

# HOUSE BILL No. 4503

March 24, 2011, Introduced by Reps. McBroom, Tyler, Huuki, Horn, Crawford, Bumstead, McMillin, Opsommer and Shirkey and referred to the Committee on Agriculture.

A bill to regulate raising of swine as an agricultural enterprise in this state; to provide powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2       "sporting swine marketing act".

3       Sec. 2. As used in this act:

4       (a) "Business plan" means a written document of intent that a  
5       person submits to the department to define the methods, protocols,  
6       or procedures that the person intends to implement for operations  
7       that are in compliance with this act.

8       (b) "Biosecurity" means measures, actions, or precautions

1 taken to prevent the transmission of disease in, among, or between  
2 privately owned swine species.

3 (c) "Cervidae livestock facility" means that term as defined  
4 in section 2 of the privately owned cervidae producers marketing  
5 act, 2000 PA 190, MCL 287.952.

6 (d) "Department" means the department of agriculture and rural  
7 development.

8 (e) "Director" means the director of the department or his or  
9 her designee.

10 (f) "Farm operation" means that term as defined in section 2  
11 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

12 (g) "Feral swine" means that term as it is defined in section  
13 3 of the animal industry act, 1988 PA 466, MCL 287.703.

14 (h) "Flush" or "flushed" means to move or chase wildlife from  
15 a sporting swine livestock operation.

16 (i) "Fund" means the sporting livestock fund created in  
17 section 13.

18 (j) "Identification" means any documentable system or process  
19 that allows a person to recognize as separate or different an  
20 individual animal.

21 (k) "Law enforcement officer" means a person appointed by the  
22 state or a local governmental unit who is responsible for the  
23 enforcement of the criminal laws of this state.

24 (l) "Livestock" means that term as it is defined in section 5  
25 of the animal industry act, 1988 PA 466, MCL 287.705.

26 (m) "Owner" means the person who owns or is responsible for a  
27 sporting swine livestock operation.

1           (n) "Person" means an individual, partnership, corporation,  
2 association, governmental entity, or other legal entity.

3           (o) "Premises identification number" means the number assigned  
4 by the department to identify a sporting swine livestock operation.

5           (p) "Registration" means a registration issued by the  
6 department under section 10 authorizing the operation of a sporting  
7 swine livestock operation.

8           (q) "Release" means to allow an animal not under the direct  
9 control of the owner to become located outside the perimeter fence  
10 of a sporting swine livestock operation.

11          (r) "Sporting swine breeding operation" means an operation  
12 that contains 1 or more privately owned sporting swine species  
13 involving the producing, growing, propagating, using, harvesting,  
14 transporting, exporting, importing, or marketing of sporting swine  
15 species or sporting swine products.

16          (s) "Sporting swine livestock operation" means a sporting  
17 swine breeding operation or a sporting swine shooting operation, or  
18 both.

19          (t) "Sporting swine products" means any products, coproducts,  
20 or by-products of sporting swine, including tusks, capes, hides,  
21 meat, or any part of the animal.

22          (u) "Sporting swine shooting operation" means a privately  
23 owned operation on privately controlled lands capable of holding  
24 and containing sporting swine species for the purpose of hunting.

25          (v) "Sporting swine species" means members of the swine family  
26 *Sus scrofa*.

27          Sec. 3. (1) The department shall administer this act in

1 consultation with the department of natural resources.

2 (2) The department may conduct activities designed to develop  
3 and assist the sporting swine industry in the manner provided for  
4 by law.

5 Sec. 4. (1) A sporting swine livestock operation is an  
6 agricultural enterprise and is considered to be part of the farming  
7 and agricultural industry of this state. The department shall  
8 ensure that sporting swine livestock operations are afforded all  
9 rights, privileges, opportunities, and responsibilities of other  
10 agricultural enterprises. The commission of agriculture and rural  
11 development shall establish generally accepted agricultural and  
12 management practices under the Michigan right to farm act, 1981 PA  
13 93, MCL 286.471 to 286.474, that are applicable to sporting swine  
14 livestock operations.

15 (2) Sporting swine livestock operations are a form of  
16 agriculture. Sporting swine livestock operations and their  
17 equipment are considered to be agricultural facilities and  
18 equipment. A sporting swine livestock operation is considered an  
19 agricultural use.

