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BILL ANALYSIS



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House Bill 5778 (Substitute H-5 as passed by the House)
Sponsor: Representative Thomas A. Albert
House Committee: Agriculture
Senate Committee: Agriculture

Date Completed: 12-11-18

CONTENT

The bill would amend the Large Carnivore Act to do the following:

- **Modify various provisions pertaining to the applicability of the Act to certain individuals or entities.**
- **Specify that a person who met certain requirements could apply to the Michigan Department of Agriculture and Rural Development (MDARD) for a breeding license to breed large carnivores.**
- **Prescribe the information that would have to be included on a large carnivore breeding license application.**
- **Require MDARD to forward the application to the Large Carnivore Breeding Advisory Committee after receiving.**
- **Establish the Large Carnivore Breeding Advisory Committee, and prescribe its membership.**
- **Require a licensee to comply with proposed requirements pertaining to the housing and care of large carnivores, including facilities standards, emergency response, and veterinary care.**
- **Prohibit licensees from engaging in certain activities with respect to a large carnivore, such as transferring it to a person unqualified to maintain it, to an animal auction, or to a person who allows the hunting of large carnivores.**

The bill would take effect 90 days after its enactment.

Applicability of the Act; Exceptions

The Act governs the ownership, possession, and care of large carnivores. Section 4 prohibits a person from possessing a large carnivore unless the person owns it, was in possession of it when the Act took effect (July 7, 2000), and applied for a permit within 90 days after that date. Under Section 5, a person who owns a large carnivore must have an identification number placed in it via subcutaneous microchip. Section 6 prescribes the requirements for confinement and control of a large carnivore. Those sections do not apply to any of the following:

- An animal control shelter or animal protection shelter.
- A person licensed or approved by the Michigan Department of Natural Resources or by the United States Fish and Wildlife Service of the United States Department of the Interior.
- A zoological park approved or accredited by the American Zoo and Aquarium Association.

- A person approved by the Association of Sanctuaries or the American Sanctuary Association.
- A law enforcement officer acting under the authority of the Act.
- A veterinarian temporarily in possession of a large carnivore to provide veterinary care for or humanely euthanize it.

Under the bill, those sections would not apply to any of the following:

- A person licensed or approved by the Michigan Department of Natural Resources or by the United States Fish and Wildlife Service of the United States Department of the Interior.
- A law enforcement officer acting under the authority of the Act.
- A veterinarian temporarily in possession of a large carnivore to provide veterinary care for or humanely euthanize it.

Sections 4, 5, 6(1)(d) to (5)(d) and 14(3) would not apply to an animal control shelter or animal protection shelter that was in possession of a large carnivore to provide humane euthanasia or to export it to another state. (Section 14(3) specifies that if a violation of the Act was a failure to obtain a permit and the violation was committed knowingly, not more than 14 days after the notice is delivered, the owner of the large carnivore must transfer ownership and possession of the large carnivore and notify the law enforcement officer of the action taken.)

Generally, the Act does not apply to a person who meets all of the following requirements:

- Is conducting a for-profit or nonprofit business, if its primary purpose is the presentation of animals including large carnivores to the public for education or exhibition purposes.
- Is a Class C licensee who possesses and maintains a Class C license under 9 CFR Parts 1 and 2.
- Meets or exceeds all standards, including standards for training, housing, care, and transport of large carnivores, required of a Class C licensee.
- Except as provided, does not allow a patron to come into direct contact with a large carnivore, or come into close enough contact with a large carnivore over 20 weeks of age so as to place the patron in jeopardy of being harmed by the large carnivore.
- Does not sell large carnivores, except to another person that meets these requirements.
- Does not breed large carnivores.

Under the bill, Sections 4, 5, 6(1)(d) to (5)(d), and 14(3) of the Act would not apply to a person who resided in Michigan and who met the above requirements, except that the person would have to meet or exceed all standards required of a Class C licensee, including standards for training, housing, care, and transport of large carnivores. If the United States Department of Agriculture (USDA) had confiscated an animal of, or issued an official warning letter to or a civil penalty against, a Class C licensee within the last five years, that licensee would not meet this requirement.

Requirements for Prospective Licensee

A person who met all of the following requirements could apply to MDARD for a breeding license to breed large carnivores:

- Was conducting a for-profit or nonprofit business, if the primary purpose of the business was the presentation of animals including large carnivores to the public for education or exhibition purposes.
- Was a Class C licensee that possessed and maintained a Class C license under 9 CFR Parts 1 and 2.

- Did not allow a patron to come into direct contact with a large carnivore.
- Did not sell large carnivores, except to another person that met the above requirements.

