House
Legislative
Analysis
Section

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STATUTORY BAN ON FEEDING WILD DEER, ELK

House Bill 4499 as enrolled
Public Act 66 of 1999
Second Analysis (2-1-01)

Sponsor: Rep. Rick Johnson
House Committee: Agriculture and Resource Management
Senate Committee: Natural Resources and Environmental Affairs

THE APPARENT PROBLEM:

Bovine tuberculosis is a serious bacterial disease that is capable of infecting most warm-blooded animals, including human beings. The disease once was relatively common in cattle in this county, although historically it has been rare in North American wild deer. In fact, prior to the current outbreak in the northeastern Lower Peninsula that started in 1994, bovine tuberculosis had been found in only eight wild deer in all of North America. Significantly, it now turns out, one of these eight infected deer was a nine-year-old doe killed in 1975 in Alcona County in Michigan's northeastern Lower Peninsula, one of the five counties constituting the core of the current bovine tuberculosis outbreak area. No additional infected wild deer were found after the 1975 case until nearly two decades later, when, in 1994, a four-year-old white-tailed buck was killed in Alpena County (which borders on Alcona County) on the property of one of the largest hunting clubs in northeastern lower Michigan. The deer was infected with bovine tuberculosis, and has turned out to be the "index" case marking the beginning of the first known self-sustaining bovine tuberculosis outbreak among wild deer in North America. Since 1994, bovine tuberculosis has been confirmed in over 200 additional wild deer, as well as in a number of predators that either prey on deer or scavenge deer carcasses.

More ominously, however, for the state's livestock industry, in December 1997 bovine tuberculosis was confirmed in a captive deer on a captive deer farm in Presque Isle County (which borders both Alpena and Alcona Counties). The entire 396-deer herd was slaughtered ("depopulated") and the owner compensated through a combination of state and federal indemnification programs (with the amount of state compensation having been increased, under Public Act 552 of 1998, beginning on January 1, 1998, until January 1, 2005). Six months later, in June 1998, the first bovine tuberculosis-infected domestic cow was identified on a small farm in southern Alpena County. The entire 21-head herd, like the captive deer herd, also was slaughtered, and the owner compensated. (For further information on the bovine TB outbreak, see the MDA's Internet website at www.mda.state.mi.us.)

When this first infected domestic cow was confirmed, the United States Department of Agriculture (USDA) suspended Michigan's federal bovine TB "accredited free" status, and notified other states of the Michigan case. Although the USDA does not revoke a state's bovine tuberculosis free status and impose tuberculosis testing restrictions until a second bovine tuberculosis-infected cow is identified in a state, once the USDA announced that a single bovine tuberculosis-infected cow had been confirmed in Michigan, some states immediately began imposing import restrictions (in the form of tuberculosis testing requirements) on Michigan cattle.

In January 1999, the economic threat to Michigan's billion-dollar livestock industry increased significantly when it was announced that two more bovine tuberculosis-infected cattle herds, with a total of 173 animals, had been identified in neighboring Alcona County. (Both of these herds also have been or are being slaughtered and the owners compensated.) At this point, state officials expected that Michigan would lose even its modified ("bovine tuberculosis free -- accredited") federal status, with resulting potential losses to the state's livestock industry of up to several hundred millions of dollars. However, because the outbreak appears to be restricted just to the "hunting club country" of northeastern lower Michigan, and because the state agencies involved -- the departments

of Agriculture, Natural Resources, and Community Health -- had formulated and implemented an aggressive disease eradication program, the federal government agreed to consider the state's request that Michigan be granted the first-ever USDA bovine tuberculosis "regionalized" (or, as it is popularly known, "split state") status. The USDA did implement new rules governing state bovine TB status. Among other things, the new USDA rules changed Michigan's status to "modified accredited" (which indicates the presence of bovine TB in the state's livestock) and allow "zoned" status, under which states may request USDA designation for part of a state that is different than that of the rest of the state. Michigan intends to request the "accredited free" status or the Upper Peninsula and is proceeding with a vigorous eradication program that involves, among other things, random testing of cattle for bovine tuberculosis outside the eleven-county quarantine area in the northeastern Lower Peninsula, the banning of supplemental winter feeding of wild deer and elk in all of the Lower Peninsula, the banning of all feeding ("baiting") of wild deer during the hunting season in the northeastern Lower Peninsula, and restrictions on baiting deer during hunting season in the rest of the state.