20 (3) Sporting swine products and sporting swine species  
21 lawfully produced, purchased, possessed, or acquired from within  
22 this state or imported into this state are the exclusive and  
23 private property of the owner.

24 (4) Any movement, importing, or exporting of sporting swine  
25 species or sporting swine products shall be in compliance with the  
26 animal industry act, 1988 PA 466, MCL 287.701 to 287.746.

27 Sec. 5. (1) A person shall not operate a sporting swine

1 livestock operation unless he or she obtains a registration from  
2 the department or unless otherwise exempt by rule or law. A  
3 registration under this act does not exempt the person or sporting  
4 swine livestock operation from requirements imposed under any other  
5 local, state, or federal law. Zoos accredited under the zoological  
6 association of America or other accreditations or standards  
7 determined appropriate by and acceptable to the department are  
8 exempt from this act.

9 (2) Beginning 90 days after the effective date of this act, a  
10 person shall not operate a sporting swine livestock operation that  
11 was in existence on the effective date of this act, unless the  
12 sporting swine livestock operation has applied for a registration  
13 under this act.

14 Sec. 6. (1) A sporting swine livestock operation shall be  
15 maintained to prevent captive sporting swine species from escaping.  
16 Fencing shall be approved by the department and shall comply with  
17 all of the following:

18 (a) Fencing shall be a standard high-tensile game fence and  
19 shall not contain holes larger than 4 inches by 4 inches below 4.5  
20 feet.

21 (b) Fencing shall be a minimum of 8 feet high for enclosures  
22 at sporting swine shooting operations.

23 (c) Fencing shall be a minimum of 5 feet high for enclosures  
24 at sporting swine breeding operations.

25 (d) Fencing shall be constructed in compliance with at least 1  
26 of the following:

27 (i) Be anchored to the ground.

1 (ii) Contain skirting.

2 (iii) Be buried.

3 (iv) Contain an operational electric wire.

4 (e) A minimum of 12 feet clear of trees shall be maintained on  
5 each side of the fence.

6 (2) The owner or owner's designee shall conduct and complete a  
7 weekly inspection of fencing at a sporting swine livestock  
8 operation and shall document the weekly inspection.

9 Sec. 7. (1) All imported and exported sporting swine at a  
10 sporting swine livestock operation shall have clearly visible  
11 permanent individual official identification as provided for in the  
12 animal industry act, 1988 PA 466, MCL 287.701 to 287.746. In  
13 addition, all sporting swine breeding operations providing animals  
14 to sporting swine shooting operations shall have permanent  
15 individual animal identification on all swine before reaching 50  
16 pounds.

17 (2) Sporting swine at a sporting swine livestock operation  
18 shall be cared for and managed as livestock.

19 (3) All sporting swine at a sporting swine livestock operation  
20 shall have a negative pseudorabies test within 30 days before  
21 entering the sporting swine livestock operation or must originate  
22 from a qualified negative pseudorabies herd. The department may  
23 require other appropriate tests after giving at least a 30-day  
24 notice to all licensed sporting swine livestock operations.

25 (4) Feral swine shall not be captured and used in sporting  
26 swine livestock operations.

27 (5) A person registered under this act to operate a sporting

1 swine livestock operation shall keep and maintain records of  
2 production, purchases, or imports necessary to establish proof of  
3 ownership. A person transporting sporting swine species shall  
4 produce documentation that contains the origin of shipment,  
5 registration or registration copies or documentation, documentation  
6 demonstrating shipping destination, and any other proof that may be  
7 required under the animal industry act, 1988 PA 466, MCL 287.701 to  
8 287.746, upon request of the department or a law enforcement  
9 officer. An owner shall keep records of all sporting swine species  
10 harvested and all purchases of sporting swine, including dates of  
11 sale and the names and addresses of purchasers. Records shall be  
12 kept by the owner for a minimum of 7 years and shall be available  
13 upon request of the department.

14 (6) As determined by the herd management plan, a blood sample  
15 of hunter-killed swine shall be drawn and sent to a department-  
16 approved laboratory, at the expense of the owner, and tested for  
17 pseudorabies, brucellosis, and any other disease the department  
18 considers necessary. The laboratory shall send the results of the  
19 tests to the owner and to the department.

20 (7) Viscera and other body parts from a sporting swine  
21 livestock operation shall be disposed of in accordance with 1982 PA  
22 239, MCL 287.651 to 287.683.

