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BILL ANALYSIS

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Senate Bill 511 (Substitute S-1 as reported)**Sponsor: Senator Nick Smith****Committee: Agriculture and Forestry****Date Completed: 11-18-87*****RATIONALE***

For almost seventy years, the handling of animals with communicable diseases, the prevention of these diseases, the importation of livestock and the powers and duties of the State veterinarian have been governed by Public Act 181 of 1919, the Animal Industry Act. Over the years, the Act has been amended in what some people consider a piecemeal fashion. Furthermore, the Department of Agriculture has developed rules and policies to expand on provisions of the Act. Some people believe that the Act, rules, and policies need to be codified into a single Act and that certain provisions of Public Act 181 should be updated to reflect current conditions and practices in the State's animal industry.

CONTENT

The bill would create the Animal Industry Act and repeal the existing law, Public Act 181 of 1919. In addition, the bill would enact new provisions; re-enact current provisions of Public Act 181; and codify current rules and policies of the Department of Agriculture on the State veterinarian, the reporting and quarantine of diseased animals, indemnification, importation of various livestock, intrastate movement of cattle, the selling of equine at auction, and the regulation of testing procedures; as well as increase penalties for violations.

The bill would take effect 90 days after being enacted into law.

State Veterinarian

As currently in the Act, the bill would provide for the Director of the Department of Agriculture to appoint a State veterinarian. The bill also would establish qualifications of the State veterinarian; and outline duties of the State veterinarian, including the maintenance of a list of reportable diseases which would have to be reviewed and updated at least annually.

Animal Diseases**Reporting, Quarantine**

A person who discovered, suspected, or believed that livestock was affected with a reportable disease or contaminated with a toxic substance would be required to report that to the Department Director, who would be required to investigate the report. Current law requires that a suspected disease be reported to the Director or the local board of health, which investigates the report.

A person who possessed livestock that was, or was suspected of being, diseased or contaminated, would be required to permit the Director to examine the livestock and collect diagnostic specimens and would not be permitted to move the livestock without the Director's permission.

If the Director determined that diseased animals posed an extraordinary emergency to the livestock industry, public health, or human food chain in the State, the Director would be required to notify the Governor, who could issue a proclamation declaring a state of emergency. After declaring a state of emergency, the Governor could expedite procedures to control the spread of or eradicate the disease.

The Director could declare a quarantine on animals in the State to control or prevent the spread of an infectious, contagious, or toxicological disease. No one could move quarantined animals or allow them to mingle with other animals that were not quarantined without the Director's permission. An animal found running at large in violation of the quarantine could be killed by a law enforcement agent, who would not be subject to liability for killing the animal. The Director could designate certain herds or flocks as being free from disease when requirements for that status were met.

Indemnification

The Director would be required to order the slaughter, destruction, or other disposition of livestock in order to control or eradicate a disease or condition. Upon signing an order for slaughter, destruction or disposition of livestock, the Director would be required to notify the Attorney General, who would be required to notify the House and Senate Appropriations Committees and the Department of Management and Budget on the issue of indemnity.

If the Director ordered slaughter, destruction, or other disposition of livestock with tuberculosis or brucellosis, the owner could apply for indemnification. The Director could allow indemnification for other livestock diseases or toxicological contamination, and would be required to appraise condemned livestock.

Indemnification would be based on the fair market value of the livestock on the date of the appraisal as if the livestock were marketable for the purpose for which the livestock were intended. Indemnification could not exceed \$800 for each animal, less any compensation received or to be received from any other source including, but not limited to, indemnification by the U.S. Department of Agriculture, insurance, or salvage value. These provisions would be subject to the following limitations:

Tuberculosis	\$800 for each animal
Brucellosis	\$100 for each grade animal
Brucellosis	\$300 for each registered animal

Indemnification would be subject to annual appropriations by the Legislature and could not be paid from Department funds. The owner would be required to give to the

S.B. 511 (11-18-87)

Department all records on other sources of indemnity. Prior to indemnification, an affidavit signed by the owner that attested to the compensation for the livestock received or to be received for any other source could have to accompany the appraisal certificate.

