



**House
Legislative
Analysis
Section**

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HONEYBEE INDEMNIFICATION

House Bill 4090 as enrolled
Second Analysis (1-31-94)

Sponsor: Rep. Tom Alley
House Committee: Agriculture and
Forestry
Senate Committee: Agriculture and
Forestry

THE APPARENT PROBLEM:

Bees play an important part in Michigan agriculture. They not only produce a valuable agricultural product, honey, but they also play a vital role in the production of major fruit and vegetable crops dependent on bee pollination. Pollination by bees is important in the production of apples, cherries, and blueberries (and, indeed, all fruit crops) as well as in the production of pickle cucumbers and of birdsfoot trefoil, an important forage crop in the northern part of the state. The original Apiary Inspection Act, passed in 1935, apparently was in response to a disease known as American foulbrood disease, a contagious and fatal bacterial disease of bee larvae. The act required beekeepers to be registered with the Department of Agriculture (MDA), required the department to inspect apiaries (places where one or more colonies of bees -- or unoccupied hives -- are kept, including hives, bees, and bee-associated equipment), and restricted the transportation of bees. If hives were found to be infected, the department could quarantine and, if necessary, destroy, the infected hives. However, since the early 1970s, the MDA reportedly has been able to inspect only about 60 percent of registered apiaries because of reductions in funding for the annual apiary inspection program. Before 1975, the incidence of American foulbrood disease reportedly varied between one and two percent, the lowest practicable rate because the disease also can be carried by wild bees. However, after the reduction in the inspection program, random inspections conducted in 1978 on about 11 percent of registered apiaries showed an increase in rates of American foulbrood disease to between three and four percent, with the incidence of the disease in some parts of the state reportedly as high as 30 percent.

Meanwhile, by the 1980s, there was an increase in the spread of a parasitic tracheal mite which weakens bees and, consequently, adversely affects

honey production and pollination. The mite apparently was first found in the United States in Texas in 1983, and was soon discovered in Louisiana and throughout Florida. The United States Department of Agriculture (USDA) placed restrictions on movement of bees and used equipment outside of infected areas, but the mite continued its progress northward, so that it now appears in both Ohio and Michigan. The mite is of particular concern in northern states, where infestation may increase winter die-off of bees, and where such die-offs increase the northern states' dependence on imported bees from southern states. Two kinds of bee mites -- tracheal mites and varroa mites, both of which are fatal to bees -- are now considered endemic in Michigan (that is, spread throughout the state), so quarantine is not an effective means of protecting either honey production or pollination. At first there was no treatment for these bee mites, but treatments have since been developed (under the trade names Micticur Bee Mite Strips, Mit-A-Thol, and Apistan Strips). Apparently while one of the treatments (Apistan) works well on varroa mites and Menthol can work well on tracheal mites (though application reportedly is tricky), Mit-A-Thol appears to be highly questionable in killing either mite while perhaps actually harmful to bees (perhaps because of some of the strips are tainted).

The mite problem is very serious, with some apiaries reportedly having lost up to 95 percent of their colonies. The economic costs of these mites are substantial: reportedly it takes \$35 to replace each bee colony, \$50 to \$60 is lost in pollination for each colony, and \$20 to \$50 in honey production is lost per colony. It is clear that mites pose a serious economic problem not only to beekeepers but to agriculture in general in the state.

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The act has been amended a number of times (once, for example to include provisions regarding African or Africanized bees), and at the request of beekeepers in the state legislation has been introduced to help beekeepers get reimbursement for the loss of bees to bee diseases and these bee mites.

THE CONTENT OF THE BILL:

The bill would amend the beekeeping act (Public Act 412 of 1976) to require the Department of Agriculture to indemnify bee owners when it ordered the destruction of bee colonies and to repeal most of the existing act.

Indemnification. More specifically, the bill would add a section to the beekeeping act that would require the "division" (a term not defined in the bill or the act) to order the destruction of certain bee colonies in order to control or eradicate bee diseases. If the division had given a bee owner at least 30 days to remedy a bee disease in a bee colony and the division determined that the control or destruction of the colony warranted the colony's destruction, then the division -- except in the case of colonies infested with American foulbrood disease -- could order the colony's destruction "in the manner provided for in section 8." (Note: the bill also would repeal section 8 of the act.)

The division would indemnify the owner for 75 percent of the colony's fair market value, less any other compensation received by the bee owner (including, but not limited to, compensation for salvage value). The department couldn't indemnify owners who acquired bee colonies that they knew were diseased or had been exposed to a bee disease. "Fair market value" would be based on sales of similar bee colonies within the 12 months immediately preceding the date the colony was destroyed, and owners would have to furnish affidavits attesting to any compensation they had received from other sources.

