application fee of \$500, inspection fees of \$500 to \$1,000, and a renewal application at the end of the three-year registration period of \$2,250. It is not possible to determine exactly how much revenue would be collected by MDARD from sporting swine livestock operations' fees, as it is not known how many more (or fewer) of the 65 known swine operation owners would choose to apply for registration under the bill. Whatever costs to the State for sporting swine livestock operations not covered from license fee receipts would fall to the State's General Fund.

Senate Bill 310 (S-1) would require the DNR to review site plans for each existing sporting swine operation larger than 200 acres, as well as for each proposed operation. This requirement would impose some indeterminate costs on the DNR. It is possible that some of these costs could be offset by fees collected under the bill, but it is unknown if the fees would be sufficient to cover these costs, as the fees would have to cover MDARD's costs as well. Additionally, Senate Bill 308 (S-1) would exempt cervidae livestock facilities that also registered as sporting swine livestock operations from paying fees under the Privately Owned Cervidae Producers Marketing Act if all applicable fees had been paid under the Sporting Swine Marketing Act. Since the

fees under the Sporting Swine Marketing Act would be higher than similar fees under the Privately Owned Cervidae Producers Marketing Act, it is likely that more revenue would be collected than was collected previously. This additional revenue would be used by both the DNR and MDARD for administration of both the swine and cervid programs. It is not clear, however, if this additional revenue would sufficiently cover the costs of both programs.

In addition, Senate Bill 310 (S-1) would reduce local property tax revenue for school operating purposes by an unknown and likely minimal amount, and increase State School Aid Fund expenditures by an equal amount. Most facilities affected by the bill likely consist of property already exempt from school operating millages. To the extent that property that was not currently exempt was included within a sporting swine facility, the bill would reduce local revenue. State School Aid Fund expenditures would need to increase by an identical amount in order to maintain per-pupil funding guarantees.

The bills' criminal penalties and sentencing guidelines would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. To the extent that the new offenses resulted in an increase in felony and misdemeanor convictions, the State and local units of government would incur increased correctional costs. An offender convicted of the proposed Class F offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

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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.