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Senate Bill 1339 (as introduced 9-19-00)
Sponsor: Senator George A. McManus, Jr.
Committee: Farming, Agribusiness and Food Systems

Date Completed: 9-19-00

CONTENT

The bill would amend the Animal Industry Act to do the following:

- Permit the Director of the Michigan Department of Agriculture (MDA) to implement movement restrictions and requirements, including official bovine tuberculosis (TB) test requirements and animal movement certificates to accompany the movement of animals between or within a disease free zone, a surveillance zone, or an infected zone.
- Permit the Director to establish high-risk areas and potential high-risk areas when bovine TB had been diagnosed and provide for testing in those areas.
- Delete current requirements for a surveillance program for bovine TB in particular counties.
- Provide for the establishment and operation of terminal operations for cattle and goats.
- Permit the Director to pay a producer for assistance approved by the Agriculture Commission for whole herd bovine TB tests.
- Permit the Director to pay a veterinarian for chutes and gates on a cost-share basis.
- Increase the indemnification cap from \$3,000 to \$4,000 per animal and the total indemnification from \$10,000 to \$100,000 per order.
- Establish testing requirements for equines being moved into the State or shown, sold, or transported within the State; and repeal, as of January 1, 2001, current testing provisions.

The bill would repeal sections of the Act that repealed Public Act 181 of 1919 (MCL 287.746) and provided for the effective date of the Animal Industry Act (MCL 287.747). The bill also would repeal, effective January 1, 2001, Rule 287.710 of the Michigan Administrative Code on equine infectious anemia testing.

Surveillance Zones

The Director could develop, implement, and enforce scientifically based movement restrictions and

requirements including official bovine tuberculosis (TB) test requirements, prior movement permits, official intrastate health certificates or animal movement certificates to accompany movement of animals, and official identification of animals for movement between or within a disease free zone, surveillance zone, and an infected zone, or any combination of those zones. The Department would have to comply with procedures, as detailed in the bill, before issuing movement restrictions and requirements that assured public notice and opportunity for public comment. The Department could revise or revoke movement restrictions and requirements pursuant to the bill, and any revision or revocation would have to comply with the procedure set forth in the bill.

("Disease free zone" would mean any area in the State with defined dimensions determined by the MDA in consultation with the U.S. Department of Agriculture (USDA) to be free of bovine TB. "Infected zone" would mean any area in the State with defined dimensions in which bovine tuberculosis was present and separated from the disease free zone by a surveillance zone as determined by the MDA in consultation with the USDA. "Official intrastate health certificate or official intrastate certificate of veterinary inspection" would mean a printed form adopted by the MDA and completed and issued by an accredited veterinarian that documented an animal's point of origin, point of destination, official identification, and any required official test results. "Prior movement permit" would mean prior documented permission given by the Director before movement of livestock. "Surveillance zone" would mean any area in the State with defined dimensions that was bovine TB disease free and located adjacent and contiguous to an infected zone as determined by the MDA in consultation with the USDA.)

The bill would delete current provisions that require the MDA to coordinate and conduct a scientifically based surveillance program for bovine TB for free range deer in the following counties: Cheboygan, Presque Isle, Otsego, Montmorency, Alpena,

Crawford, Oscoda, Alcona, Roscommon, Ogemaw, Iosco, and any other county adjacent to a county where one or more free range deer are found to be positive for bovine TB, based on an official determination by the USDA.

Terminal Operation

A terminal operation could be a lot, parcel, pasture, premises, facility, or confined area. A terminal operation could not allow or permit drainage from the terminal operation to flow into areas accessible to livestock, livestock feed, or livestock feed storage areas other than the cattle and goats in the terminal operation. ("Terminal operation" would mean a facility for cattle and goats to allow for continued growth and finishing until the time that the cattle and goats were shipped directly to slaughter.)

An operation would have to be registered with the MDA. Registration could not be issued until the Director inspected the operation and found that it met both of the following requirements: The operation was constructed and operated to deter cattle and goats in the operation from making contact with animals other than those in the operation; and, all cattle and goats would have to remain on the vehicle and no animals would be allowed to unload, if a vehicle transporting cattle and goats from a terminal operation completed the load at additional farms to load cattle and goats, all of which were en route to a slaughter facility.

Aborted fetuses and animals that died in a terminal operation would have to be disposed of in compliance with provisions in the Michigan Penal Code regarding burial of dead animals. If an animal gave birth while in the terminal operation, the offspring would have to be restricted to the operation and could leave only as provided in the bill, and the newborn animal would have to be identified officially within 30 days after birth.