Acceptance of indemnification would not enlarge or diminish the owner's civil remedy against a person responsible for the owner's loss, except that acceptance of indemnity would constitute a release of the owner's claim against the State. The right to indemnity would apply only to native livestock. An owner would not be entitled to indemnity from the State for an animal that the owner took possession of with the knowledge that the animal was diseased or was suspected of having been exposed to an infectious, contagious, or toxicological disease. A premises that had been depopulated would have to be cleaned and disinfected, if prescribed by the Director. Repopulation, other than approved by the Director, would not be eligible for future indemnity.

The State could not indemnify an owner for loss of livestock until the owner executed and signed a subrogation agreement assigning to the State the rights of the owner to bring action to recover damages for the loss up to the amount of indemnification paid to the owner and presented necessary documents, including registration papers if the appraisal value were based on purebred status, and a statement of names and addresses of persons to whom or from whom the owner had transferred animals within a period determined by the Director and signed permission allowing the breed association to disclose information requested by the Director. If registration papers were not supplied, indemnification would be based on grade status.

The Attorney General could bring a civil action to recover the State's cost against a person responsible for intentionally or negligently introducing an infectious, contagious, or toxicological disease into livestock in the State.

Cattle ordered to be slaughtered, destroyed, or disposed of by the Director because of tuberculosis or brucellosis would have to be branded on the left jaw and tagged on the left ear, according to specifications in the bill. An exposed animal in a brucellosis infected or quarantined herd would have to be branded, as the bill specifies, before a permit was issued to slaughter, destroy, or dispose.

Feeder Swine Testing Program

The Department would be authorized to cooperate with the U.S. Department of Agriculture in the control and eradication of brucellosis and pseudorabies in all porcine species in the State and to provide assistance to pseudorabies quarantined herds for the elimination of pseudorabies and removal of quarantines. All feeder swine sold in the State, except those exempted by the State veterinarian, would have to originate from herds that had tested negative for pseudorabies. A percentage of the breeding swine in a herd would have to be tested according to a schedule prescribed by the Director.

A producer of feeder swine whose sow herd had tested negative for pseudorabies, in a county with no known pseudorabies infection as determined by the Director, could sell feeder swine for three consecutive years from the date of the negative test, and would be required to have the feeder swine tested for pseudorabies on the expiration of the third year. When pseudorabies infection was discovered in a county, all feeder swine would have to be tested annually.

When a positive pseudorabies herd was identified, all swine herds within 1-1/2 miles, upon the request of the

Director, would have to be submitted for an official pseudorabies test. The Department would be responsible for all costs and personnel for the collection and analysis of test sample.

Except as otherwise provided, a producer would be responsible for all costs of tests required under the bill. Upon the testing of a sow herd, a producer would receive a certificate of compliance.

Brucellosis or pseudorabies positive swine would have to be traced back to the farm of origin, which would be notified within 60 days of the date the Department was notified of positive swine. When the farm had been identified, the owner of the herd, upon request of the Director, would be required to have the swine tested officially for brucellosis and pseudorabies. The Department would be required to provide personnel for and assume the expense of collection and analysis of blood samples. Following positive test results, a quarantine would be issued on the swine herd at the farm. The Department would permit Federal pseudorabies virus vaccinated controlled herd status.

Poultry Diseases

To control and eradicate poultry diseases in the State, the Director could assure that each commercial hatchery and hatchery supply flock in the State qualified as United States pullorum-typhoid, MG (*Mycoplasma gallisepticum*), MM (*Mycoplasma melagrides*), and MS (*Mycoplasma synoviae*) clean as provided by the NPIP (National Poultry Improvement Plan, which would mean a Federal plan for the control and eradication of certain poultry diseases).

Importation

General Requirements

Livestock imported into the State would have to be accompanied by an interstate health certificate, a certificate of veterinary inspection or to a specifically approved stockyard for receiving cattle and bison other than brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle or bison pursuant to Title 9 of the Code of Federal Regulations, permission issued by the Director, or if consigned directly to slaughter or to a specifically approved stockyard for receiving cattle and bison other than brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle or bison pursuant to Title 9 of the Code of Federal Regulations, by an owner-shipper statement or sales invoice. The Director could require that a prior entry permit be obtained for certain livestock classifications. Livestock could not be diverted to premises other than the named destination site. The Director could refuse entry into the State of livestock believed to pose a threat to the health of native livestock. Imported livestock could not originate from a quarantined herd unless permitted by the Director.

