

Act No. 552
Public Acts of 1998
Approved by the Governor
January 25, 1999
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January 27, 1999
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators McManus, North, Gougeon, Emmons and Schuette

ENROLLED SENATE BILL No. 1282

AN ACT to amend 1988 PA 466, entitled "An act to authorize and require the appointment of a state veterinarian within the department of agriculture; to protect the human food chain and the livestock and aquaculture industries of the state through prevention, control, and eradication of infectious, contagious, or toxicological diseases of livestock and other animals; to prevent the importation of certain nonindigenous animals under certain circumstances; to safeguard the human population from certain diseases that are communicable between animals and humans; to prevent or control the contamination of livestock with certain toxic substances through certain livestock or livestock products; to provide for indemnification for livestock under certain circumstances; to provide for certain powers and duties for certain state agencies and departments; to provide for the promulgation of rules; to provide for certain hearings; to provide for remedies and penalties; and to repeal acts and parts of acts," by amending sections 3, 8, 9, 14, 30a, and 30b (MCL 287.703, 287.708, 287.709, 287.714, 287.730a, and 287.730b), sections 3, 9, 14, 30a, and 30b as amended by 1996 PA 369 and section 8 as amended by 1994 PA 41, and by adding section 30c.

The People of the State of Michigan enact:

Sec. 3. (1) "Accredited veterinarian" means a veterinarian approved by the United States department of agriculture to perform specific functions required by cooperative state-federal disease control and eradication programs.

(2) "Animal" means mollusks, crustaceans, and vertebrates other than human beings.

(3) "Aquaculture" means the commercial husbandry of aquaculture species on the approved list of aquaculture species under the Michigan aquaculture development act including, but not limited to, the culturing, producing, growing, using, propagating, harvesting, transporting, importing, exporting, or marketing of any products, coproducts, or by-products of fish, crustaceans, mollusks, reptiles, and amphibians, reared or cultured under controlled conditions in an aquaculture facility.

(4) "Aquaculture facility" means a farm or farm operation engaged in any aspect of aquaculture in privately controlled waters capable of holding all life stages of aquacultural species with a barrier or enclosure designed to prevent their escape into waters of the state. An aquaculture facility does not include any facility not regulated under the Michigan aquaculture development act.

(5) "Approved vaccine" means a veterinary biological administered to livestock or other animals to induce immunity in the recipient. The use of the approved vaccine in this state shall be approved by the state veterinarian.

(6) "Captive cervidae" means members of the cervidae family including, but not limited to, deer, elk, moose, and caribou living under the husbandry of humans.

(7) "Captive cervidae ranch" means any premises that contains 1 or more captive white-tailed deer or captive elk and has captive white-tailed deer or captive elk removed by the hunting method.

(8) "Captive elk farm" means any premises that contains 1 or more captive elk and does not have any captive elk removed by the hunting method.

(9) "Captive white-tailed deer farm" means any premises that contains 1 or more captive white-tailed deer and does not have any captive white-tailed deer removed by the hunting method.

(10) "Carcasses" means the dead bodies of animals, poultry, or fish. Carcasses do not include rendered products.

(11) "Cattle" means all bovine (genus bos) animals, bovinelike animals (genus bison) also commonly referred to as American buffalo or bison and any cross of these species unless otherwise specifically provided.

(12) "Cattle importation lot" means a premises registered with the department and used only to feed cattle in preparation for slaughter.

(13) "Commingling" means concurrently or subsequently sharing or subsequent use by native livestock of the same pen or same section in a facility or same section in a transportation unit where there is physical contact or contact with bodily excrements or fluids from other livestock.

(14) "Consignee" means the person within the state of Michigan receiving the animals at the point of destination named on the official interstate health certificate, official interstate certificate of veterinary inspection, owner-shipper statement, or sales invoice.

(15) "Contagious disease" means an illness due to a specific infectious agent or suspected infectious agent or its toxic products which arises through transmission of that agent or its products from an infected animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment, or via an airborne mechanism.