Cattle and goats could exit a terminal operation only by being transported directly to a slaughtering establishment, directly to another registered terminal operation, or through a livestock auction market for slaughter only, or to a veterinary hospital or clinic where the animal was not comingled with other animals unless permission was granted by the Director to move the cattle or goats to another premises. Moving directly to a slaughtering establishment or to another registered terminal operation would include stopping at a premises to load other animals being transported to the slaughterhouse establishment or terminal operation without unloading any animals.

Cattle and goats in a terminal operation would be exempt from official bovine TB surveillance, as

required in the bill.

The Director could inspect any terminal operation and records of the operation at any reasonable time to determine whether requirements established by the bill were being met. The Director would have to make a reasonable attempt to notify the owner/operator before any inspection. The bill specifies the information to be included in the records of a terminal operation.

High-Risk Areas

The Director could establish high-risk areas and potential high-risk areas based upon scientifically based epidemiology. Notification would have to be given through the Agriculture Commission and in a newspaper with general circulation in any area designated as a high-risk or potential high-risk area. ("High-risk area" would mean an area where bovine TB had been diagnosed in livestock. "High-risk area" would not include an area where tests conducted under the bill's provisions on the testing of cattle and goat herds indicated a lack of bovine TB diagnosis at least 36 months after the date the area had been designated a high-risk area. "Potential high-risk area" would mean an area where bovine TB had been diagnosed in wild animals only. "Potential high-risk area" would not include an area where cattle and goat herds were whole herd tested in the manner provided for under the bill resulting in the lack of any additional bovine tuberculosis infected animals being found in wild animals, domestic animals, or livestock.)

Cattle and goat herds located in high-risk areas would have to be whole herd bovine TB tested at least once per year. After the first whole herd bovine TB tests, testing would have to occur between 10 and 14 months from the anniversary date of the first test. Cattle and goat herds located in potential high-risk areas would have to be tested within six months after the Director had established a potential high-risk area or had a written herd plan with a targeted whole herd bovine TB testing date. Terminal operations located in potential high-risk areas in the State would be exempt from this testing requirement, and could be monitored by a written surveillance plan approved by the Director. ("Whole herd" would mean any isolated group of cattle and goats 12 months of age or older maintained on common ground for any purpose, or two or more groups of cattle and goats under common ownership or supervision geographically separated but that had an interchange or movement of cattle and goats without regard to health status as determined by the Director.)

Each owner of any privately owned cervid herd within a high-risk area would have to have an annual whole

herd bovine tuberculosis test conducted on all privately owned cervids at least 12 months of age within the herd and all cattle and goats at least six months of age in contact with the cervids. Following the initial annual whole herd test, subsequent whole herd tests would have to be completed at nine- to 15-month intervals. Each owner of any privately owned cervid ranch within a high-risk area could elect to undergo a tuberculosis slaughter surveillance plan approved by the Director in lieu of annual whole herd testing. The surveillance plan would have to include examination of animals removed from the herd for detection of TB.

All cattle and goat herds located in any area outside a high-risk area or a potential high-risk area in the State would have to be whole herd bovine TB tested between January 1, 2000, and December 31, 2003. Privately owned cervid herds located in the non-high-risk areas or potential high-risk areas would have to be tested as provided in the bill. Terminal operations and privately owned cervid premises located in any area outside a high-risk area or a potential high-risk area in the State could be exempted from the bill's testing requirements and could be monitored by a written surveillance plan approved by the Director.

Cattle and goats originating in an area not designated as a high-risk area moving intrastate would have to meet at least certain conditions on origination and testing, as specified in the bill, until the zone, area, or the entirety of the State from which they originated received tuberculosis free status from the USDA. Cattle and goats originating in a high-risk area that moved intrastate would have to meet certain conditions on origination and testing until the zone, area, or the entirety of the State from which they originated was no longer designated as a high-risk area by the Director. Cattle and goats not meeting these conditions could be sold through a livestock auction market for slaughter only. Privately owned cervids moving intrastate would have to meet bill's identification, origination, and testing requirements.

Bovine tuberculosis testing required under the bill would have to be conducted by veterinarians who were employed by the MDA or the USDA, or who were accredited and under contract and paid by the MDA or the USDA. Veterinarians approved to be under contract and paid by the MDA or the USDA for bovine tuberculosis testing would have to attend a bovine TB educational seminar approved by the Director. To be eligible for continued contract and payment, accredited veterinarians would have to attend yearly bovine TB educational seminars approved by the Director.