The bill also would establish provisions for an official interstate health certificate or certificate of veterinary inspection, which would have to be forwarded to the State veterinarian within 10 days after issuance.

Livestock imported directly to a slaughter plant would have to be slaughtered within five days, except for swine that had to be slaughtered within 48 hours. Slaughter livestock imported to an auction market would have to be slaughtered within 10 days.

Importing Livestock for Exhibition

The bill would maintain essentially the same provisions as in existing law, except that the bill specifies that all out-of-state livestock, not just cattle, hogs, and sheep, entering the State for exhibition would have to meet requirements in the bill for importation of breeding animals.

of that species and would have to be accompanied by a copy of a pre-approved official interstate health certificate. If an animal were imported without required tests, the Director could require that tests be performed or that the animal be returned to the state of origin within 10 days.

Importation of Cattle

Except as exempted in the bill, cattle entering the State would have to originate directly from an accredited tuberculosis-free state or herd, or have a negative tuberculosis test within 60 days before importation. Female cattle over 19 months of age and bulls over six months would have to test negative to an official brucellosis test within 30 days before importation or originate from a certified brucellosis-free herd. Female cattle over four months of age would have to be calfhood vaccinated against brucellosis and tattooed with a vaccination tattoo. Except as provided in the bill, all cattle would have to test negative to an official bluetongue test within 30 days before importation, or permission would have to be obtained from the Director to import cattle without an official bluetongue test.

Dairy or breeding cattle would have to have a prior entry permit unless imported by a licensed livestock dealer for sale and tested negative for brucellosis within 45 days after the date of importation. Dairy or breeding cattle imported from states classified brucellosis "B" and "C" by the U.S. Department of Agriculture would have to be quarantined at the destination. Female cattle over 19 months and bulls over six months would have to test negative to an official brucellosis test not sooner than 45 days nor more than 120 days after movement to the destination for release from quarantine. A licensed livestock dealer could sell this cattle with the required brucellosis test, prior to 45 days after importation, if the purchaser signed a form acknowledging that the animals were quarantined on the purchaser's premises and would have to be retested for brucellosis at least 45 days and not more than 120 days from importation date.

Feeder cattle would be exempt from these provisions if they were segregated from native dairy or breeding cattle until slaughtered. Feeder heifers would have to be identified by an ear tag and have a prior entry permit. A person importing feeder cattle would have to notify the Director, within 10 days after importation of the destination of any feeder cattle dispersed or sold. "Feeder cattle" would mean steers, spayed heifers, and nonpregnant heifers under 20 months, and would not include postparturient heifers.

Importation of Other Domestic Animals

The bill would maintain existing procedures and requirements on importing swine for slaughter, breeding swine, and feeder swine. "Feeder pigs" would mean swine weighing less than 120 pounds intended for feeding purposes. "Slaughter swine" would mean swine consigned for slaughter purposes only.

Equine would be required to test negative to an official test for equine infectious anemia test within 180 days before importation. "Equine" would mean all animals of the equine family including horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras.

Sheep, other than imported feeder lambs or sheep consigned to a slaughterhouse or an approved livestock to market for sale as slaughter sheep, could not be imported without a prior entry permit from the Director, and would have to test negative to an official test for bluetongue within

30 days before importation, and originate from a flock free from clinical signs of foot rot. "Imported feeder lambs" would mean lambs imported to the State for the purpose of being fed for slaughter.

Goats, other than those for slaughter or sale as slaughter goats, could not be imported without a prior entry permit from the Director, and would have to test negative to a tuberculosis test within 60 days before importation or originate from a tuberculosis-free herd, test negative to a brucellosis test within 30 days before importation or originate from a brucellosis-free herd, and test negative to a bluetongue test within 30 days before importation unless the Director permitted the importation without an official bluetongue test.

Llamas or alpacas could not be imported with a prior entry permit, and would have to be individually identified by an official ear tag, with identification listed on the official interstate health certificate or certificate of veterinary inspection. Llamas or alpacas would have to test negative to: a tuberculosis test within 60 days before importation, a brucellosis test 30 days before importation, and a bluetongue test within 30 days before importation unless the Director permitted importation without an official bluetongue test.