(16) "Department" means the department of agriculture.

(17) "Direct movement" means transfer of animals to a destination without unloading the animals en route and without exposure to any other animals or bodily excrements or fluids from other animals.

(18) "Director" means the director of the department of agriculture or his or her authorized representative.

(19) "Disease" means any animal health issue with economic impacts in terms of restricted movement or markets, whether due to residues, metabolic problems, public health concerns, multiple causes, or food safety issues.

(20) "Distribute" means to deliver other than by administering or dispensing a veterinary biological.

(21) "Domestic animal" means those species of animals indigenous to North America which have lived under the husbandry of humans.

(22) "Emergency fish diseases" means certain infectious diseases of fish that are transmissible directly or indirectly from 1 fish to another and are not known to exist within the waters of the state. Emergency fish diseases include, but are not limited to, viral hemorrhagic septicemia, infectious hematopoietic necrosis, ceratomyxosis, and proliferative kidney disease.

(23) "Equine" means all animals of the equine family which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras.

(24) "Exhibition or exposition" means a congregation, gathering, or collection of livestock that are presented or exposed to public view for show, display, swap, exchange, entertainment, educational event, instruction, advertising, or competition. Exhibition or exposition does not include livestock for sale at public stockyards, auctions, saleyards, and livestock yards licensed under the provisions of 1937 PA 284, MCL 287.121 to 287.131.

(25) "Exhibition facility" means any facility used or intended to be used for public view, show, display, swap, exchange, entertainment, advertisement, educational event, or competition involving livestock. Exhibition facility does not include a public stockyard, an auction saleyard, and a livestock yard where livestock are accepted on consignment and the auction method is used in the marketing of the livestock.

(26) "Exhibitor" means any person who presents livestock for public display, exhibition, or competition or enters livestock in a fair, show, exhibition, or exposition.

(27) "Exotic animal" means those animals that are not domestic or any cross of those animals not domestic to North America.

(28) "Fair" means a competition and educational exhibition of agricultural commodities and manufactured products for which premiums may be paid and which is conducted by an association or governmental entity.

(29) "Feral swine" means swine which have lived their life or any part of their life as free roaming or not under the husbandry of humans.

Sec. 8. (1) Under the direction of the director, the state veterinarian shall do all of the following:

(a) Develop and enforce policy and supervise activities to carry out this act and other state and federal laws, rules, and regulations that pertain to the health and welfare of animals in this state.

(b) Promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the use of veterinary biologicals including diagnostic biological agents. The state veterinarian may require that the importation and use of veterinary biologicals or biological agents be reported to the department.

(c) Maintain a list of reportable animal diseases. The state veterinarian shall review and update the list annually and more often if necessary.

(d) Maintain a list of veterinary biologicals whose sale, distribution, use, or administration by any person is reported to the director when requested by the director within 10 working days of the sale, distribution, use, or administration. The state veterinarian shall review and update the list annually and more often if necessary.

(e) Develop and implement scientifically based surveillance programs for reportable diseases when the director determines, with advice and consultation from the livestock industry and veterinary profession, that surveillance would aid in the control or eradication of a reportable disease or assist in the economic viability of the industry.

(f) The department shall consider and regularly review the need to require a negative official test for bovine tuberculosis for all cattle and goats within 60 days prior to movement from 1 premises to another within this state or require that cattle and goats originate directly from a herd that is accredited tuberculosis-free as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication uniform methods and rules effective February 3, 1989, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate. The director may require that other species have a negative official test for bovine tuberculosis prior to movement from 1 premises to another within this state. This subsection shall be in effect until January 1, 2001.