Money for indemnification would come from annual appropriations to the department for this purpose, and couldn't be paid from any departmental funds designated for any other purpose. Agreements between the department and bee owners would contain a provision recognizing that indemnification was subject to appropriations by the legislature.

Acceptance of indemnification by a bee owner would protect the state from claims by owners, but wouldn't affect an owner's right to sue anyone responsible for his or her loss.

Repeals. The bill also would repeal most of the existing structure of the act regarding inspection for foulbrood disease and the setting of an annual apiary registration fee. More specifically, the bill would delete the parts of the act that:

- * require the department to establish a system of apiary inspection, to investigate outbreaks of bee diseases, and to act to eradicate or control bee diseases [section 2];
- * require bee keepers and owners to register annually with the Department of Agriculture and pay a \$10 fee (plus any applicable late fees) for each apiary [section 3];
- * require movable frames in bee hives [section 4];
- * require, with certain exceptions, people to get permits from the department before selling or moving instate bees ("on comb") or equipment [section 5a];
- * allow the department to go onto private property to inspect for bee diseases and to enforce the act [section 6];
- * require, when a bee disease is found in an apiary, the department to notify the owner of how the disease is to be eradicated and require diseased colonies in quarantined apiaries to remain quarantined until either the disease is eradicated or the colony destroyed (this section also prohibits exposing bees to any source of American foulbrood infection and prohibits the removal from quarantined apiaries any bees, hives, honey, or equipment) [section 7];
- * require the department to destroy, in certain ways, apiaries or equipment infected with American foulbrood disease and allow the department to immediately destroy or disinfect disease-contaminated equipment associated with a diseased apiary [section 8];
- * allow the department to destroy neglected or abandoned hives found to be infected with American foulbrood disease, require the department

to follow certain notification requirements, and allow appeals under certain circumstances [section 9];

- * require the department to follow certain infection control measures [section 10];

- * require departmental permission to transport used hives or other beekeeping into the state and require the department to inspect all combs or used beekeeping equipment imported into the state (this section also allows the department to destroy infected bees or used beekeeping equipment imported into the state and prohibits the importation into the state of insects in the "superfamily Apoidea," except bees as defined in the act, unless the species is known "by competent authority" to be free from bee disease) [section 12];

- * require the inspection of queen-rearing and -mating apiaries at least once each summer and prohibits candy used in mailing cages from being made of honey [section 13];

- * prohibit people from interfering with the discharge of the department's duties [section 15]; and

- * set misdemeanor penalties and fines for violations of the act and allows the department to confiscate and destroy any bees or used apiary equipment imported into the state in violation of the act [section 16].

MCL 286.801 et al.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency (6-16-93), the cost to the state for indemnification would depend on appropriations made by the legislature for that purpose. Assuming that the legislature appropriated 75 percent of fair market value, however, the annual cost would be between \$5,250 and \$9,975, based on a fair market value per colony of \$75 to \$95 (with bees and the queen at \$30 to \$35, frames and combs for two-story apiaries at \$40, and honey at \$20) and the fact that between 100 and 140 colonies were ordered destroyed by the department in fiscal year 1991-92.

ARGUMENTS:

For:

According to testimony before the House Agriculture and Forestry Committee, economic losses from bee mites have been substantial in recent years. One bee owner reported that he lost 600 of his 1,300 bee colonies, while other bee owners' losses reportedly have run as high as 90 percent. These bee owners aren't currently eligible for any kind of disaster or small business loans for these losses, and could use any financial help they can get to deal with the devastation being done to their bees. The bill would responsibly address this issue of financial aid by requiring indemnification based on legislative appropriations.

For:

The original beekeeper's act, the Apiary Inspection Act, was passed in 1935, apparently in response to a serious problem in the 1920s caused by American foulbrood disease, a contagious and fatal bacterial disease of bee larvae. However, not only has American foulbrood disease become much less of a problem (because it responds well to tetracycline), the current major problem for beekeepers apparently is that of endemic mite infestations. Beekeepers report that the mite problem will be handled through good management practices, and won't really respond effectively to state regulatory mechanisms. In addition, reportedly there currently is virtually no bee inspection program being carried out by the Department of Agriculture due to budgetary constraints. Because the existing act is underfunded, and the state really doesn't do anything for beekeepers, despite collecting annual fees from them, in all fairness to beekeepers most of the act should be repealed.