All poultry and hatching eggs imported into the State would have to be accompanied by an interstate health certificate or official interstate certificate of veterinary inspection, and would have to meet all current requirements outlined in the National Poultry Improvement Plan.

Importation of Wild Animals

The bill would prohibit the importation of a species quarantined by the Director, upon recommendation of the Director of the Department of Natural Resources (DNR) because the species would be likely to spread serious diseases or parasites, or to endanger native wildlife, human life, livestock, domestic animals, or property.

Importation of a wild animal, not regulated by the Fish and Wildlife Service of the U.S. Department of Interior or the State DNR, would require a prior entry permit from the Director and an immediate examination, if considered necessary, to determine health status, proper housing, husbandry, and confinement; an official interstate health certificate or certificate of veterinary inspection signed by an accredited veterinarian from the state of origin; and housing, feeding, restraining, and care that was approved by the Director.

Intrastate Movement of Livestock

The bill would preserve requirements on the movement within the State of female dairy or breeding cattle four months of age or older and bulls six months of age or older; the need for a certificate of sale or a brucellosis certificate of calfhood; tagging of cattle; and the handling of dairy or breeding cattle sold at livestock auctions. The bill also would codify essentially the same provisions as now required under Department policy on the movement of feeder cattle to a finishing facility or to slaughter.

The bill would require that a cattle or swine finishing facility be registered with the Department, and outlines requirements as to construction, sanitation, drainage, tagging of livestock, record keeping, and a confinement period for animals.

The bill would maintain existing requirements for the intrastate movement of swine for slaughter and breeding swine. In addition, the bill would codify Department policy regarding an approved breeding or feeder swine market,

including market construction and cleaning as well as testing of swine for sale

All equine sold at auction markets in the State would be required to test negative to an official test for equine infectious anemia within 180 days before the sale. The consignor would be responsible for obtaining and presenting documentation of a negative test to auction officials before the auction.

Exhibitions

Approved Facilities

The bill would codify Department policy on requirements that must be met for the approval of exhibition facilities, including construction and cleaning of an exhibition building or yard.

Examination of Livestock at Fairs

A fair would be required to have an accredited veterinarian on call whenever there were animals on the premises during the fair. An "accredited veterinarian" would mean a veterinarian approved by the U.S. Department of Agriculture to perform specific functions required by cooperative State-Federal disease control and eradication programs.

Livestock with clinical signs of infectious, contagious, or toxicological disease would have to be removed from the fair. Swine would have to be individually identified by an official ear tag. Swine with registration papers would have to be identified by ear notches. Exhibition swine would have to be accompanied by one or both of the following:

- Proof that the swine originated directly from a pseudorabies qualified-negative herd as defined by the U.S. Department of Agriculture.
- An official swine test report that indicated the swine had been tested for pseudorabies within 45 days before exhibition and tested negative, unless the swine were piglets nursing a pseudorabies negative sow.

Exhibition of Poultry

Exhibition of poultry in the State would have to meet current requirements as outlined in the National Poultry Improvement Plan. Exhibition of poultry also would have to conform to specific new requirements governing feed and water containers, exhibition coops, shipping crates, and litter. In addition, a bird could not be handled except by the exhibitor, attendant, or judge after the bird was placed in an exhibition coop.

General Provisions

Procedures for Conducting Tests

Whenever an official test was conducted or an official vaccination was administered, livestock would have to be permanently identified in a manner approved by the Director, unless exempted by the Director. "Official test" would mean a sample of specific material collected from an animal by an accredited veterinarian and analyzed by a laboratory certified by the U.S. or Michigan Department of Agriculture to conduct a test. An official test could be conducted only by an accredited veterinarian, except under special permission by the Director. "Official vaccination" would mean a vaccination that the Director designated as reportable, and would be administered by an accredited veterinarian.

The bill would outline requirements for reporting on the results of an official test and for the submission of a tissue sample for analysis. An official brucellosis calfhood vaccination would have to be performed by an accredited veterinarian in compliance with the U.S. Department of

Agriculture, and would have to be performed only on female cattle between the ages of four and 10 months. No animal could be tattooed with an official brucellosis vaccination tattoo unless the animal were an official brucellosis calfhood vaccinee.