23 (8) If a sporting swine is found to be positive for  
24 pseudorabies or brucellosis, herd testing protocol established by  
25 the director under the animal industry act, 1988 PA 466, MCL  
26 287.701 to 287.746, shall be followed. If the herd testing protocol  
27 indicates that the herd is positive, the director shall order the

1 depopulation of the herd. A new herd management plan shall be  
2 approved by the director and implemented before repopulation may  
3 occur.

4       Sec. 8. (1) A person that wishes to obtain a sporting swine  
5 livestock operation registration under this act shall submit an  
6 application to the department accompanied by an application fee as  
7 provided for in section 12. An application is valid for 3 years  
8 from the date it is received by the department, after which time a  
9 new application and fee must be submitted to the department.

10       (2) As part of the application under subsection (1), the  
11 applicant shall submit a business plan complying with the standards  
12 established under this act that includes all of the following:

13       (a) The complete address of the proposed sporting swine  
14 livestock operation and the size, location, and legal description  
15 of the land upon which the sporting swine livestock operation will  
16 be conducted.

17       (b) A proposed site plan for the sporting swine livestock  
18 operation including the proposed size and location of each  
19 enclosure at the operation.

20       (c) Whether the sporting swine livestock operation will  
21 include a sporting swine breeding operation or a sporting swine  
22 shooting operation, or both.

23       (d) Biosecurity measures to be utilized, including, but not  
24 limited to, methods of disease surveillance, fencing, and  
25 appropriate animal identification.

26       (e) The proposed method of flushing wild cervidae species from  
27 enclosures, unless the sporting swine livestock operation is



1 currently registered as a cervidae livestock facility.

2 (f) A proposed record-keeping system.

3 (g) The current zoning of the property proposed as a sporting  
4 swine livestock operation and whether the local unit or units of  
5 government within which the sporting swine livestock operation will  
6 be located have an ordinance regarding fences and whether the  
7 proposed facility would be in violation of that ordinance, unless  
8 the same property is currently registered as a cervidae livestock  
9 facility. If a variance from an ordinance has been granted or is  
10 being considered, the applicant shall include this information in  
11 the application.

12 (3) Upon receipt of an application for facilities to be  
13 constructed after the effective date of this act, the department  
14 shall forward a copy to the department of natural resources. The  
15 department shall also send a written notice to the local unit or  
16 units of government within which the proposed sporting swine  
17 livestock operation will be located unless the proposed sporting  
18 swine livestock operation is registered as a cervidae livestock  
19 facility or the department determines, from information provided in  
20 the application, that the local unit of government has a zoning  
21 ordinance under which the land is zoned agricultural. The local  
22 unit or units of government may respond, within 30 days after  
23 receipt of the written notice, indicating whether the applicant's  
24 proposed sporting swine livestock operation would be in violation  
25 of a currently existing ordinance. If the proposed operation would  
26 be in violation of an ordinance, the applicant shall obtain a  
27 variance from the local unit of government within 60 days after the

1 application is submitted. Failure to obtain a variance voids the  
2 application.

3 (4) Within 60 days after receiving an application under this  
4 section, the department shall issue a conditional registration for  
5 a sporting swine livestock operation if all of the following are  
6 met:

7 (a) The existing or proposed sporting swine livestock  
8 operation agrees to meet the requirements of this act and complies  
9 with the business plan submitted to the department.

10 (b) The applicant agrees to maintain fencing in compliance  
11 with this act to prevent the escape or entry of sporting swine  
12 species.

13 (c) The applicant agrees to utilize a method for individual  
14 animal identification.

15 (d) For proposed facilities that were not in existence on the  
16 effective date of this act and are 200 acres in size or larger, the  
17 department of natural resources has approved a site plan for the  
18 facility under section 9.

19 (5) Within 60 days of receiving an application, if the  
20 department determines that the applicant has not met the  
21 requirements of subsection (4), the department shall deny the  
22 issuance of a conditional registration. Upon receipt of a denial  
23 under this section and without filing a second application, the  
24 applicant may request in writing and, if requested, the department  
25 shall provide an informal department review of the application. The  
26 review shall include input from the applicant, the department, and  
27 the department of natural resources, if applicable. Within 30 days

1 after receiving a request for an informal review, the department  
2 shall do either of the following:

3 (a) If the department determines that the proposed sporting  
4 swine livestock operation complies with the requirements of  
5 subsection (4), the department shall issue a conditional  
6 registration.