Because tuberculosis is a respiratory disease of prolonged, close contact, a crucial part of the state's control and eradication effort has been directed toward the decades-long practices of year-round supplemental feeding of wild deer and the controversial hunting practice of luring deer through "baiting" (that is, through putting out piles of food that attract deer to specific, known locations, where they then can be shot by hunters lying in wait as the deer congregate to eat the bait). The Department of Natural Resources (DNR) believed that it did not have the authority to ban non-hunting-related feeding of wild deer, and, thus, that it could regulate deer baiting (which is used by hunters) but not the practice of year-round artificial feeding of wild deer. Consequently, the Department of Agriculture (MDA), under its statutory quarantine authority, approved a wild deer feeding ban on March 12, 1998, and the Michigan Agriculture Commission approved a wild deer feeding ban (formally issuing "Enforced Restriction Area Order No. 1998-01"), which was to become effective on May 1, 1998. On the same date, the Natural Resources Commission approved baiting restrictions under its authority to regulate hunting.

However, four Alcona County landowners sued the Department of Agriculture, alleging, among other things, that the department did not have the authority under the Animal Industry Act to ban the feeding of wild animals. On April 16, 1999, the Alcona County Circuit Court agreed with the landowners and ruled that the Department of Agriculture's feeding ban was invalid and unenforceable. The attorney general's office appealed the ruling to the Michigan court of appeals.

On March 11, 1999, the Commission of Agriculture adopted a resolution asking the legislature "to ban statewide supplemental feeding of wild free-ranging white-tailed deer and elk." After some compromise, legislation has been passed to do this.

THE CONTENT OF THE BILL:

The bill would amend the Natural Resources and Environmental Protection Act (NREPA), to require the Natural Resources Commission to issue an order by September 1, 1999 (that would take effect on October 1, 1999) to do the following:

** prohibit (and define) "deer or elk feeding" in the Lower Peninsula except for "recreational viewing purposes" under certain circumstances, and

** establish criteria for deer feeding in the Upper Peninsula.

The bill also would give the Natural Resources Commission statutory authority to ban deer and elk feeding in all or part of the state in order to properly manage wildlife populations or to control or eradicate disease, and would allow the use of mechanical devices for baiting or feeding three years after the bill took effect.

Lower Peninsula ban on "deer and elk feeding." After consulting with the Commission of Agriculture, the Natural Resources Commission would have to issue an order by September 1, 1999 (that took effect on October 1, 1999) that prohibited "deer or elk feeding" in the Lower Peninsula, except for recreational viewing under certain conditions.

The bill would define "deer or elk feeding" to mean "the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk." The bill would exempt from the definition -- and so from the feeding prohibition -- all of the following:

** feeding birds or other wildlife if it were done in such a way as to exclude (and not just deter) wild deer and elk from gaining access to the feed;

** feed scattered in the course of ("solely as the result of") normal logging or agricultural practices; and

** the storage or use of feed for agricultural purposes if any of the following applied:

(1) the area were occupied by livestock actively consuming the feed on a daily basis, or

(2) the feed were covered to deter (though not exclude) wild deer or elk from gaining access to the feed, or

(3) the feed were in a storage facility that was consistent with normal agricultural practices.

The bill would define "feed" to mean "a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials, whether natural or manufactured, that may attract white-tailed deer or elk." The definition of "feed" specifically would not include plantings for wildlife, standing farm crops under normal agricultural practices, or agricultural commodities scattered solely as the result of normal agricultural planting or harvesting practices.

Recreational feeding. Under the bill, deer or elk could be fed for "recreational viewing purposes" (not defined in the bill) only if the feed were deposited or distributed not more than 100 yards from the residence of the person doing the feeding and on land owned or possessed by the person doing the feeding. (The bill would define "residence" to mean a permanent building serving as a temporary or permanent home, so "residence" could include a cottage, cabin, or mobile home but would not include a structure designed primarily for taking game, a tree blind, a tent, a recreational or other vehicle, or a camper.)

In addition, the bill would require the departmental order to "establish any other reasonable conditions for deer and elk feeding for recreational viewing purposes" that were consistent with the requirements of this proposed new section of the law.

Upper Peninsula deer feeding criteria. The bill would not ban deer feeding in the Upper Peninsula. Instead, it would require that the Natural Resources Commission order banning feeding in the Lower Peninsula also would have to establish criteria for deer feeding in the Upper Peninsula. (See BACKGROUND INFORMATION.)