(g) The department shall coordinate and conduct, and the department of natural resources shall actively support and assist as directed by the department, a scientifically based surveillance program for bovine tuberculosis of free-ranging deer, based upon risk and conducted at a minimum 95% confidence of a 2% infection rate based upon an official determination by the United States department of agriculture, in at least each of the following counties: Cheboygan, Presque Isle, Otsego, Montmorency, Alpena, Crawford, Oscoda, Alcona, Roscommon, Ogemaw, Iosco, and any other county and counties adjacent to that county where 1 or more free-ranging deer are found to be positive for bovine tuberculosis, based upon an official determination by the United States department of agriculture. For purposes of enforcing this section, the department may enter upon private or public premises to acquire samples. The Michigan department of natural resources and the Michigan department of community health shall cooperate with the state veterinarian to fulfill the requirements of this section. The department shall report the results of the study to the legislature and the governor by September 1, 1999.

(2) Unless otherwise prohibited by law, the state veterinarian may enter upon any premises to enforce this act.

Sec. 9. (1) A person who discovers, suspects, or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report that fact, suspicion, or belief to the director. The director shall take appropriate action to investigate the report. A person possessing an animal affected by, or suspected of being affected by, a reportable disease or contaminated with a toxic substance shall allow the director to examine the animal or collect diagnostic specimens. The director may enter premises where animals, animal products, or animal feeds are suspected of being contaminated with an infectious or contagious disease, or a disease caused by a toxic substance and seize or impound the animal products or feed located on the premises. The director may withhold a certain amount of animal products or feed for the purpose of controlled research and testing. A person who knowingly possesses or harbors affected or suspected animals shall not expose other animals to the affected or suspected animals or otherwise move the affected or suspected animals or animals under quarantine except with permission from the director.

(2) A person owning animals shall provide reasonable assistance to the director during the examination and necessary testing procedures.

(3) The director may call upon a law enforcement agency to assist in carrying out the director's orders.

(4) A person shall not remove or alter the identification of an animal for the purpose of misrepresentation of the animal's identity or the ownership of the animal. A person shall not make misrepresentations concerning the animal's health status to a potential buyer.

(5) The director may devise and implement a program to compensate livestock owners for livestock that die or need to be destroyed for humane purposes while the livestock are being tested or under a surveillance program for a reportable disease.

Sec. 14. (1) If it is determined by the director that the control or eradication of a disease or condition of livestock warrants the slaughter, destruction, or other disposition of the livestock, the director shall order the slaughter, destruction, or other disposition of the livestock. If the director has signed an order for the slaughter, destruction, or other disposition of livestock, the director shall notify the attorney general and the house and senate appropriations committees and the department of management and budget on the issue of indemnity under this section. The director

may approve facilities for the orderly disposal of animals, animal products, and animal feeds for the purpose of controlling or preventing the spread of an infectious, contagious, or toxicological disease. The director may select a site or method for the disposal with the advice of the director of the department of environmental quality.

(2) The director may, under rules promulgated by the department, allow indemnification for the slaughter, destruction, or other disposition of animals due to livestock diseases or toxicological contamination. If the director has signed an order for the slaughter, destruction, or other disposition of livestock, the owner may apply for indemnification. The director shall appraise and inventory the condemned livestock. The appraisals and inventories shall be on forms approved by the director. The director shall use state agricultural statistical service pricing information to determine the value of condemned livestock. If state agricultural statistical service pricing information is not available, the director shall use agricultural pricing information from commercial livestock auction markets and other livestock market information as determined by the director to determine the value of condemned livestock. Except as otherwise provided in subsection (3) and until January 1, 2005, regarding any quarantine on animals or premises issued after January 1, 1998, indemnification shall be based upon 90% of the fair market value of that type of livestock on the date of the appraisal and marketable for the purpose for which the livestock was intended, not to exceed \$3,000.00 for each animal except that after January 1, 2005, indemnification shall be based upon 75% of the fair market value of that type of livestock on the date of the appraisal as if the livestock was grade status and marketable for the purpose for which the livestock was intended, not to exceed \$1,250.00 for each animal. The indemnification amount under this section shall include a deduction for any compensation received, or to be received, from any other source including, but not limited to, indemnification by the United States department of agriculture, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock in accordance with a disease control or eradication program. The owner shall furnish to the department all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock received or to be received from any other source shall accompany the appraisal certificate prior to indemnification under this section.