The person also would have to meet all standards required for a Class C licensee, including, standards for training, housing, care, and transport of large carnivores. If the USDA had confiscated an animal of, or issued an official warning letter to or a civil penalty against, a Class C licensee within the last five years, that licensee would not meet this requirement.

License Application

An application for a breeding license would have to be on a form prescribed by the Department and would have to contain all of the following:

- The name, address, telephone number, and electronic mail address of the person applying and, if the applicant was a legal entity, list any partners, officers, or agents for service of process.
- A description of the two large carnivores the person intended to breed and the purpose for the breeding that demonstrated compliance with the requirement to participate in a scientific and sustainable breeding program.

The application would have to be accompanied by the following:

- Documentation from the USDA that the person had not had an animal confiscated or been issued an official warning letter or civil penalty.
- Documentation that the person complied with the requirements for prospective licensees as well as requirements pertaining to keeping large carnivores.
- An application fee of \$2,500.

After receiving an application, the Department would have to forward it to the Large Carnivore Breeding Advisory Council. Within 90 days after receiving the application, MDARD would have to deny, grant, or grant with conditions the license after considering the recommendations of the State Veterinarian. The Department could not grant more than 10 licenses in a year. Receiving the application would be considered the date the application was received by any State agency or department. If the application were considered incomplete by MDARD, it would have to notify the applicant in writing or electronically within 14 days of the incomplete application, describing the deficiency and requesting additional information. If MDARD identified a deficiency, the 90-day period would be tolled until notification by the Department of a deficiency and until the date the requested information was received.

A license to breed the two large carnivores identified in the application would be valid for two years from the date it was granted.

A person who held a valid breeding license would be exempt from Sections 4, 5, 6(1)(d) to (5)(d), and 14(3) of the Act.

Large Carnivore Breeding Advisory Committee

Large Carnivore Breeding Advisory Committee would be created in the Department to advise it on applications for a breeding license. The Committee would consist of the State Veterinarian, who would have to serve as chairperson, and the following two members appointed by the Governor: a) one individual who was a member of a public zoo; and b) one individual who was a member of a private zoo.

The Department could revoke a breeding license upon the advice from the State Veterinarian and after notice and a hearing as provided under the Administrative Procedures Act.

Revenue received for application fees would have to be deposited in the Agriculture Licensing and Inspection Fees Fund. The application fees collected and deposited into the Fund could be used only by the Department to implement the Advisory Committee and licensure requirements.

Licensee Requirements Pertaining to Large Carnivores

A person who held a breeding license would have to do all of the following:

Facility Requirements. The licensee would have to ensure that a facility in which a large carnivore was housed was adequately lit and free of clutter. Service doors would have to be clearly marked and in good working condition, and sufficient barriers would have to be in place to prevent unauthorized access to areas not intended for public access.

Emergency Response. The licensee would have to provide immediate access to staff working with or around large carnivores to designated emergency response personnel through a walkie-talkie, cellular telephone, alarm, or other electronic device. The licensee would have to put written emergency protocols in place for large carnivore escapes and injuries to humans by large carnivores. These protocols would have to include communication systems to notify local law enforcement and emergency services. Emergency drills would have to be conducted annually to practice responses for large carnivore escapes or injuries to humans. If law enforcement were not within a reasonable distance from the facility, a trained firearms team would have to be put in place. A trained firearms team would need to have professional training and would have to practice emergency responses at least twice annually. A licensee also would have to provide adequate security at the facility 24 hours per day.

Environmental Conditions. The licensee would have to house a large carnivore that was not native to an environment that had climate control and was comfortable for that species of carnivore. An environment that relied on climate control would need to have an emergency backup system available, and all mechanical equipment would have to be included in a documented preventative maintenance program. The licensee would have to ensure that the conditions in which the large carnivore was kept took into account all of the following: a) need for space, b) environmental complexity, c) choice and control over social interactions and use of space, and d) protection from injury and disease. Staff would have to be trained to recognize abnormal behavior and clinical signs of illness, and have knowledge regarding the diets, husbandry, natural history, and care required for large carnivores under their care to ensure the animals' well-being.

Transfer & Acquisition. The licensee would be required to have a written policy for the acquisition, transfer, and disposition of large carnivores. The policy would have to satisfy the following:

- Comply with all applicable local, State, Federal, and international laws and regulations.
- Require documentation of ownership of large carnivores and any applicable chain of custody.
- Establish a system for the documentation of acquisition, transfer, and disposition of large carnivores using a comprehensive institutional record-keeping system.
- Require the acquisition of a free-ranging animal to be done in accordance with applicable laws and regulations, and prohibit the acquisition if it would be detrimental to the long-term viability of the carnivore in the wild.