Authority to ban deer and elk feeding. Regardless of the bill's other provisions regarding banning deer and elk feeding (except for recreational viewing) in the Lower Peninsula and establishing criteria for feeding deer in the Upper Peninsula, the bill also would authorize the Natural Resources Commission to ban all feeding of deer and elk throughout the state under certain circumstances.

More specifically, after consulting with the Commission of Agriculture, the Natural Resources Commission would be authorized to issue (in the manner provided by the voter-approved referendum on Proposal G in November 1996, which gave the Natural Resources Commission authority to regulate the "taking" of game animals) an order that prohibited all deer and elk feeding (whether supplemental feeding, "recreational" feeding, or "baiting") in all or part of the state if the commission considered the prohibition necessary to properly manage wildlife populations or to control or eradicate disease.

Lift ban on automatic mechanical feeders. Three years after the bill took effect, a Senate amendment to the bill would lift the department's current ban on the use of automatic mechanical feeders for baiting or for deer or elk feeding. More specifically, the bill would prohibit, three years after the bill took effect, an order issued by the Natural Resources Commission from making "a distinction" between the depositing or distributing of feed "by hand" or "by a mechanical device, whether the mechanical device [was] operated by human power or otherwise."

Effective date and sunset. The bill's provisions would be given immediate effect and would be repealed on December 31, 2004.

MCL 324.40102, 324.40103, and 324.40111a

BACKGROUND INFORMATION:

Senate Fiscal Agency issue paper. For an extensive overview of the bovine tuberculosis crisis in Michigan, including the huge financial impact the outbreak has had on the state's public and private sectors, see the Senate Fiscal Agency's issue paper, "A Summary of the Resources and Roles Dedicated to the Eradication of Bovine Tuberculosis in Michigan," dated January 2001 available on the Internet at www.senate.state.mi.us/sfa..

Bovine tuberculosis. Bovine tuberculosis is one of three kinds of tuberculosis caused by three specific types of bacteria that are part of the Mycobacterium group. Bovine TB (caused by *M. Bovis*) has the greatest range of host animals of the three kinds of tuberculosis

and can infect all warm-blooded vertebrates, including humans, domestic livestock (such as cattle, goats, and hogs), captive cervids (deer, elk, moose, and caribou), and birds. According to a 1995 USDA Animal and Plant Health Inspection Service (APHIS) bulletin, in general, the bacteria causing bovine TB generally live only a few weeks outside a host's body because they cannot tolerate prolonged exposure to heat, direct sunlight, or dry conditions. However, under cold, dark, and moist conditions (such as in shaded soil, for example) the bacteria can survive longer. This longer survival of the bacteria in cold, dark, moist conditions has a direct bearing on the current Department of Natural Resources ban on the use of mechanical automatic "broadcast" devices that hunting clubs and individual hunters use to scatter deer feed because of the potential that these generally fixed feeders have for maintaining the presence of bovine TB bacteria in the soil around the device.

Bovine TB bacteria grow relatively slowly, so the disease take many months to develop in a host animal. In some cases the disease remains in the host animal's body for life without causing progressive disease, so humans or other animals may have a chronic bovine TB infection without ever showing any visible signs of the disease. Because bovine TB is a slow-growing, chronic disease, it seldom becomes apparent until it reaches an advanced stage. Thus, for example, some infected livestock may appear to be in prime condition, showing no evidence of infection until they are slaughtered, at which time, during slaughter inspection, an animal's carcass may be found so seriously infected that it must be condemned and destroyed.

Transmission of bovine TB. Bovine TB primarily is a respiratory disease, and therefore most commonly is spread through the respiratory tract when healthy animals breathe invisible droplets in the air exhaled (or sneezed, or coughed out) by infected animals. Consequently, the risk of infection is greatest when infected animals are in prolonged, close contact with non-infected animals, particularly in enclosed areas. Thus, for example, inhalation of contaminated air is the most common route of infection for farm and ranch workers and for veterinarians who work with infected livestock, or for wild deer who eat at piles of food placed out for them by humans.

However, bovine TB also can be spread through the gastrointestinal tract by, for example, drinking raw (unpasteurized) milk, or by drinking water from a common source contaminated by saliva from infected animals. Thus livestock are more likely to infect each other when they share a common watering place or food contaminated with saliva and other discharges from infected animals, while calves, hogs, and humans can contract the disease when they drink unpasteurized milk from infected cows. In addition, the confirmation of bovine TB infections in predators or scavengers who prey on deer or their carcasses also indicates that eating infected animals -- particularly their raw lungs and other organs -- also is a route of transmission. However, since heat kills the bacteria, the general consensus is that eating the cooked muscle meat of infected animals, such as venison from infected deer, poses an extremely low risk of infection.

