

Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4499 (Substitute H-3 as reported with amendments)
Sponsor: Representative Rick Johnson
House Committee: Agriculture and Resource Management
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 6-3-99

RATIONALE

Bovine tuberculosis (TB) is a contagious, infectious, and communicable bacterial disease that mainly affects the respiratory system. It is capable of infecting most warm-blooded animals and commonly affects cattle, bison, deer, and elk. It is spread primarily by close contact and intensified by confined or crowded environmental conditions. Many people believe that supplemental feeding of wildlife substantially increases the spread of bovine TB. Supplemental feeding consists of placing a variety of foodstuffs, including carrots, sugar beets, corn, and hay, in large piles and allowing wildlife free access to these products. The feeding piles bring together large numbers of wild animals for prolonged periods of time, in contrast with normal grazing practices where wildlife usually remain spread out over greater distances and where nose-to-nose contact is much less likely to occur.

In recent years, animals infected with bovine TB have been found in this State. There are serious concerns that further outbreaks of bovine TB will continue to threaten Michigan's economy, wildlife, livestock, and public health until the disease is eradicated. (See **BACKGROUND** for more information on bovine TB infection in Michigan.) Therefore, some people believe that additional actions should be taken to eliminate and prevent the disease by restricting deer and elk feeding and allowing a statewide ban on year-round deer and elk feeding.

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to provide that by September 1, 1999, the Natural Resources Commission (NRC), after consultation with the Agriculture Commission, would have to issue an order concerning deer and elk feeding. The bill would be repealed December 31, 2002.

The order would take effect October 1, 1999, and would have to do all of the following in the Lower Peninsula: prohibit a person from engaging in deer or elk feeding unless it was for recreational viewing

purposes; require that the feed be deposited or distributed within 100 yards from the person's residence on land owned or possessed by that person; and establish any other reasonable conditions for deer and elk feeding for recreational viewing purposes that were consistent with the bill's requirements. The order also would have to establish deer feeding criteria in the Upper Peninsula.

In addition, the NRC, after consultation with the Agriculture Commission, could issue an order that would prohibit all deer and elk feeding in all or part of the State if the NRC considered it necessary to manage wildlife populations properly or to control or eradicate disease.

"Deer or elk feeding" would mean the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk. The term would not include the feeding of wild birds or other wildlife if done in such a manner as to exclude deer and elk from gaining access to the feed; the scattering of feed solely as the result of normal logging practices, or normal agricultural practices; baiting to take game as provided by an NRC order; or the storage or use of feed for agricultural purposes if any of the following applied: the area was occupied by livestock actively consuming the feed on a daily basis, the feed was covered to deter deer or elk from gaining access to the feed, and/or the feed was in a storage facility that was consistent with normal agricultural practices. "Feed" would 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 could attract white-tailed deer or elk. It would not include plantings for wildlife, standing farm crops under normal agricultural practices, or agricultural commodities scattered solely as the result of normal agricultural practices.

"Normal agricultural practices" would mean generally accepted agricultural and management practices as defined by the Agriculture Commission. "Residence"

would mean a permanent building serving as a temporary or permanent home. It could include a cottage, cabin, or mobile home, but not a structure designed primarily for taking game, a tree blind, a tent, a recreational or other vehicle, or a camper.

MCL 324.40102 et. al

BACKGROUND

A hunter-killed deer in southwestern Alpena County was discovered to have bovine tuberculosis in 1994, and bovine TB was confirmed in free-ranging (wild) deer in the northeast Lower Peninsula in 1995. Reportedly, while there have been numerous cases of bovine TB in domestic livestock and captive deer/elk herds in the United States, the disease had never before been determined to be self-sustaining in free-ranging wildlife in North America. According to the Department of Natural Resources (DNR), in Alpena, Alcona, Montmorency, Oscoda, and Presque Isle Counties, 228 white-tailed deer tested between 1995 and 1998 were infected with bovine TB; three cattle herds and one captive cervidae (deer) herd were infected; and five coyotes, two raccoons, one black bear, and one bobcat were infected. No deer was infected with bovine TB from outside the five-county area, and no elk tested was infected.