Individual, whole herd, or accredited free herd animal bovine TB testing required or permitted by the bill would have to be conducted by the MDA, USDA, or private veterinarians. Beginning January 1, 2000, private veterinarians approved under the bill could be paid by the MDA for testing services. Any other bovine TB testing conducted in addition to, or less than, requirements or allowances in the bill would be the responsibility of the owner.

Individual livestock that had been injected and were undergoing bovine tuberculosis testing could not be removed from the premises where the test was administered until the test was read except with permission granted by the Director.

The bill specifies that these provisions would not exempt dairy herds from being tested in the manner provided by Grade "A" Pasteurized Milk Ordinance, 1999 Revision of the U.S. Public Health Service/Food and Drug Administration, with administrative procedures and appendices, set forth in the Public Health Service/Food and Drug Administration Publication No. 229, and the provisions of the 1995 Grade "A" Condensed and Dry Milk Products and Condensed and Dry Whey-Supplement I to the Grade "A" Pasteurized Milk Ordinance, 1999 revisions, and all amendments to those publications adopted pursuant to the rules that the Director could promulgate. The bill specifies that its provisions on testing, veterinarians, and the testing of individual livestock would not take effect until January 1, 2001.

Producer, Veterinarian Assistance

Beginning January 1, 2000, with advice and consultation from the livestock industry and veterinary profession, the Director could pay a producer for assistance approved by the Commission for Agriculture for whole herd bovine TB testing required under the bill or required by Grade "A" Pasteurized Milk Ordinance, (as described above).

Beginning January 1, 2000, with advice and consultation from the livestock industry and veterinary profession, the Director could pay a veterinarian, who had fulfilled the bill's bovine TB educational requirements, for chutes and gates on a 50/50 cost share basis as approved by the Agriculture Commission.

Beginning January 1, 2000, with advice and consultation from the livestock industry and veterinary profession, the Director could pay an operator or owner of a livestock auction market for chutes, gates, and remodeling to expedite identification of livestock for bovine TB surveillance and eradication on a 50/50 cost share basis as approved by the Agriculture Commission.

Registration

Beginning November 1, 2001, all premises within the State having cattle, bison, goats, swine, privately owned cervids, aquaculture, equine, or sheep, or any combination of these, would have to register with the MDA on November 1 of that year. Registration would have to be on forms supplied by the MDA and would have to contain certain information, including the location of livestock and the species of livestock at the premises as of October 1 of that calendar year. The bill also would provide for the reregistration of livestock.

Registration information would be confidential and

exempt from disclosure under the Freedom of Information Act and would not be open to public inspection or to any local, State, or Federal governmental department, unit, agency, or legislative body, except the USDA, without the owner's consent unless public inspection was necessary to protect the public or animal health as determined by the Director.

A person or premises registered under another registration program administered by the MDA that the Director determined met the bill's criteria would be exempt from the bill's registration requirements.

Identification

All cattle, goats, and privately owned cervids would have to bear official identification before they left a premises. Compliance regarding official identification would be the owner's responsibility. Official identification would have to be supplied by the MDA.

The bill also would require all privately owned cervids moving from one premises to another within the State to be officially identified with an identification approved by the Director.

All cattle, bison, goats, and privately owned cervids presented at any livestock auction market in the State would have to be identified as required under Federal methods and rules, as described above. Cattle, bison, goats, and privately owned cervids that were marketed for immediate slaughter would have to be identified by official ear tag, sale tag, or official back tag. The official back tag, if use, would have to provide reference to any other form of identification on the animal.

Indemnification

The Act allows the Director to permit indemnification for the destruction of animals due to livestock diseases or toxicological contamination. Currently, except as otherwise provided and until January 1, 2005, regarding any quarantine on animals or premises issued after January 1, 1998, indemnification must be based on 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 for each animal. After January 1, 2005, however, indemnification must be based on 75% of the fair market value of that type of livestock on the date of the appraisal as if the livestock were grade status and marketable for the purpose for which the livestock was intended, not to exceed \$1,250 for each animal. The bill would increase the indemnification to \$4,000 for each animal, and delete the provisions for indemnification to be based on

75% of fair market value after January 1, 2005. The bill also specifies that the appraisal determination could not delay the slaughter, destruction, or disposition of the livestock or domestic animals.

Indemnification for entire herd, flock, or school depopulations of livestock or domestic animals would have to be based on 90% of the fair market value of that type of animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal had been intended, not to exceed an average of \$4,000 per animal in the flock, herd, or school. The appraisal determination could not delay depopulation. The indemnification under this provision would have to include a deduction for any compensation received, or to be received, from any other source, including indemnification by the USDA, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock or domestic animals in accordance with a disease control or eradication program. The owner would have to furnish to the MDA all the records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock or domestic animals received or to be received, from any other source would have to accompany the appraisal certificate prior to indemnification.