7 (b) If the department determines that the proposed sporting  
8 swine livestock operation does not comply with the requirements of  
9 subsection (4), the department shall affirm the denial of the  
10 conditional registration in writing and specify the deficiencies  
11 needed to be addressed or corrected in order for a conditional  
12 registration to be issued.

13 (6) A conditional registration issued under this section is  
14 valid for 9 months from the date of approval unless an extension is  
15 granted by the department. A conditional registration authorizes  
16 the construction of a sporting swine livestock operation, but for  
17 operations not in existence on the effective date of this act, does  
18 not authorize the sporting swine livestock operation to be  
19 populated with sporting swine.

20 Sec. 9. (1) Upon receipt of an application for registration  
21 of a new sporting swine livestock operation under section 8 on a  
22 proposed site of 200 acres or larger, the department of natural  
23 resources shall review the proposed site plan contained in the  
24 application. Within 30 days after receiving the application, the  
25 department of natural resources shall do either of the following:

26 (a) Approve the proposed site plan if it determines that the  
27 proposed size and location of the enclosures will not place

1 unreasonable stress on wildlife habitat or migration corridors.

2 (b) Disapprove the proposed site plan if it determines that  
3 the proposed site plan does not meet the conditions under  
4 subdivision (a) and specify the reasons for its determination.

5 (2) A sporting swine livestock operation that possesses a  
6 permit to maintain wildlife in captivity issued by the department  
7 of natural resources shall be considered to meet the requirements  
8 of subsection (1).

9 (3) Upon making its determination under subsection (1), the  
10 department of natural resources shall provide written notice of  
11 its determination to the department.

12 Sec. 10. (1) Following construction of the sporting swine  
13 livestock operation in compliance with a conditional registration,  
14 the applicant shall notify the department in writing. Within 30  
15 days after notification of the completion of the sporting swine  
16 livestock operation, the department shall inspect the sporting  
17 swine livestock operation. If the department determines that the  
18 proposed sporting swine livestock operation complies with this act,  
19 the department shall issue a registration within 30 days after  
20 completion of an inspection.

21 (2) If the department determines that a proposed sporting  
22 swine livestock operation does not comply with the requirements of  
23 this act, the department shall deny the issuance of a registration.  
24 The department shall notify in writing an applicant of the reasons  
25 for a registration denial within 30 days after completion of the  
26 inspection. The notice shall specify in writing the deficiencies to  
27 be corrected in order for a registration to be issued.

1           (3) If the department denies the issuance of a registration  
2 under subsection (2), an applicant may request a second inspection  
3 after the specified deficiencies have been corrected. The  
4 department is not required to make more than 2 preregistration  
5 inspections of the same proposed sporting swine livestock operation  
6 per application.

7           (4) Upon receipt of a second denial under this section and  
8 without filing a second application, the applicant may request in  
9 writing and, if requested, the department shall provide an informal  
10 department review of the application. The review shall include  
11 input from the applicant, the department, and the department of  
12 natural resources, if applicable. After the informal department  
13 review, the department shall do either of the following:

14           (a) If the department determines that the proposed sporting  
15 swine livestock operation complies with the requirements of this  
16 act, the department shall issue a registration within 30 days after  
17 the informal department review.

18           (b) If the department determines that the proposed sporting  
19 swine livestock operation does not comply with the requirements of  
20 this act, the department shall affirm the denial of the application  
21 in writing and specify the deficiencies needed to be addressed or  
22 corrected in order for a registration to be issued.

23           (5) The applicant may request a hearing pursuant to the  
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
25 24.328, on a denial of a registration or upon any limitations  
26 placed upon the issuance of a registration.

27           (6) A registration issued by the department under this section

1 is valid for a 3-year time period.

2 Sec. 11. (1) A registration issued by the department shall  
3 contain the following information:

4 (a) The expiration date of the registration.

5 (b) The complete name, business name, business address, and  
6 telephone number of the owner.

7 (c) The complete address of the sporting swine livestock  
8 operation location.

9 (d) The premises identification number.

10 (e) The complete name, address, and telephone number of the  
11 department contact person regarding sporting swine livestock  
12 operations.

13 Sec. 12. (1) The department shall charge the following  
14 application fees for applications for registrations and renewals of  
15 registrations for sporting swine livestock operations:

16 (a) An application fee of \$250.00 for an application and the  
17 following initial inspection fees:

18 (i) For facilities containing 40 acres or less, \$250.00.

