

# HOUSE BILL No. 4507

March 24, 2011, Introduced by Reps. McBroom, Tyler, Huuki, Horn, Crawford, McMillin, Opsommer and Shirkey 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, 5, 6, 7, and 10 (MCL 287.952,  
287.953, 287.954, 287.955, 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  
8       free-ranging and privately owned cervidae species.

(c) "Cervidae livestock facility" means a privately owned cervidae livestock operation on privately controlled lands capable of holding cervidae species. **FOR PURPOSES OF THIS SUBDIVISION, EACH SEPARATE ENCLOSURE ON A SEPARATE PARCEL OF LAND IS A SEPARATE CERVIDAE LIVESTOCK FACILITY.**

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

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

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

(g) "Department" means the ~~Michigan~~ department of ~~natural resources~~ **AGRICULTURE AND RURAL DEVELOPMENT**.

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

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

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

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

1 (l) "Law enforcement officer" means a person appointed by the  
2 state or a local governmental unit who is responsible for the  
3 enforcement of the criminal laws of this state.

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

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

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

12 Sec. 3. (1) The department shall administer this act ~~—The IN~~  
13 **CONSULTATION WITH THE** departments of ~~agriculture~~ **NATURAL RESOURCES**  
14 and environmental quality. ~~shall provide consultation.~~

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

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

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

1           (3) Cervidae products and cervidae species lawfully produced,  
2 purchased, possessed, or acquired from within this state or  
3 imported into this state are the exclusive and private property of  
4 the owner.

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

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

18           Sec. 5. (1) A person shall not possess cervidae or engage in a  
19 cervidae livestock operation unless he or she obtains from the  
20 department a cervidae livestock facility registration or unless  
21 otherwise exempt by rule or law. If the activity in which the  
22 cervidae livestock facility is engaged is ~~required to be regulated~~  
23 under any other ~~act~~ **LAW**, registration under this act does not  
24 exempt the person or cervidae livestock facility from requirements  
25 imposed under ~~any local, state, or federal regulation~~ **THAT LAW**.  
26 Zoos accredited under the American zoological association or other  
27 accreditations or standards determined appropriate by and

1 acceptable to the department are exempt from this act.

2 (2) A person registered under this act shall keep and maintain  
3 records of production, purchases, or imports ~~in order~~ to establish  
4 proof of ownership and shall keep any other records required under  
5 standards incorporated by reference under section 6. A person  
6 transporting cervidae species shall produce documentation that  
7 contains the origin of shipment, registration or permit copies or  
8 documentation, documentation demonstrating shipping destination,  
9 and any other proof that may be required under the animal industry  
10 act, 1988 PA 466, MCL 287.701 to ~~287.745-287.746~~, upon demand of  
11 the director or a law enforcement officer.

12 (3) ~~Until July 1, 2008, a cervidae livestock facility~~  
13 ~~registered prior to the effective date of the amendatory act that~~  
14 ~~added this subsection must comply with the facility standards~~  
15 ~~contained in "Operational Standards for Registered Privately Owned~~  
16 ~~Cervid Facilities", published by the Michigan department of~~  
17 ~~agriculture, (May 2000). A cervidae livestock facility in existence~~  
18 ~~on or before the effective date of the amendatory act that added~~  
19 ~~this subsection shall be in compliance~~ **COMPLY** ~~with the facility~~  
20 ~~standards, by July 1, 2008, which are contained in "Operational~~  
21 ~~Standards for Registered Privately Owned Cervidae Facilities"~~  
22 ~~published by the Michigan department of natural resources, (revised~~  
23 ~~December 2005), adopted by the Michigan commission of agriculture~~  
24 ~~on January 9, 2006, and adopted by the natural resources commission~~  
25 ~~on January 12, 2006, and are incorporated by reference.~~