The licensee would have to meet all applicable laws and regulations when designating a large carnivore for reintroduction and release into the wild.

Financial Stability. The licensee would have to sign and provide to MDARD a succession plan for the large carnivores held by the licensee. The licensee would have to sign and provide to the Department an affidavit stating that it had the financial ability to care for the collection of large carnivores. The person also would have to have a written contingency plan in place in the event that a significant decrease in operating income occurred. Insurance coverage would have to be provided for staff, volunteers, visitors, and physical facilities.

Breeding Programs. The licensee would have to participate in scientific, sustainable, and cooperatively-managed breeding programs that identified specific and typically threatened or endangered large carnivore species that were composed of large carnivores of known provenance and pedigree. The breeding program would have to be based on comprehensive pedigree and demographic databases and analyses, and would need to have long-range population management goals and recommendations to ensure sustainability of the population. The breeding program could not allow breeding of species hybrids or breeding for the purpose of selling, bartering, or trading the large carnivore's parts. The program also would have to ensure that adequate space to house a large carnivore's offspring was in place.

Veterinary Care. The bill would require the licensee to have a staff or attending veterinarian with knowledge of the species of large carnivore held by the person available 24 hours per day and a veterinary care program that emphasized disease prevention. The licensee would have to perform routine health evaluations for infectious and noninfectious diseases common to large carnivores. The evaluations would have to include the following:

- Fecal parasite screening.
- Complete blood count and serum chemistry.
- Weight.
- Health examinations.

The licensee would have to regularly vaccinate large carnivores for infectious diseases, as considered necessary by the attending veterinarian, and would have to exclude from enclosures wildlife or feral animals that could transmit an infectious disease to a captive large carnivore. The bill would require the licensee to consider procedures, including castration and ovariectomy, that could benefit the long-term health and welfare of an individual large carnivore. Humane euthanasia practices would have to be adopted as set forth in the "American Veterinary Medical Association Euthanasia Guidelines". The person would have to necropsy a deceased large carnivore to determine cause of death and dispose of it afterward in accordance with local, State, and Federal law.

The licensee would have to meet all applicable laws or regulations regarding food preparation and storage. A nutritious diet would have to be provided, and to the best of the licensee's ability, would have to minimize disease, nutritional deficiencies, infections, parasite infestations, and obesity. The person would have to make written procedures available to staff for the use of drugs for veterinary purposes, and maintain appropriate security over veterinary drugs.

Breeding Programs. The bill would require the licensee to have a written conservation action plan and strategy that was part of a collaborative, scientifically managed species conservation program for each species of large carnivore held that included all of the following: a) participation in local, regional, national, or international conservation programs, including staff support or participation in field conservation activities and financial support; b) education awareness programs for guests, staff, volunteers, supporters, members, vendors, and

contractors; and c) evaluation and measurement of the impact of conservation programs and activities.

The licensee could not do any of the following:

- Transfer a large carnivore to a person that was not qualified or capable of safely maintaining the carnivore or ensuring its well-being.
- Transfer a large carnivore to an animal auction or a person that could display or sell it at an animal auction.
- Transfer a large carnivore to a person that allowed the hunting of large carnivores.
- Raise a large carnivore for the purpose of providing food, fur, pelts, body parts, organs or bodily fluids, or transfer a carnivore who will use it for any of those purposes.
- Perform disfiguring procedures, including declawing and canine tooth removal, unless considered medically necessary by the attending veterinarian.
- Remove socially or nutritionally dependent young large carnivores from their mothers for hand-rearing unless deemed medically necessary by the attending veterinarian.

MCL 287.1102 et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate, but most likely minor, fiscal impact on MDARD. Under the bill, a person who was in the business of presenting animals, including large carnivores, could apply to MDARD for a breeding license to breed large carnivores. The MDARD would be responsible for establishing a licensing protocol and would have to forward license applications to a three-person Large Carnivore Breeding Advisory Committee, to be established within the Department. The MDARD either would deny, grant, or grant with conditions a breeding license after considering the recommendation of the State Veterinarian.

A breeding license for two large carnivores would cost an applicant \$2,500 and would be valid for two years. Revenue collected from license applications would be deposited in the Agriculture Licensing and Inspection Fees Fund and could only be used by the Department to implement the provisions in the bill. The MDARD reports that it could not estimate the number of license applications it might receive under the bill, but that it would most likely be a small number. The number is sufficiently small that MDARD does not anticipate the need to hire additional employees to meet the bill's requirements.

Fiscal Analyst: Bruce Baker

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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.