

BEAR CUBS UNDER LARGE CARNIVORE ACT

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Senate Bill 48 (reported from committee without amendment)

Sponsor: Sen. Tom Casperson

House Committee: Agriculture

Senate Committee: Agriculture

First Analysis (2-26-13)

BRIEF SUMMARY: The bill would amend the Large Carnivore Act so that a business could be exempt from the act even though it allowed a patron to have direct or close contact with a bear that is less than 36 weeks old or weighs no more than 90 pounds.

Currently, such an exemption only applies to those who don't allow patrons to come into contact with large carnivores or get close enough to large carnivores over 20 weeks old so as to place the patron in jeopardy of being harmed.

The bill contains provisions similar to those found in Senate Bill 1236 of 2012, which was vetoed by the governor. However, the veto was directed at provisions in that bill that are not contained in Senate Bill 48.

FISCAL IMPACT: The bill does not appear to have a direct fiscal impact on the state or on local governments.

THE APPARENT PROBLEM:

In general, the Large Carnivore Act regulates the possession of, and other activities associated with, large carnivores in the state. Large carnivores are defined to refer to bears and to large cats, such as lions, tigers, and leopards. Currently, individuals and entities can be exempted from the requirements of the act if they meet all of the following provisions: (1) they are conducting a for-profit or non-profit business whose primary purpose is to present animals to the public for education or exhibition purposes and whose business is not conducted in connection with another business as a means of attracting customers to that other business; (2) they possess a Class C license from the U.S. Department of Agriculture and meeting all of its standards; (3) *they do not allow patrons to come into contact with large carnivores or get close enough to large carnivores over 20 weeks old so as to place the patron in jeopardy of being harmed*; (4) they do not sell large carnivores, except to similarly exempt persons; and (5) they do not breed large carnivores.

The bill is attempting to address an issue involving Oswald's Bear Ranch, which operates as a home for rescued bears in Newberry, Michigan. Oswald's holds a permit from the Michigan Department of Natural Resources to have wildlife and holds a class C license from the U.S. Department of Agriculture (USDA). For the past 15 years, the ranch has been allowing patrons to pet and take photographs with bear cubs.

However, after a customer complaint concerning what the bear cubs were being fed was made to the U.S. Fish and Wildlife Service and a subsequent inspection ensued, Oswald's was informed it was operating in violation of the Large Carnivore Act, which prohibits the public from having direct contact with large carnivores. According to testimony, after being informed of the violation, Oswald's Bear Ranch remained in operation but stopped allowing patrons direct contact with bear cubs.

To remedy the situation, the bill would allow patrons to have direct or close contact with a bear up to 36 weeks old or weighing up to 90 pounds at certain facilities. This would allow Oswald's Bear Ranch to continue its longstanding practice of allowing visitors to take photographs with the bear cubs.

THE CONTENT OF THE BILL:

Under Senate Bill 48, an individual or entity would not be able to allow patrons to come into direct contact with a large carnivore, ***other than a bear up to 36 weeks old or weighing up to 90 pounds***. The bill would also amend the prohibition against allowing a patron to come into close enough contact with a large carnivore over 20 weeks old so as to place the patron in jeopardy of being harmed, so as to allow contact with ***a bear that is less than 36 weeks old or weighs less than 90 pounds***.

The bill would also remove the prohibition, cite above, against a business being conducted in connection with another business as a means of attracting customers to that other business.

ARGUMENTS:

For:

Without this change in law, Oswald's Bear Ranch in the Upper Peninsula would be unable to provide patrons the opportunity to pet and pose for photographs with bear cubs. According to testimony, the ranch has been offering this opportunity for over 15 years without incident and it serves as a major tourist attraction for the region. If Oswald's is unable to continue offering this service to the public, some believe it may harm the region's economy.

Supporters also point to the fact that Oswald's Bear Ranch takes in rescue bears that have been separated from their mothers or otherwise are unable to live in the wild. Although not all of the bears are rescued -- some are purchased -- the ranch is providing a much needed service to rescued animals by providing them a safe and secure living environment.

Against:

Opponents of the bill believe that direct contact with bears, regardless of size, poses a significant public safety threat. As part of its written testimony, the Humane Society of the United States submitted several instances it believes demonstrates the potential dangers of exposing bears to the general public and vice versa. It also cites examples of

what it believes are abuses by bear exhibitors in handling bears and otherwise putting the bear's welfare in jeopardy. If enacted, opponents believe these problems could be exacerbated. Some believe that by creating an exemption to allow direct contact with bears, the Large Carnivore Act is being significantly weakened and that allowing such activity is in direct conflict with the intent of the act.

Exposing bear cubs to excessive handling and public contact could also be stressful on the animal and have a negative effect on its welfare. There is also a general concern that these changes could lead to an increase in the captive bear population in Michigan. Aside from the potential increase in regulatory responsibilities, some believe that bears could be bred for the specific purpose of interacting with the public or taken from its mother prematurely. Additionally, there is also concern that the changes proposed in the bill would be in conflict with the federal Animal Welfare Act,

POSITIONS:

Representatives of Oswald's Bear Ranch testified in support of a similar bill in the 2011-12 legislative session. (11-28-12)

The Michigan Department of Agriculture and Rural Development is neutral on the bill. (2-20-13)

The Detroit Zoological Society opposes the bill. (2-20-13)

The Humane Society of the United States submitted written testimony in opposition to the bill. (2-20-13)

The Michigan Humane Society opposes the bill. (2-20-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.