Currently, the MDA may provide for indemnity pursuant to the Act not to exceed \$10,000 per order, from any line item in the annual budget for the Department in the applicable fiscal year. Any agreement greater than \$10,000 entered into between the MDA and an owner of livestock must contain a provision indicating that, notwithstanding the terms of the agreement, indemnification is subject to specific appropriations by the Legislature and may not be paid from Department funds. The bill would increase the indemnity amount to \$100,000 per order.

The bill would delete current provisions on identification and release of claims and specify that acceptance of compensation would constitute a full and complete release of any claim, of whatever nature, the owner had against the State, its departments, agencies, officers, employees, agents, and contractors to the extent these persons had been acting on behalf of the State, within the scope of their employment with the State or under the direction of the State, its departments, agencies, officers, or employees, arising out of testing, purchase, removal, slaughter, destruction, and other disposition of the owner's animals.

TB Reactor Livestock

Tuberculosis reactor cattle, bison, goats, and privately owned cervids, as defined in Title 9 of the

Code of Federal Regulations and the Bovine Tuberculosis Eradication: Uniform Methods and Rules effective January 22, 1999, approved by Veterinary Services of the Animal and Plant Health Inspection Service of the USDA, and all amendments to those publications adopted pursuant to rules that the Director could promulgate, would have to remain on the premises where they had been located until a State or Federal permit for movement had been obtained. Movement for destruction would have to be within 15 days after classification as a reactor.

Equine Infectious Anemia Test

Currently, equine must test negative to an official test for equine infectious anemia within 180 days before importation and be accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection. The bill would repeal this section effective January 1, 2001.

Under the bill, all equines being moved into Michigan from other states would have to have had an official equine infectious anemia test with a negative result within the calendar year or the previous 30 days before entry and would have to be accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection documenting the date, laboratory, accession number, and results of the latest equine infectious anemia test, signed by an accredited veterinarian. ("Equine infectious anemia" would mean an infectious disease of equines caused by a lentivirus, equine infectious anemia virus.)

All equines entered in exhibitions, expositions, or fairs would have to have had an official equine infectious anemia test with a negative result within the calendar year or the previous 30 days that was documented on the equine infectious anemia laboratory test form. A fair, exhibition, exposition, or show authority would be responsible for assuring that all participating equines were test-negative for equine infectious anemia.

All equines, before change of ownership within the State, would have to have had an official equine infectious anemia test with a negative result within the calendar year or previous 30 days. All change-of-ownership transactions would have to be accompanied by a certificate signed by an accredited veterinarian documenting the date, laboratory, accession number, and results of the latest equine infectious anemia test or by an equine infectious anemia laboratory test form.

All equines entering horse auctions or sales markets licensed under Public Act 93 of 1974, which provides for the licensure and regulation of horse riding stables and sales barns, and under Public Act 284 of 1937, which requires the licensure of persons engaged in buying, selling, and transporting livestock, would have to have an official equine infectious anemia test with a negative result within the calendar year or previous 30 days before sale. If a test were possible before each sale, then the equines would have to be held on the sale premises until the test results were known.

Equines transported or providing transportation on public highways, roads, or streets would have to have an official equine infectious anemia test with a

negative result within the calendar year or previous 30 days.

The Director would have to quarantine equines that tested positive and their herd of origin. Equines that tested positive could, with the Director's approval, be moved or quarantined to a premises that confined them a minimum of one-quarter mile away from any other equine. The equines that tested positive, with the Director's approval, could be segregated and quarantined in an insect-free enclosure as determined by the Director.

The owner or agent of an equine herd that was the source of a test positive equine would have to allow the Director to test, in accordance with the schedule provided in the bill, the complete source herd with an official equine infectious anemia test after the official test positive equine had been removed or segregated from the herd in a manner approved by the Director, as provided in the bill.

The Director could conduct epidemiological investigation on all equine that had possible exposure to official equine infectious anemia test positive equine to determine the need for additional quarantining and official equine infectious anemia testing.

Official test positive equine could not be destroyed or removed from the original test location or premises without prior permission from the Director. If the owner chose to destroy the equine, permission would be obtained first from the Director. The Director would have to issue a quarantine release and be present when the equine were destroyed, or an accredited veterinarian could document and certify that the test positive equine had been destroyed. Unless immediately destroyed, test positive equine would have to be identified by the Director with the Freeze Brand 34a, which would have to be in the size and location as described in the bill.