(3) The department may provide for indemnity pursuant to this section not to exceed \$10,000.00 per order, from any line item in the annual budget for the department in the applicable fiscal year. Any agreement greater than \$10,000.00 entered into between the department and an owner of livestock shall contain a provision indicating that, notwithstanding the terms of the agreement, indemnification shall be subject to specific appropriations by the legislature and not be paid from department funds.

(4) Acceptance of indemnification under this section does not enlarge or diminish the owner's civil remedy against a person responsible for the owner's loss except that acceptance of the indemnity constitutes a release of the claim of the owner against the state.

(5) The right to indemnity from the state for animals condemned and ordered slaughtered, destroyed, or otherwise disposed of by the director applies only to native livestock. Indemnification shall not apply to livestock determined by the department to be imported without meeting import requirements such as official interstate health certificate or official interstate certificate of veterinary inspection, required testing, required vaccination, or for livestock determined by the department to have been illegally moved within this state. An owner is not entitled to indemnity from the state for an animal that comes into the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease. In addition, the director shall not indemnify an owner for animals that have been exposed to an animal that comes into the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease.

(6) A premises that has been depopulated shall be cleaned and disinfected as prescribed by the director.

(7) Repopulation of the premises, except as approved by the director, shall not confer eligibility for future indemnity under this section.

(8) The department may cooperate and coordinate with the secretary of the United States department of agriculture or the secretary's authorized representative or other governmental departments or agencies regarding indemnification under this section.

Sec. 30a. (1) Captive cervidae, except those consigned directly to a state or federally inspected slaughter facility premises, shall not be imported into this state unless accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection.

(2) Captive cervidae imported into this state shall be individually identified by an official identification. The official identification shall be listed on the official interstate health certificate or official interstate certificate of veterinary inspection.

(3) Captive cervidae 6 months of age or older, except those consigned directly to a state or federally inspected slaughter facility premises, imported into this state shall test negative to an official test for brucellosis within 30 days before importation.

(4) Captive cervidae 6 months of age or older, except those consigned directly to a state or federally inspected slaughter facility premises, imported into this state shall meet interstate tuberculosis testing requirements as defined in title 9 of the code of federal regulations and the uniform methods and rules for tuberculosis eradication in cervidae: uniform methods and rules effective May 15, 1994, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(5) All captive cervidae less than 6 months of age imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, must originate directly from an official tuberculosis accredited or qualified herd as outlined in the uniform methods and rules for tuberculosis eradication in cervidae effective May 15, 1994, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, or shall remain at the destination identified on the official interstate health certificate or official certificate of veterinary inspection until it receives an official negative test for tuberculosis when it is at least 6 months of age, but not more than 8 months of age. For the purposes of this section, the age of the captive white-tailed deer or captive elk shall be determined by the age placed on the official interstate health certificate or official certificate of veterinary inspection. A copy of the official test for tuberculosis and a copy of the official interstate health certificate or official certificate of veterinary inspection shall be forwarded to the department within 10 days following completion of the testing.

(6) Captive cervidae with a response other than negative to any tuberculosis test or brucellosis test are not eligible for interstate movement into this state without permission from the director.

(7) Captive cervidae known to be affected with or exposed to tuberculosis or brucellosis are not eligible for interstate movement into this state without permission from the director.