Testing and surveillance for brucellosis and tuberculosis would be as follows:

- A brucellosis ring test would have to be conducted on each herd shipping milk to a dairy plant in the State. The test would have to be conducted in compliance with Federal methods.
- Surveillance for these diseases would have to be conducted through the Federal market cattle identification program.

Veterinary Biological Regulations

A veterinary biological could not be distributed in the State unless permission were obtained from the Director and stipulations were met. A "veterinary biological" would mean a product of biological origin used in the diagnosis, prevention, or treatment of animal disease, including but not limited to serums, vaccines, antitoxins, bacterins, and antigens.

A person could not import any veterinary biological into the State unless permission were obtained from the Director. The products could be administered only by a licensed veterinarian or under the supervision of a licensed veterinarian unless used in compliance with the Public Health Code's provisions on acts that do not constitute the practice of veterinary medicine. The Director could require that the use of a veterinary biological or diagnostic test be reported to the Department within five days of its use, and the Director would have to determine the information required.

Penalties

A person who did one of more of the following would be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$50,000 or imprisonment of not more than five years and would not be able to receive any indemnification payments at the discretion of the Director:

- Intentionally contaminated or exposed livestock to an infectious, contagious, or toxicological disease in order to receive indemnification from the State or to cause the State to destroy affected livestock.
- Make a false statement on an application for indemnification or reimbursement.
- Violated a condition of quarantine.
- Imported into the State, without the Director's permission, diseased livestock or livestock exposed to a disease.
- Misrepresented the health, medical status, or prior treatment for an infectious, contagious, or toxicological disease of livestock in order to move or transfer ownership to another person.

A person who violated the proposed Act or a rule promulgated under it, except as specified above, would be guilty of a misdemeanor, punishable by a fine of not less than \$300 or imprisonment of not less than 30 days, or both.

Any person authorized by the Director to enforce the animal health laws of the State would be able to issue an appearance ticket, as authorized in the Code of Criminal Procedure for any violation classified as a misdemeanor.

The Department also could bring an action to obtain a declaratory judgment that an action violated the

proposed Act, and an injunction against a person who engaged in an action that violated the proposed Act.

FISCAL IMPACT

The bill would result in an indeterminable savings to the State by placing a limitation on indemnification for destruction of diseased animals. If the limitation had been in effect for FY 1987, the savings to the State would have been approximately \$1,185,000. The bill would have a minimal indeterminate increase in costs to the State by mandating fairs to have veterinarians on call when livestock were on the premises of the fair. The bill would not require any increase in the cost of administration over that of administering the current Animal Industry Act.

ARGUMENTS

Supporting Argument

The bill would recodify and update the existing laws affecting the State's animal industry as well as place into statute current policies and rules of the Department of Agriculture. Additional changes, especially as to animal handling and testing, would reflect current conditions and practices occurring in the animal industry.

Supporting Argument

The bill would reduce the risk exposure of the State in cases in which the State required animals to be destroyed because of disease. The bill would establish caps on indemnification. Michigan is one of a few states that provide indemnification; 75% do not indemnify. Currently, if animals have to be destroyed, the State will pay 100% of the indemnification. This recently resulted in the State's paying \$2.5 million in one indemnification payment for 3,000 head of sheep infected with scrapies.

Response: Under the bill, the State's payment would not cover the entire cost of certain livestock, especially prized breeding livestock. This would require livestock producers to bear the financial cost of obtaining additional insurance coverage.

Opposing Argument

The bill would impose new regulations, and in some cases testing requirements, on the movement within the State and importation into the State of various livestock, equine, poultry, and wild animals. Furthermore, the bill would require that an accredited veterinarian be on call whenever there were animals on the premises of a fair. These new requirements could place a financial burden on some livestock producers and have an adverse effect on the animal industry in the State.

Response: The State establishes regulations, particularly on the control of diseased animals, to protect the livestock industry. While testing requirements could financially affect one producer more than another producer, the spread of a highly contagious disease could have a disastrous effect on the entire animal industry in the State. Some animal diseases, such as brucellosis, can be transmitted to humans at the time of slaughter or through unprocessed milk. Thus, these regulations would have the long-term effect of protecting human health. Furthermore, testing regulations would help either to prevent the introduction of a disease into the State or, in cases in which there already are diseased animals in the State, prevent its spread.

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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.