Restricted equines could move interstate only if accompanied by a permit listing the owner's name and address, points of origin and destination, number of equines included, purpose of the movement, and at least either the individual equine registered breed association registration tattoo or the individual registration number, or other unique official identification. The permit also would have to list the animal's name, age, sex, breed, color, and markings.

Test positive equine could move interstate under permit only to the following locations: a Federally inspected slaughter facility, a Federally approved diagnostic or research facility, or a herd or farm of origin. The person issuing the permit would have to consult with the state animal health official in the state of destination for approval and would have to

determine that the test positive equine to be moved would be maintained in isolation sufficient to prevent the transmission of equine infectious anemia to other equines. The reactor would have to remain quarantined under state authority at the locations described above until natural death, slaughter, or euthanasia. The carcass would have to be disposed of according to provisions of Public Act 239 of 1982, which provides for the licensure and regulation of animal food manufacturing plants, transfer stations, dead animal dealers, rendering plants, and certain vehicles.

Individual exposed equines could be allowed to move from a quarantined area for specific purposes if they had a negative test at the time of movement. The equines would have to be moved under quarantine and maintained under quarantine at the new premises until tested negative to an official equine infectious anemia test at least 45 days after the last known exposure to an equine infectious anemia test positive equine.

The bill specifies that these provisions would take effect January 1, 2001.

Private Cervid Farm or Ranch

Beginning 90 days after the bill's enactment, each owner of any privately owned cervid farm, other than any privately owned white-tailed deer or elk farm, that did not possess official TB accredited or qualified herd status as defined in Bovine TB Eradication: Uniform Methods and Rules, effective January 22, 1999, would have to cause an official test for TB to be conducted on all privately owned cervids 12 months of age or older, and all cattle and goats six months of age and older in contact with the privately owned cervids. The testing would have to be completed within 18 months following the bill's effective date.

Beginning 90 days after the bill's enactment, each owner of any privately owned cervid ranch, other than privately owned white-tailed deer or elk ranches, would have to have privately owned cervids removed from the herd to undergo visual inspection by a specially trained accredited veterinarian, approved by the Director, for evidence of TB. The number of animals to be inspected would have to equal the number required for establishing an official TB monitored herd as outlined in the Federal methods and rules described above. The testing would have to be completed within five years following the bill's effective date.

The owner of any privately owned cervid ranch or farm, other than privately owned white-tailed deer or elk ranches or farms, that began operation after the bill's effective date would have to complete the

required testing within five years following assembly of the herd.

MCL 287.701 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would increase State costs associated with a producer assistance program for bovine tuberculosis testing, a 50/50 cost share program for equipment purchased by veterinarians and auctions for bovine tuberculosis testing, and the increase in per animal indemnification payments. Currently, the Department pays for all required testing associated with bovine tuberculosis (estimated at \$40 per site plus \$10 per head). The bill would allow the MDA to pay a producer for assistance (e.g., time and labor) associated with testing livestock for the disease. The actual increase in State costs is unknown, as it would be contingent on approval by the Agriculture Commission and subject to available resources. It is also unknown what the participation rate in such a program would be.

The bill would establish a 50/50 cost share program for certain equipment purchased as part of the bovine tuberculosis testing program. The costs of chutes and gates, equipment required for testing livestock, are currently borne by veterinarians and livestock auctions. The additional State costs associated with this program are unknown, as the program would be subject to approval by the Agriculture Commission. Also, the number of vets and auctions that would participate in the program is unknown.

The bill would increase the per animal indemnification cap for livestock ordered destroyed from \$3,000 to \$4,000. The bill also would set a \$4,000 per animal average indemnification cap in circumstances when an entire herd is depopulated. The impact of these changes would be contingent on the number, value, and frequency of destroyed animals. Actual State costs would be case specific as indemnification payments are based on 90% of the appraised value of the individual animal and must take into account money received from other sources (e.g., Federal payments, insurance). State indemnification payments associated with the bovine tuberculosis testing program through September 18, 2000, total \$700,000.

The Legislature has appropriated resources in fiscal years 1997-98, 1998-99, 1999-2000, and 2000-01 for testing, surveillance, and indemnification costs associated with the eradication of bovine tuberculosis. Total appropriations over this time approximate \$29.0 million.

Finally, the bill would result in additional administrative costs to the Department of Agriculture associated with the requirement that all premises in the State having livestock register annually with the Department.

Fiscal Analyst: C. Thiel

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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.