

SENATE BILL No. 27

January 19, 2011, Introduced by Senator HANSEN and referred to the Committee on Agriculture.

A bill to amend 2000 PA 190, entitled
"Privately owned cervidae producers marketing act,"
by amending sections 2, 3, 4, 6, 7, and 10 (MCL 287.952, 287.953,
287.954, 287.956, 287.957, and 287.960), as amended by 2006 PA 561.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Business plan" means a written document of intent that a
3 person submits to the department that defines the methods,
4 protocols, or procedures that the person intends on implementing to
5 be in compliance with this act.

6 (b) "Biosecurity" means measures, actions, or precautions
7 taken to prevent the transmission of disease in, among, or between

1 free-ranging and privately owned cervidae species.

2 (c) "Cervidae livestock facility" means a privately owned
3 cervidae livestock operation on privately controlled lands capable
4 of holding cervidae species.

5 (d) "Cervidae livestock operation" means an operation that
6 contains 1 or more privately owned cervidae species involving the
7 producing, growing, propagating, using, harvesting, transporting,
8 exporting, importing, or marketing of cervidae species or cervidae
9 products under an appropriate registration.

10 (e) "Cervidae products" means any products, co-products, or
11 by-products of cervidae, including antler, antler velvet, meat, or
12 any part of the animal.

13 (f) "Cervidae species" means members of the cervidae family
14 including, but not limited to, deer, elk, moose, reindeer, and
15 caribou.

16 (g) "Department" means the Michigan department of ~~natural~~
17 ~~resources~~ **AGRICULTURE**.

18 (h) "Director" means the director of the Michigan department
19 of ~~natural resources~~ **AGRICULTURE** or his or her designee.

20 (i) "Farm" or "farm operation" means those terms as defined in
21 the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

22 (j) "Flush" or "flushed" means to move or chase from a
23 cervidae livestock facility.

24 (k) "Identify" means any documentable system or process that
25 allows a person to recognize as separate or different an individual
26 animal.

27 (l) "Law enforcement officer" means a person appointed by the

1 state or a local governmental unit who is responsible for the
2 enforcement of the criminal laws of this state.

3 (m) "Owner" means the person who owns or is responsible for a
4 cervidae livestock operation.

5 (n) "Person" means an individual, corporation, limited
6 liability corporation, partnership, association, joint venture, or
7 other legal entity.

8 (o) "Release" means to cause or allow an animal to become
9 located outside the perimeter fence of a cervidae livestock
10 facility not under the direct control of the owner.

11 Sec. 3. (1) The department shall administer this act. The
12 ~~departments~~ **DEPARTMENT** of agriculture ~~NATURAL RESOURCES~~ and
13 ~~environmental quality~~ **ENVIRONMENT** shall provide consultation.

14 (2) The department ~~of agriculture~~ may conduct activities
15 designed to develop and assist the cervidae industry in the manner
16 provided for by law.

17 Sec. 4. (1) A cervidae livestock operation is an agricultural
18 enterprise and is considered to be part of the farming and
19 agricultural industry of this state. The director of the department
20 ~~of agriculture~~ shall assure that cervidae livestock operations are
21 afforded all rights, privileges, opportunities, and
22 responsibilities of other agricultural enterprises.

23 (2) Cervidae livestock operations are a form of agriculture.
24 Cervidae livestock facilities and their equipment are considered to
25 be agricultural facilities and equipment. Uses related to the
26 farming of cervidae are considered agricultural uses.

27 (3) Cervidae products and cervidae species lawfully produced,

1 purchased, possessed, or acquired from within this state or
2 imported into this state are the exclusive and private property of
3 the owner.

4 (4) An owner harvesting privately owned cervidae species from
5 a registered cervidae livestock facility is exempt from possession
6 limits and closed seasons involving cervidae imposed in parts 401,
7 411, and 427 of the natural resources and environmental protection
8 act, 1994 PA 451, MCL 324.40101 to 324.40120, 324.41101 to
9 324.41105, and 324.42701 to 324.42714. This act does not give a
10 cervidae livestock operation authority to take free-ranging animals
11 in violation of the natural resources and environmental protection
12 act, 1994 PA 451, MCL 324.101 to 324.90106, unless under a permit
13 issued by the department.

14 (5) Any movement, importing, or exporting of cervidae species
15 or cervidae products shall be in compliance with the animal
16 industry act, 1988 PA 466, MCL 287.701 to ~~287.745~~ **287.746**.

