

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

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 (DNR).
- 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 (shown in Table 1, below); require fee revenue to be deposited into a new "Sporting Livestock Fund"; and 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, a proposed site plan, and the current zoning of the property.
- Require an application to be shared with the local unit of government, as a rule, and require the applicant to obtain a variance if the operation would violate an ordinance.
- 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.
- Allow a person to request a second inspection if registration were denied.
- 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.

- Provide that a registration would be valid for three years, and require MDARD to establish an expedited renewal process.
- Require a sporting swine livestock 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, and require the owner to notify MDARD within 48 hours of discovering the escape.
- 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.
- Establish requirements for the transfer of a registration and set a \$250 transfer fee.
- Prescribe administrative sanctions for a violation of the proposed Act, and allow MDARD to file an action for a declaratory judgment or an injunction.
- Establish felony and misdemeanor penalties for violations of the Act.
- Require MDARD to report to the Legislature within two years and four years after the Act took effect.

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

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.

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

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 the Department 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 a sporting swine livestock operation 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 new Class F offense under the bills 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.