26 Sec. 6. (1) The initial application to construct a cervidae  
27 livestock facility shall be accompanied by the application fee

described in section 8. ~~The~~ **WITHIN 60 DAYS AFTER ITS RECEIPT OF AN**  
**ADMINISTRATIVELY COMPLETED APPLICATION, THE** department shall  
 approve, deny, or propose a modification to the ~~completed~~  
 application. ~~within 60 days.~~ The department shall utilize the  
 standards contained in "Operational Standards for Registered  
 Privately Owned Cervidae Facilities", published by the ~~Michigan~~  
 department of natural resources, (revised December 2005), adopted  
 by the ~~Michigan~~ commission of agriculture on January 9, 2006, and  
 adopted by the natural resources commission on January 12, 2006,  
 and incorporated by reference, to evaluate the issuance,  
 construction, maintenance, administration, and renewal of a  
 registration issued under this act. The department after  
 consultation with the department of ~~agriculture~~ **NATURAL RESOURCES**  
 and with concurrence of the ~~commissions of natural resources and~~  
**COMMISSION OF agriculture AND RURAL DEVELOPMENT AND THE NATURAL**  
**RESOURCES COMMISSION** may ~~, by amendment of this act, amend or~~  
**RECOMMEND TO THE LEGISLATURE CHANGES TO THIS ACT TO** update the  
 standards adopted in this subsection. **AN INITIAL APPLICATION IS**  
**VALID FOR 3 YEARS AFTER THE DATE IT IS RECEIVED BY THE DEPARTMENT,**  
**AFTER WHICH TIME ANOTHER INITIAL APPLICATION MUST BE COMPLETED AND**  
**SUBMITTED TO THE DEPARTMENT.** Before issuing any registration under  
 this act, the director shall verify, through written confirmation,  
 both of the following:

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

(b) The department has determined that the size and location

1 of the facility will not place unreasonable stress on wildlife  
2 habitat or migration corridors.

3 (2) As part of the initial application or the application to  
4 modify a cervidae livestock facility, the applicant for  
5 registration shall submit a business plan complying with the  
6 standards established under this section that includes all of the  
7 following:

8 (a) The complete address of the proposed cervidae livestock  
9 facility and the size of, the location of, and a legal description  
10 of the lands on which the cervidae livestock operation will be  
11 conducted.

12 (b) The number of each cervidae species included in the  
13 proposed facility.

14 (c) Biosecurity measures to be utilized, including, but not  
15 limited to, methods of fencing and appropriate animal  
16 identification.

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

19 (e) A record-keeping system in compliance with this act and  
20 the operational standards incorporated by reference in subsection  
21 (1).

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

24 (g) The current zoning of the property proposed as a cervidae  
25 livestock facility, ~~and~~ whether the local unit or units of  
26 government within which the cervidae livestock facility will be  
27 located has an ordinance regarding fences, **AND WHETHER THE PROPOSED**

1 FACILITY WOULD BE IN VIOLATION OF THAT ORDINANCE. IF A VARIANCE  
2 FROM AN ORDINANCE HAS BEEN GRANTED OR IS BEING CONSIDERED, THIS  
3 INFORMATION SHALL BE INCLUDED IN THE APPLICATION.

4 (h) A disease herd plan in compliance with the operational  
5 standards incorporated by reference in subsection (1) to be  
6 approved by the state veterinarian under the animal industry act,  
7 1988 PA 466, MCL 287.701 to ~~287.745~~ **287.746**.

8 (i) Any other information considered necessary by the  
9 department.

10 (3) Upon receipt of an application, the director shall forward  
11 1 copy each to the departments of ~~agriculture~~ **NATURAL RESOURCES** and  
12 environmental quality. Upon receipt of an application, the  
13 department shall send a written notice to the local unit or units  
14 of government within which the proposed cervidae livestock facility  
15 will be located unless the department determines, from information  
16 provided in the application, that the local unit of government has  
17 a zoning ordinance under which the land is zoned agricultural. The  
18 local unit or units of government may respond, within 30 days of  
19 receipt of the written notice, indicating whether the applicant's  
20 cervidae livestock facility would be in violation of ~~any~~ **A**  
21 **CURRENTLY EXISTING** ordinance. **IF THE PROPOSED FACILITY WOULD BE IN**  
22 **VIOLATION OF AN ORDINANCE, THE APPLICANT SHALL OBTAIN A VARIANCE**  
23 **FROM THE LOCAL UNIT OF GOVERNMENT WITHIN 60 DAYS AFTER THE**  
24 **APPLICATION IS SUBMITTED. FAILURE TO OBTAIN A VARIANCE AS REQUIRED**  
25 **BY THIS SUBSECTION VOIDS THE APPLICATION.**