17 Sec. 6. (1) The initial application to construct a cervidae
18 livestock facility shall be accompanied by the application fee
19 described in section 8. The department shall approve, deny, or
20 propose a modification to the completed application within 60 days.
21 The department shall utilize the standards contained in
22 "Operational Standards for Registered Privately Owned Cervidae
23 Facilities", published by the Michigan department of natural
24 resources, (revised December 2005), adopted by the Michigan
25 commission of agriculture on January 9, 2006, and adopted by the
26 natural resources commission on January 12, 2006, and incorporated
27 by reference, to evaluate the issuance, construction, maintenance,

1 administration, and renewal of a registration issued under this
2 act. The department after consultation with the department of
3 ~~agriculture~~ **NATURAL RESOURCES AND ENVIRONMENT** and with concurrence
4 of the ~~commissions of~~ natural resources **COMMISSION** and **COMMISSION**
5 **OF** agriculture may, by amendment of this act, amend or update the
6 standards adopted in this subsection. Before issuing any
7 registration under this act, the director shall verify, through
8 written confirmation, both of the following:

9 (a) The department has approved the method used to flush any
10 free-ranging cervidae species from the facility, if applicable, and
11 all free-ranging cervidae species have actually been flushed.

12 (b) The department has determined that the size and location
13 of the facility will not place unreasonable stress on wildlife
14 habitat or migration corridors.

15 (2) As part of the initial application or the application to
16 modify a cervidae livestock facility, the applicant for
17 registration shall submit a business plan complying with the
18 standards established under this section that includes all of the
19 following:

20 (a) The complete address of the proposed cervidae livestock
21 facility and the size of, the location of, and a legal description
22 of the lands on which the cervidae livestock operation will be
23 conducted.

24 (b) The number of each cervidae species included in the
25 proposed facility.

26 (c) Biosecurity measures to be utilized, including, but not
27 limited to, methods of fencing and appropriate animal

1 identification.

2 (d) The proposed method of flushing wild cervidae species from
3 the enclosure, if applicable.

4 (e) A record-keeping system in compliance with this act and
5 the operational standards incorporated by reference in subsection
6 (1).

7 (f) The method of verification that all free-ranging cervidae
8 species have been removed.

9 (g) The current zoning of the property proposed as a cervidae
10 livestock facility and whether the local unit or units of
11 government within which the cervidae livestock facility will be
12 located has an ordinance regarding fences.

13 (h) A disease herd plan in compliance with the operational
14 standards incorporated by reference in subsection (1) to be
15 approved by the state veterinarian under the animal industry act,
16 1988 PA 466, MCL 287.701 to ~~287.745~~ **287.746**.

17 (i) Any other information considered necessary by the
18 department.

19 (3) Upon receipt of an application, the director shall forward
20 1 copy each to the ~~departments~~ **DEPARTMENT** of agriculture ~~NATURAL~~
21 **RESOURCES** and ~~environmental quality~~ **ENVIRONMENT**. Upon receipt of an
22 application, the department shall send a written notice to the
23 local unit or units of government within which the proposed
24 cervidae livestock facility will be located unless the department
25 determines, from information provided in the application, that the
26 local unit of government has a zoning ordinance under which the
27 land is zoned agricultural. The local unit or units of government

1 may respond, within 30 days of receipt of the written notice,
2 indicating whether the applicant's cervidae livestock facility
3 would be in violation of any ordinance.

4 (4) The department shall not issue an initial cervidae
5 livestock facility registration or modification unless the
6 application demonstrates all of the following:

7 (a) The cervidae livestock facility has been inspected by the
8 director and he or she has determined that the cervidae livestock
9 facility meets the standards and requirements prescribed by and
10 adopted under this act, complies with the business plan submitted
11 to the department, and determines that there are barriers in place
12 to prevent the escape of cervidae species and prevent the entry of
13 wild cervidae species. A renewal or initial applicant must provide
14 a perimeter fence in compliance with the operational standards
15 incorporated by reference under subsection (1).

16 (b) The method for individual animal identification complies
17 with the standards incorporated by reference under this section.

18 (c) The applicant has all necessary permits that are required
19 under part 31 regarding water resources protection, part 301
20 regarding inland lakes and streams, and part 303 regarding wetland
21 protection of the natural resources and environmental protection
22 act, 1994 PA 451, MCL 324.3101 to 324.3133, 324.30101 to 324.30113,
23 and 324.30301 to ~~324.30323~~ **324.30329**, and any other permits or
24 authorizations that may be required by law.

25 (5) ~~Beginning the effective date of the amendatory act that~~
26 ~~added this subsection~~ **DECEMBER 29, 2006**, the department shall issue
27 an initial registration or modification registration allowing an

1 expansion of an existing facility not later than 120 days after the
2 applicant files a completed application. Renewal applications shall
3 be issued not later than 60 days after the applicant files a
4 completed application. Receipt of the application is considered the
5 date the application is received by the department. If the
6 application is considered incomplete by the department, the
7 department shall notify the applicant in writing ~~or make the~~
8 ~~information electronically available,~~ within 30 days after receipt
9 of the incomplete application, describing the deficiency and
10 requesting the additional information. The determination of the
11 completeness of an application does not operate as an approval of
12 the application for the registration and does not confer
13 eligibility upon an applicant determined otherwise ineligible for
14 issuance of a registration. The 120-day period is tolled under any
15 of the following circumstances:

16 (a) Notice sent by the department of a deficiency in the
17 application until the date all of the requested information is
18 received by the department.