Sec. 30b. (1) All live captive cervidae 6 months of age or older except captive white-tailed deer and captive elk moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall be accompanied by a copy of the current official test for tuberculosis or written permission from the director and shall originate directly from accredited, qualified, or monitored herds as defined in title 9 of the code of federal regulations and the uniform methods and rules for the control and eradication of bovine tuberculosis in cervidae approved by veterinary services of the animal and plant health inspection service of the U.S. department of agriculture and all amendments thereafter to those publications adopted pursuant to rules that the director may promulgate or originate from herds not known to be affected with or exposed to tuberculosis and accompanied by a certificate signed by an accredited veterinarian stating that the captive cervidae have been classified negative to an official tuberculosis test that was conducted within 90 days before their movement.

(2) All live captive white-tailed deer and captive elk 6 months of age or older moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited or qualified herd as outlined in the uniform methods and rules for tuberculosis eradication in cervidae effective May 15, 1994, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all captive cervidae 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd, receive an individual negative official test for tuberculosis within 90 days prior to movement, and be accompanied by a copy of the official tests for tuberculosis verifying that testing.

(c) Be isolated from all other members of the herd and receive 2 official negative tests for tuberculosis at 90- to 120-day intervals before movement and be accompanied by copies of the official tests for tuberculosis verifying that testing.

(3) All live captive white-tailed deer and captive elk less than 6 months of age moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited or qualified herd as outlined in the uniform methods and rules for tuberculosis eradication in cervidae effective May 15, 1994, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, be identified by an official identification, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying the herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all captive cervidae 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd, be individually

identified by an official identification, be accompanied by an official permit for movement of captive white-tailed deer and captive elk less than 6 months of age within Michigan issued by an accredited veterinarian, and remain at the destination stated on the permit until it receives an official negative tuberculosis test when it reaches 6 months of age, but not more than 8 months of age. For purposes of this section, the age of the captive white-tailed deer or captive elk shall be determined by the age placed on the official permit for movement of captive white-tailed deer and captive elk less than 6 months of age in Michigan by the accredited veterinarian. A copy of the official test for tuberculosis and a copy of the official permit for movement of captive white-tailed deer and captive elk less than 6 months of age within Michigan shall be forwarded to the department within 10 days following completion of the testing.

(4) Captive cervidae with a response other than negative to any tuberculosis test are not eligible for intrastate movement without permission from the director.

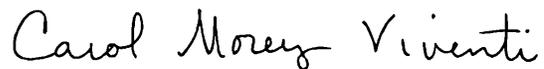
(5) Captive cervidae known to be affected with or exposed to tuberculosis shall not be moved intrastate without permission from the director.

(6) The department shall keep a current database on captive cervidae premises in this state. The database shall include the owner's name, the owner's current address, location of captive cervidae, species of captive cervidae at the premises, and the approximate number of captive cervidae at the premises.

Sec. 30c. (1) Beginning on the effective date of this section, each owner of any captive white-tailed deer farm or captive elk farm that does not possess official tuberculosis accredited or qualified herd status as defined in the uniform methods and rules for tuberculosis eradication in cervidae effective May 15, 1994, approved by the veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, shall cause an official test for tuberculosis to be conducted on all captive cervidae 12 months of age or older, and all cattle and goats 6 months of age and older in contact with the captive cervidae. This testing shall be completed within 18 months following the effective date of this section. The owner of any captive white-tailed deer farm or captive elk farm that begins operation after the effective date of this section shall complete the testing requirement within 18 months following assembly of the herd.

(2) Beginning on the effective date of this section, each owner of any captive cervidae ranch shall cause captive cervidae removed from the herd to undergo visual inspection by a specially trained accredited veterinarian, approved by the director, for evidence of tuberculosis. The number of animals to be inspected shall be equal to the number required for establishing an official tuberculosis monitored herd as outlined in the uniform methods and rules for tuberculosis eradication in cervidae effective May 15, 1994, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate. The testing shall be conducted over a 3-consecutive-year period and be completed within 5 years following the effective date of this section. The owner of any captive cervidae ranch which begins operation after the effective date of this section shall complete the required testing within 5 years following assembly of the herd.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved

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Governor.