26 (4) The department shall not issue an initial cervidae  
27 livestock facility registration or modification unless the



1 application demonstrates all of the following:

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

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

14 (c) The applicant has **OBTAINED** all necessary permits that are  
15 required under part 31 regarding water resources protection, part  
16 301 regarding inland lakes and streams, and part 303 regarding  
17 wetland protection of the natural resources and environmental  
18 protection act, 1994 PA 451, MCL 324.3101 to 324.3133, 324.30101 to  
19 324.30113, and 324.30301 to ~~324.30323~~ **324.30329**, and any other  
20 permits or authorizations ~~that may be~~ **OTHERWISE** required by law.

21 ~~(5) Beginning the effective date of the amendatory act that~~  
22 ~~added this subsection, the~~ **THE** department shall issue **OR DENY** an  
23 initial registration or modification registration allowing an  
24 expansion of an existing facility not later than 120 days after the  
25 applicant files a completed application. Renewal applications shall  
26 be issued **OR DENIED** not later than 60 days after the applicant  
27 files a completed application. ~~Receipt of the~~ **THE** application is

1 considered **TO BE FILED ON** the date the application is received by  
2 the department. If the application is considered incomplete by the  
3 department, the department shall notify the applicant in writing,  
4 or make the information electronically available, within 30 days  
5 after receipt of the incomplete application, describing the  
6 deficiency and requesting the additional information. The  
7 determination of the completeness of an application does not  
8 operate as an approval of the application for the registration and  
9 does not confer eligibility upon an applicant determined otherwise  
10 ineligible for issuance of a registration. The 120-day period is  
11 tolled under any of the following circumstances:

12 (a) ~~Notice~~ **IF NOTICE IS** sent by the department of a deficiency  
13 in the application, until the date all of the requested information  
14 is received by the department.

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

22 (6) If the department fails to issue or deny a registration  
23 within the time required by this ~~subsection~~ **SECTION**, the department  
24 shall return the registration fee and shall reduce the registration  
25 fee for the applicant's next renewal application, if any, by 15%.  
26 The failure to issue a registration within the time required under  
27 this section does not allow the department to otherwise delay the

1 processing of the application, and that application, upon  
2 completion, shall be placed in sequence with other completed  
3 applications received at that same time. The department shall not  
4 discriminate against an applicant in the processing of the  
5 application based upon the fact that the registration fee was  
6 refunded or discounted under this subsection.

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

25 (8) As used in this ~~subsection~~ **SECTION**, "completed  
26 application" means an application complete on its face and  
27 submitted with any applicable registration fees as well as any

1 other information, records, approval, security, or similar item  
2 required by law or rule from a local unit of government, a federal  
3 agency, or a private entity but not from another department or  
4 agency of the state of Michigan.

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

22       (2) If the director determines that a proposed cervidae  
23 livestock facility does not comply with the requirements of this  
24 act, the director shall deny the application for registration. The  
25 department shall notify in writing an applicant of the reasons for  
26 a registration denial within 60 days after receipt of the completed  
27 application. The notice shall specify in writing the deficiencies

1 to be corrected in order for a registration to be issued.

2 (3) Without filing a second application under this section, an  
3 applicant may request a second inspection after the specified  
4 deficiencies have been corrected. The department is not required to  
5 make more than 2 preregistration inspections of the same proposed  
6 cervidae livestock facility 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 review of the application. The review shall include the applicant,  
11 the department, and the departments of ~~agriculture~~ **NATURAL**  
12 **RESOURCES** and environmental quality, if applicable. After the  
13 informal review, if the director determines that the proposed  
14 cervidae livestock facility complies with the requirements of this  
15 act, the director shall issue a registration within 30 days after  
16 the informal review. After the informal review, if the director  
17 determines that the proposed facility does not comply with the  
18 requirements of this act, the director shall affirm the denial of  
19 the application in writing and specify the deficiencies needed to  
20 be addressed or corrected in order for a registration to be issued.  
21 The applicant may waive the informal review of the application.

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

26 (6) The department shall not return a registration fee or a  
27 portion of a registration fee to an applicant if a registration is

1 denied.

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