19 (ii) For facilities containing greater than 40 acres, \$500.00.

20 (b) For a second preregistration inspection of a sporting  
21 swine operation, \$100.00.

22 (c) For renewal applications of sporting swine livestock  
23 operations, \$2,250.00. An operation that is also registered as a  
24 cervidae livestock facility and has paid all applicable fees under  
25 the privately owned cervidae producers marketing act, 2000 PA 190,  
26 MCL 287.951 to 287.969, is exempt from paying fees under this  
27 subdivision.

1 (d) For inspections of sporting swine operations in the second  
2 and third years of the 3-year registration term:

3 (i) For facilities containing 40 acres or less, \$250.00.

4 (ii) For facilities containing greater than 40 acres, \$500.00.

5 (2) The department shall forward all fees collected under this  
6 section to the state treasurer for deposit into the fund.

7 Sec. 13. (1) The sporting livestock fund is created within the  
8 state treasury.

9 (2) The state treasurer may receive money or other assets from  
10 any source for deposit into the fund. The state treasurer shall  
11 direct the investment of the fund. The state treasurer shall credit  
12 to the fund interest and earnings from fund investments.

13 (3) Money in the fund at the close of the fiscal year shall  
14 remain in the fund and shall not lapse to the general fund.

15 (4) The department shall be the administrator of the fund for  
16 auditing purposes.

17 (5) Money from the fund shall be expended, upon appropriation,  
18 only to administer this act and the privately owned cervidae  
19 producers marketing act, 2000 PA 190, MCL 287.951 to 287.969.

20 Sec. 14. (1) The department shall establish an expedited  
21 process for renewal of a registration under this act. An  
22 application for renewal of a registration shall be submitted not  
23 later than 60 days before expiration of the current registration,  
24 accompanied by an application fee provided for in section 12. The  
25 department shall make a decision on a renewal application under  
26 this subsection within 30 days after the applicant submits a  
27 completed application.

1           (2) A renewal submitted later than 60 days before expiration  
2 of the current registration shall require submission of an  
3 application under section 8. Failure of the department to process a  
4 renewal application that was submitted in a timely and complete  
5 manner operates to extend the current registration until such time  
6 as the department completes the processing.

7           (3) Unless otherwise indicated in writing by the department at  
8 the time the department sends its renewal application, there is a  
9 presumption that the department shall renew the registration upon  
10 timely submission of the completed renewal application and  
11 application fee.

12           (4) If a sporting swine livestock operation is sold or  
13 transferred, the new owner shall notify the department in writing.  
14 Within 3 months after the sale or transfer, the new owner shall  
15 obtain a new registration for the sporting swine livestock  
16 operation.

17           Sec. 15. (1) The owner of a sporting swine livestock operation  
18 shall apply for a modification of his or her registration before  
19 any change in the activities for which the registration is issued.  
20 An application for a modification of a registration shall be  
21 submitted in the same manner as an application for registration  
22 under section 8.

23           (2) The owner of a sporting swine livestock operation may  
24 submit a request to the department for decommissioning of a  
25 sporting swine livestock operation. Upon receipt of a request under  
26 this subsection, the department shall approve a request for  
27 decommissioning as long as it is conducted in a manner that does



1 not create a risk to the environment and other free-ranging  
2 animals.

3 Sec. 16. The department shall enter into a memorandum of  
4 understanding with the director of the department of natural  
5 resources containing a process for reviewing the siting of new  
6 sporting swine livestock operations for determining compliance by  
7 persons engaged in sporting swine livestock operations and  
8 investigating violations of this act.

9 Sec. 17. (1) The owner shall grant the department or its  
10 authorized agent access at all reasonable hours to any sporting  
11 swine livestock operation to inspect and to determine if this act  
12 is being violated and to secure samples or specimens of any  
13 sporting swine species. An inspection shall be conducted under  
14 practices designed not to jeopardize the health of the sporting  
15 swine species.

16 (2) The department shall contract with persons who have  
17 received training from the department to conduct an inspection  
18 during the second and third years of the term of a registration of  
19 a sporting swine livestock operation for confirmation that there  
20 are in place procedures or barriers designed to prevent the escape  
21 of sporting swine species and for confirmation of compliance with  
22 other requirements of this act or as otherwise required by law.