In March 1998, the Michigan Agriculture Commission issued an Enforced Restriction Area Order imposing a mandatory feeding ban, and the Natural Resources Commission approved an order implementing restrictions on baiting (placing or scattering food to attract deer). (The Enforced Restriction Area covers public and private land in the northeastern part of the Lower Peninsula in an area east of I-75 and north of M-55, including the five-county area and portions of Cheboygan, Crawford, Iosco, Ogemaw, and Roscommon Counties.) The Department of Agriculture also has developed and implemented surveillance for bovine TB in the 28 captive cervidae herds within the Enforced Restriction Area. All herds were issued quarantines and movement restrictions were initiated pending surveillance results.

After a cow in Alpena County tested positive for bovine TB in June last year, the U.S. Department of Agriculture (USDA) on August 13, 1998, formally suspended Michigan's TB-free status, which the State had held since 1979. On January 6, 1999, two more cattle herds in Alcona County tested positive for bovine TB. State officials announced on February 1, 1999, that the USDA intends to consider an interim rule favoring a split-state status that would recognize Michigan's effort to contain the disease to the Enforced Restriction Area. Evidently, the USDA is still in the decision-making process. A split-state status would retain the TB-free status statewide, while continuing cattle testing in the quarantined area.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The presence of bovine TB in the State presents a unique and serious problem that poses a risk to humans, livestock, deer, and other wildlife. On March 11, 1999, the NRC and the Agriculture Commission adopted resolutions calling for a statewide ban on supplemental feeding of wild free-ranging deer and elk. The resolutions provide that supplemental feeding is not a scientifically or biologically supported resource management practice; has inflated the deer and elk population, resulting in the destruction and degradation of habitat; has negatively affected the environment and ecosystem; has increased opportunities for the spread of bovine TB; and has contributed toward making northeast Michigan the only known place in North America where bovine TB is being sustained in a wild free-ranging deer herd. By allowing the NRC to ban deer or elk feeding statewide, the bill would help prevent new outbreaks of bovine TB, reduce risks of further spread, and eliminate current exposure. Apparently, scientists agree that the spread of bovine TB in free-ranging deer is confined to the Enforced Restriction Area due to an abnormally high deer population and frequent nose-to-nose contact at feeding sites. These sites bring together a large number of deer for extended periods of time, which exacerbates the inhalation of bacteria or consumption of feed contaminated with bovine TB. Besides worsening the bovine TB problem, deer or elk feeding fosters the risk of spreading other types of diseases, negatively affects the habitat, artificially alters deer movement and behavior, and increases the deer population over its natural carrying capacity.

Opposing Argument

Year-round supplemental feeding prevents harsh winters and starvation from decimating deer herds. The current environment, with declining ground-level vegetation for browsing deer, has made it impossible to sustain an adequate population of deer.

Response: An article in the *Detroit Free Press* (3-12-99) reports that supplemental feeding by landowners in Northeast Michigan to keep deer numbers high for hunting has resulted in a deer herd twice as large as can be supported by the habitat. According to the DNR, there are many areas in the State where the deer population is above the DNR's objective levels. Reportedly, in 1996 Michigan had an estimated 2 million deer; 700,000 more than the 1.3 million deer conservation officials determined to be ideal. As a result, deer overpopulation has destroyed crops, depleted other plants and lower vegetation, contributed to vehicle-deer accidents,

and resulted in the starvation of deer, among other things.

Opposing Argument

The bill's requirement that feed be deposited or distributed within 100 yards of a person's residence or land, could pose a risk of domesticating wildlife. In addition, the feeding of wildlife on private property should not be regulated.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. The Natural Resources Commission is currently debating the issue of deer feeding and is authorized to take this action.

Fiscal Analyst: G. Cutler

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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.