Diagnosis of bovine TB. According to the 1995 USDA bulletin, tuberculosis lesions (morbid changes in tissue locally) may be found in any organ or body cavity of diseased animals. In early stages of the disease, these lesions are hard to find, even during post mortem examinations. But in later stages of the disease, the nodules or lumps caused by bovine TB (called "tubercles") become very evident in the lungs and associated lymph nodes and in the lymph nodes of the head and intestinal tract. Lesions also may appear in the abdominal organs, reproductive organs, nervous system, superficial body lymph nodes, and bones. Thus, for example, infected deer carcasses sometimes can be identified at field check stations, but if no visible signs of bovine TB are evident to the eye, this absence does not mean that the animal was not infected.

However, humans and other animals with tuberculosis develop an immune response, which can be detected by the tuberculin skin test. (Tuberculin is a sterile laboratory product made by growing tuberculosis bacteria, killing them with heat, removing them from the substance on which they were grown, and properly diluting and preserving the remaining mixture.) About 72 hours after tuberculin is injected into animals infected with tuberculosis, a characteristic swelling reaction appears at the injection point. This is a positive test result, and indicates exposure to one of the types of tuberculosis mycobacteria. However, to identify the actual presence of bovine TB, further testing needs to be done. In humans, these tests include chest x rays and sputum cultures. For other animals, other laboratory procedures are used, including post mortem examinations (called "necropsies", serological tests, and the comparative cervical tuberculin test.

Treatment, control, and eradication of bovine TB. Bovine TB has affected human and non-human animal health since antiquity. Once the most prevalent infectious disease of cattle and swine in the United States, bovine TB caused more losses among U.S. farm

animals in the early part of this century than all other infectious diseases combined. However, the Cooperative State-Federal Tuberculosis Eradication Program, which was started in 1917, has nearly eradicated bovine TB from the nation's livestock population and (along with other public health measures such as advances in sanitation and hygiene, the discovery of effective drugs, and the pasteurization of milk) reduced its presence in humans. The program is administered by the USDA Animal and Plant Health Inspection Service (APHIS), state animal health agencies (in Michigan, the Department of Agriculture), and U.S. livestock producers.

The course of treatment for humans with bovine TB is with antibiotics and takes six to nine months, with a resulting success rate of over 95 percent, though the appearance in recent years of antibiotic-resistant tuberculosis is very troubling. However, the most effective way of preventing the problem of bovine TB in humans is to eradicate it in livestock, which is the approach being taken by the state.

Bovine TB can be controlled in a domestic infected herd by regular testing of the animals in the herd, and the slaughter of any animal that tests positive, until the entire herd tests negative for the disease. However, because there is no method currently available to ensure that bovine TB has been eliminated from an affected herd, the USDA Animal and Plant Health Inspection Service recommends "depopulation" (that is, killing all the animals) of herds with identified infected animals.

At the start of the national cooperative eradication program in 1971, about 5 percent of cattle tested positive for bovine TB; as a result of the program, currently the rate is less than .02 percent. The eradication program consisted of systematically testing all cattle herds, sending all "reactors" to slaughter, and cleaning and disinfecting the premises (farm barns and equipment) after the infected cattle were removed. Federal and state agencies shared in the payment of indemnities to help compensate owners for the loss of their livestock.

Today, with a very low rate of bovine TB infection, the most efficient way of finding the disease is through a nationwide surveillance program in slaughter plants, where state or federal meat inspectors check the glands and organs of slaughtered cattle for signs of tuberculosis. If an inspector finds lesions suggesting tuberculosis infection, tissue samples are sent to the National Veterinary Services Laboratories in Ames, Iowa, for confirmation. If the laboratory confirms that the lesions are the result of bovine TB, an exhaustive attempt is made to trace the infected livestock back through market channels to the originating herd, which then is tuberculin tested. If the herd of origin is diagnosed with bovine TB, every effort is made to kill every animal in the herd, the premises are cleaned and disinfected, and indemnities, as available, are paid to help compensate owners for their losses. A waiting period of 12 months usually is then imposed before the livestock farmer is allowed to bring in new livestock. If, for some reason, a herd cannot be depopulated, it is held under quarantine and tested repeatedly until all evidence of infection is eliminated. In any case, veterinary epidemiologists try to determine when the herd probably was infected, and then try to trace all cattle that moved in or out of the affected herd to find out where the disease came from and where it might have gone.