19 (b) The time period during which required actions are
20 completed that include, but are not limited to, completion of
21 construction or renovation of the facility; mandated reinspections
22 if by the department; other inspections if required by any state,
23 local, or federal agency; approval by the legislative body of a
24 local unit of government; or other actions mandated by this act or
25 as otherwise mandated by law or local ordinance.

26 (6) If the department fails to issue or deny a registration
27 within the time required by this subsection, the department shall

1 return the registration fee and shall reduce the registration fee
2 for the applicant's next renewal application, if any, by 15%. The
3 failure to issue a registration within the time required under this
4 section does not allow the department to otherwise delay the
5 processing of the application, and that application, upon
6 completion, shall be placed in sequence with other completed
7 applications received at that same time. The department shall not
8 discriminate against an applicant in the processing of the
9 application based upon the fact that the registration fee was
10 refunded or discounted under this subsection.

11 (7) Upon receipt of a denial under this section and without
12 filing a second application, the applicant may request in writing
13 and, if requested, the department shall provide an informal review
14 of the application. The review shall include the applicant, the
15 department, and the ~~departments~~ **DEPARTMENT** of agriculture ~~NATURAL~~
16 **RESOURCES** and ~~environmental quality~~ **ENVIRONMENT**, if applicable.
17 After the informal review, if the director determines that the
18 proposed cervidae livestock facility or cervidae livestock
19 operation complies with the requirements of this act, the director
20 shall issue a registration within 30 days after the applicant
21 notifies the department of completion of the facility. After the
22 informal review, if the director determines that the proposed
23 cervidae livestock facility or cervidae livestock operation does
24 not comply with the requirements of this act, the director shall
25 affirm the denial of the application in writing and specify the
26 deficiencies needed to be addressed or corrected in order for a
27 registration to be issued. The applicant may waive the informal

1 review of the application.

2 (8) As used in this subsection, "completed application" means
3 an application complete on its face and submitted with any
4 applicable registration fees as well as any other information,
5 records, approval, security, or similar item required by law or
6 rule from a local unit of government, a federal agency, or a
7 private entity but not from another department or agency of the
8 state of Michigan.

9 Sec. 7. (1) At the time the construction of the cervidae
10 livestock facility is completed, the applicant shall notify the
11 department in writing. That written notice shall certify that, to
12 the best of the applicant's knowledge, the cervidae livestock
13 facility has been constructed in compliance with the requirements
14 of this act and in compliance with the standards for cervidae
15 livestock facilities. Within 30 days after notification of the
16 completion of the cervidae livestock facility, the director shall
17 inspect the cervidae livestock facility. If the director determines
18 that the proposed cervidae livestock facility conforms to standards
19 prescribed by and adopted under this act, the director shall issue
20 a registration within 30 days after completion of an inspection
21 finding that the cervidae livestock facility conforms to this act.
22 The time periods described in this subsection may be extended by
23 the department only if the department is unable to verify the
24 removal of wild cervidae species, for an act of God, or in
25 accordance with section 6(5)(a) or (b).

26 (2) If the director determines that a proposed cervidae
27 livestock facility does not comply with the requirements of this

1 act, the director shall deny the application for registration. The
2 department shall notify in writing an applicant of the reasons for
3 a registration denial within 60 days after receipt of the completed
4 application. The notice shall specify in writing the deficiencies
5 to be corrected in order for a registration to be issued.

6 (3) Without filing a second application under this section, an
7 applicant may request a second inspection after the specified
8 deficiencies have been corrected. The department is not required to
9 make more than 2 preregistration inspections of the same proposed
10 cervidae livestock facility per application.

11 (4) Upon receipt of a second denial under this section and
12 without filing a second application, the applicant may request in
13 writing and, if requested, the department shall provide an informal
14 review of the application. The review shall include the applicant,
15 the department, and the ~~departments~~ **DEPARTMENT** of agriculture
16 **NATURAL RESOURCES** and ~~environmental quality~~ **ENVIRONMENT**, if
17 applicable. After the informal review, if the director determines
18 that the proposed cervidae livestock facility complies with the
19 requirements of this act, the director shall issue a registration
20 within 30 days after the informal review. After the informal
21 review, if the director determines that the proposed facility does
22 not comply with the requirements of this act, the director shall
23 affirm the denial of the application in writing and specify the
24 deficiencies needed to be addressed or corrected in order for a
25 registration to be issued. The applicant may waive the informal
26 review of the application.

27 (5) The applicant may request a hearing pursuant to the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328, on a denial of a registration or upon any limitations
3 placed upon the issuance of a registration.

4 (6) The department shall not return a registration fee or a
5 portion of a registration fee to an applicant if a registration is
6 denied.

7 Sec. 10. The director shall enter into a memorandum of
8 understanding with the department of ~~agriculture~~ **NATURAL RESOURCES**
9 **AND ENVIRONMENT** for approving disease herd plans and determining
10 compliance by persons engaged in cervidae livestock operations,
11 applicants, and registered cervidae livestock facilities with this
12 act and investigation of violations of this act.