23 Sec. 18. A person shall not knowingly provide false  
24 information in a matter pertaining to this act and shall not  
25 resist, impede, or hinder the department in the discharge of its  
26 duties under this act.

27 Sec. 19. (1) The department, upon finding that a person has

1 violated any provision of this act, may do any of the following:

2 (a) Issue a warning.

3 (b) Impose an administrative fine of not more than \$1,000.00,  
4 plus the costs of investigation, for each violation after notice  
5 and an opportunity for a hearing. A person aggrieved by an  
6 administrative fine issued under this section may request a hearing  
7 pursuant to the administrative procedures act of 1969, 1969 PA 306,  
8 MCL 24.201 to 24.328.

9 (c) Issue an appearance ticket as described and authorized by  
10 sections 9a to 9g of chapter IV of the code of criminal procedure,  
11 1927 PA 175, MCL 764.9a to 764.9g.

12 (d) Place a quarantine upon the sporting swine livestock  
13 operation disallowing any movement of animals until certain  
14 requirements imposed by the department are met.

15 (2) The department shall advise the attorney general of the  
16 failure of any person to pay an administrative fine imposed under  
17 this section. The attorney general shall bring a civil action in a  
18 court of competent jurisdiction to recover the fine. Administrative  
19 fines collected shall be paid to the fund.

20 (3) Notwithstanding any other provision of this act, the  
21 department may bring an action to do either or both of the  
22 following:

23 (a) Obtain a declaratory judgment that a method, activity, or  
24 practice is a violation of this act.

25 (b) Obtain an injunction against a person who is engaging in a  
26 method, activity, or practice that violates this act.

27 (4) The remedies under this act are cumulative, and use of 1

1 remedy does not bar the use of another unless otherwise prohibited  
2 by law.

3       Sec. 20. (1) After an opportunity for an administrative  
4 hearing, the department may deny, suspend, revoke, or limit a  
5 registration if the registrant fails to comply with this act.

6       (2) Except in the case of an informal departmental review, the  
7 department shall conduct an administrative proceeding under this  
8 act pursuant to the administrative procedures act of 1969, 1969 PA  
9 306, MCL 24.201 to 24.328.

10       Sec. 21. Except as otherwise provided in section 22, a person  
11 that violates this act is guilty of a misdemeanor punishable by a  
12 fine of not less than \$300.00 or more than \$1,000.00 or  
13 imprisonment for not less than 30 days or more than 90 days, or  
14 both.

15       Sec. 22. (1) A person shall not release or allow the release  
16 of any sporting swine species. This section does not prohibit the  
17 sale, breeding, marketing, exhibition, or other approved uses of  
18 sporting swine species in the manner provided for by law. An animal  
19 that escapes from a sporting swine livestock operation is  
20 considered to be public property if the operator of a sporting  
21 swine livestock operation does not notify the department.

22       (2) An owner shall not abandon a registered sporting swine  
23 livestock operation without first notifying the department.

24       (3) A person shall not intentionally or knowingly cause the  
25 ingress of feral swine species into a sporting swine livestock  
26 operation.

27       (4) A person violating subsection (1) or (2) is guilty of a

1 misdemeanor punishable by a fine of not more than \$300.00 or  
2 imprisonment for not more than 90 days, or both, for a first  
3 offense and is guilty of a misdemeanor punishable by a fine of not  
4 more than \$1,000.00 or imprisonment for not more than 1 year, or  
5 both, for a second or subsequent offense.

6 (5) Notwithstanding subsection (4), a person who intentionally  
7 or knowingly violates subsection (1) or (2) or who violates  
8 subsection (3) is guilty of a felony punishable by imprisonment for  
9 not more than 4 years or a fine of not more than \$5,000.00, or  
10 both.

11 (6) A court may allow the department to recover reasonable  
12 costs and attorney fees incurred in a prosecution resulting in a  
13 conviction for a violation of this act.

14 Enacting section 1. This act does not take effect unless all  
15 of the following bills of the 96th Legislature are enacted into  
16 law:

17 (a) Senate Bill No. \_\_\_\_ or House Bill No. 4504(request no.  
18 01602'11 a).

19 (b) Senate Bill No. \_\_\_\_ or House Bill No. 4505(request no.  
20 01602'11 b).

21 (c) Senate Bill No. \_\_\_\_ or House Bill No. 4506(request no.  
22 01602'11 c \*).