USDA accreditation. For a state to have an "accredited free" (of bovine TB) status from the United States Department of Agriculture, the state must have had no confirmed cases of the disease for at least five years, as well as have a set of stringent laws and regulations governing livestock dealers. The state also must maintain surveillance of cattle in marketing channels and require that records be kept that would allow animal health officials to trace infected animals back to their source.

As of September 1995, all but six states (California, New Mexico, Oklahoma, Pennsylvania, Texas, and Virginia) and the U.S. Virgin Islands had attained USDA "accredited free" status. The six states, plus Puerto Rico, instead have a USDA "modified accredited free" status, which in practical terms usually means (depending on the requirements of the importing state or country) that cattle exported from a "modified accredited free" area required by the importing state or country be tested for tuberculosis.

Michigan attained its USDA bovine tuberculosis "accredited free" status in 1979, after having had one of the highest bovine TB infection rates in the county for most of this century. (At that time, the last known bovine TB-infected herd of cattle in the state had been a dairy cattle herd identified in Ingham County in 1974, which meant that the requisite five-year federal requirement had been met.) In 1993 (one year before the discovery of the infected Alpena County wild deer), one dairy cow in Isabella County was found at slaughter to be infected with bovine TB, but no more infected cows were found after over 8,000 cattle in the area were tested, and the USDA did not change the state's bovine TB accredited free status. However,

when the first bovine TB-infected cow was found in Alpena County in 1998, the USDA downgraded Michigan's federal status regarding bovine TB to "modified accredited free." Michigan thus joined four other states (California, Texas, New Mexico, and Pennsylvania) with this status.

By 1999, five states (California, Missouri, New York, Virginia, and Wisconsin) had placed various cattle shipment restrictions on cattle imported into these states from Michigan. Virginia and Wisconsin have placed restrictions on cattle from all of Michigan, while Missouri, New York, and California placed restrictions on the importation for cattle from all or part of the eleven-county area in the northeastern Lower Peninsula.

On June 22, 2000 – in the wake of additional infected animals identified outside of the quarantined area – the United States Department of Agriculture (USDA) downgraded Michigan's "modified accredited free" bovine tuberculosis status to "non-modified accredited," two steps down from the most desirable USDA status, "accredited free."

The bovine tuberculosis outbreak area. The bovine tuberculosis outbreak area -- and, eventually, the state quarantined area -- was located in an eleven-county area in the northeastern Lower Peninsula that was bounded on the west by Interstate 75 and on the south by Michigan Highway 55. Although parts of four counties (Alcona, Alpena, Montmorency, and Oscoda) constituted the "core" TB area, five counties and parts of six other counties composed the bovine TB quarantine (or "management") area: The five "core" counties (that also compose the DNR's Deer Management Unit 452) were Alcona, Alpena, Oscoda, Montmorency, and Presque Isle, while parts of six more counties -- involving most of Cheboygan, Crawford, Iosco, Ogemaw, Otsego, and Roscommon counties -- formed a 15-mile wide "buffer" zone around the five core counties, for a total of eleven counties in all.

On January 1, 1999, the Michigan Department of Agriculture imposed a quarantine in the northeastern Lower Peninsula to control the spread of bovine tuberculosis. In general, no cattle, goats, or captive cervids could be moved out of the quarantined area to another part of Michigan without a negative bovine TB test within 60 days before being moved. In July 1999, under a federal requirement, the Natural Resources Commission also banned (instead of just restricting) the practice of deer baiting in the TB quarantine area.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no state or local fiscal implications. (8-9-99)

ARGUMENTS:

For:

The bill is needed to help stop or slow the spread of bovine tuberculosis in wild animal populations, especially in the white tailed deer populations. The outbreak has serious adverse financial implications both for state taxpayers, who are paying for much of the state's containment and eradication efforts, and for the private livestock industry, primarily the beef and dairy industries, whose ability to move their products is much more complicated and expensive than before the bovine TB outbreak in the northeastern quadrant of the Lowers Peninsula (and its subsequent spread to other areas of the Lower Peninsula). While further measures are needed if the outbreak is to be contained or eradicated, the bill would constitute a good step in this direction, even though some deer hunters have objected to its provisions.

Against:

The bill is both unnecessarily complicated and doesn't go far enough. The bill's rather complicated provisions would (1) *allow* the Natural Resources Commission to *establish* feeding criteria for wild deer and elk in part of the state (namely, the Upper Peninsula), (2) *require* the commission to *ban* all feeding of wild deer in another part of the state (namely, the Lower Peninsula, except for "recreational feeding"), and (3) *allow* the commission to ban all feeding of wild deer and elk in all or part of the state under certain circumstances.

Instead of this cumbersome, and sometimes overlapping, set of actions allowed to or required of the commission, why not just authorize the Natural Resources Commission simply to regulate all artificial feeding of wild deer and elk throughout the whole state? In fact, why not give the commission the authority to regulate all artificial feeding of all species of wild animals in the state, not just elk and deer?

Giving the commission authority to regulate, not just to ban, feeding wild deer (and other wild animals) throughout the state – not just in the Upper Peninsula – also would preserve the current DNR ban on using mechanical feeders to feed and bait wild deer. A Senate amendment to the bill would statutorily reinstate this practice in three years, without requiring any scientific evidence that such feeding practices are not harmful.

Automatic mechanical broadcast feeders scatter bait automatically, either by battery or by wind power, and typically are rarely moved. As a result, the use of such feeders could result in soil contamination with the bacteria that cause bovine tuberculosis, and could thus continue spreading the disease. Repealing the DNR ban on using mechanical feeders could be very problematic, since allowing the use of such feeders before the expiration of the bill's provisions in five years could result in perpetuating the presence of bovine tuberculosis bacteria in the soil, with the resulting potential for continuing the current outbreak despite the bill's other provisions. Surely the DNR or the Natural Resources Commission would be the appropriate body to decide whether or not the current DNR ban on mechanical feeders should be lifted, and, more generally, on which feeding practices are most appropriate to manage wildlife populations.

In fact, why not extend the commission's authority, under Proposal G of 1996 (which gave the commission the authority to regulate all hunting of game animals) simply to manage all wildlife populations, instead of its current authority to regulate the hunting of game animals and the proposed authority under the bill to ban (or, in the Upper Peninsula, regulate) certain kinds of artificial feeding of deer and elk? The bill already would seem to suggest this approach by authorizing the commission to issue orders prohibiting all deer or elk feeding in all or part of the state "if the commission consider[ed] the prohibition to be necessary *to properly manage wildlife populations* or to control or eradicate disease." (Emphasis added.) Scientific management of wild populations, and not the desires of a certain segment of the public to maximize the size and availability of certain game animal populations for hunting, should govern wildlife management, as Proposal G of 1996 already requires with regard to the hunting of game animals.

Against:

Some people believe that the bill would result in unacceptably high numbers of unnecessarily cruel deer deaths due to starvation if supplemental feeding is not allowed in the northeastern part of the Lower Peninsula. In addition, they ask who will pay for the removal and disposal of the carcasses of the deer who starve to death as a result of the bill. Others opposed to the bill argue that it would violate their property rights, presumably by infringing on what property owners can do on their own property.

Response:

While it may be that many deer who now are kept alive only through artificial feeding practices will die of starvation, it also is true that this is a problem that has been created by the practice of supplemental feeding itself. To reestablish some kind of ecological balance in wild deer populations, the existing numbers of deer do need to be reduced, and a variety of ways -- including both hunting and starvation -- no doubt will need to be used, however "cruel" these methods may seem to some people. It can also be argued that it is cruel to artificially inflate deer herd numbers beyond what their habitat can support in the first place.

With regard to the property rights issue, it should be pointed out that except for "privately owned" (formerly "captive") cervid herds, the state, not private property owners, "owns" and manages the state's wildlife on behalf of all of its citizens. The state's authority to manage wildlife in the state was most recently reaffirmed through the referendum on Public Act 377 of 1996 when the voters approved Proposal G in the November 1996 general election. Public Act 377 gave the Natural Resources Commission "the exclusive authority to regulate the taking of game" and requires the commission ("to the greatest extent practicable") to "utilize principles of sound scientific management in making decisions regarding the taking of game." Thus it is the commission's responsibility to manage the state's wild deer herds according to principles of sound scientific management, and the scientific evidence clearly indicates that supplemental feeding of deer affects their daily and seasonal movement patterns and can cause serious habitat damage in the areas where the deer are fed, causing a drastic decline in the "natural" ability of the habitat to support an ecologically sound deer population. The deer successfully fed one winter will be present to reproduce and compound any food shortages the following year, and if feeding is carried out year after year (as it has been in more than one area in the state), without an adequate deer kill during the hunting season, the cost and effort to maintain a feeding program large enough to handle the extra deer will just continue to grow.

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#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.