

HOUSE BILL No. 4427

March 23, 1999, Introduced by Reps. Green, Sheltroun, Julian, Scranton and Rick Johnson and referred to the Committee on Agriculture and Resource Management.

A bill to define, develop, and regulate captive cervidae as an agricultural enterprise in this state; to provide powers and duties of certain state agencies and departments; and to provide for certain penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan captive cervidae development act".

3 Sec. 2. As used in this act:

4 (a) "Captive cervidae" means that term as defined in section
5 3 of the animal industry act of 1987, 1988 PA 466, MCL 287.703.

6 (b) "Captive cervidae operation" means a farm operation
7 involving the producing, growing, propagating, using, harvesting,
8 transporting, importing, exporting, or marketing of captive
9 cervidae or by-products of captive cervidae.

1 (c) "Captive cervidae operation registration" means a
2 registration issued by the department allowing a person to
3 conduct a captive cervidae operation.

4 (d) "Department" means the Michigan department of
5 agriculture.

6 (e) "Director" means the director of the Michigan department
7 of agriculture or his or her designee.

8 (f) "Farm" or "farm operation" means those terms as defined
9 in the Michigan right to farm act, 1981 PA 93, MCL 286.471 to
10 286.474.

11 (g) "Law enforcement officer" means a person appointed by
12 the state or a legal governmental unit who is responsible for the
13 enforcement of the criminal laws of this state.

14 (h) "Owner" means the person who owns or is responsible for
15 the conduct of a captive cervidae operation.

16 (i) "Person" means an individual, corporation, limited
17 liability corporation, partnership, association, joint venture,
18 or other legal entity.

19 Sec. 3. (1) The department shall administer this act.

20 (2) The department may conduct activities designed to
21 develop and assist the captive cervidae industry in the manner
22 provided for by law.

23 Sec. 4. (1) A captive cervidae operation is an agricultural
24 enterprise and is considered to be part of the farming and agri-
25 cultural industry of this state. The director shall assure that
26 captive cervidae operations are afforded all rights, privileges,

1 opportunities, and responsibilities of other agricultural
2 enterprises.

3 (2) A captive cervidae operation is a form of agriculture.
4 Facilities and equipment related to the farming of captive cervi-
5 dae are considered to be agricultural facilities and equipment.
6 Uses related to the farming of captive cervidae are considered
7 agricultural uses.

8 (3) Captive cervidae products lawfully taken, produced, pur-
9 chased, possessed, or acquired from within this state or imported
10 into this state are the exclusive and private property of the
11 owner of captive cervidae.

12 (4) The harvesting of captive cervidae from a registered
13 captive cervidae operation is exempt from possession limits,
14 closed seasons, and any other restriction imposed in the natural
15 resources and environmental protection act, 1994 PA 451, MCL
16 324.101 to 324.90106. This act does not give a captive cervidae
17 operator authority to take animals held in trust in violation of
18 the natural resources and environmental protection act, 1994 PA
19 451, MCL 324.101 to 324.90106, unless under a permit issued by
20 the department of natural resources.

21 (5) Any movement, importing, or exporting of captive cervi-
22 dae shall be in compliance with the animal industry act of 1987,
23 1988 PA 466, MCL 287.701 to 287.747.

24 Sec. 5. (1) A person shall not conduct a captive cervidae
25 operation unless he or she obtains from the department a captive
26 cervidae operation registration or unless otherwise exempt by
27 rule or law. If the activity in which the captive cervidae

1 operation is conducted is required to be regulated under any act,
2 registration under this act does not exempt the owner or farm
3 operation from requirements imposed under any local, state, or
4 federal regulation.

5 (2) A person registered under this act shall keep and main-
6 tain records of production, purchases, or imports in order to
7 establish proof of ownership. A person transporting captive cer-
8 vidae shall produce documentation that contains the origin of
9 shipment, registration or permit copies or documentation, docu-
10 mentation demonstrating shipping destination, and any other proof
11 that may be required under the animal industry act of 1987, 1988
12 PA 466, MCL 287.701 to 287.747, upon demand of the director or a
13 law enforcement officer.

14 Sec. 6. (1) A completed initial application for a registra-
15 tion shall be submitted to the department not less than 60 days
16 before the proposed initiation of the captive cervidae
17 operation.

18 (2) The department shall not issue an initial captive cervi-
19 dae operation registration unless an applicant demonstrates that
20 the facility has been inspected by the director and the director
21 has determined that the facility meets the standards and require-
22 ments prescribed by this act and that there are confined enclo-
23 sures and barriers in place to prevent the escape of captive cer-
24 vidae into the public lands and prevent the wild cervidae from
25 entering the enclosures. In the case of elk, an exterior fence
26 shall be at least 10 feet high, and in the case of white-tailed
27 deer, an exterior fence shall be at least 8 feet high.

1 (3) Within 30 days after receipt of an initial registration
2 application, the director shall inspect the captive cervidae
3 operation. If the director determines that the proposed captive
4 cervidae operation conforms to standards prescribed by this act,
5 the director shall issue a registration within 60 days of receipt
6 of a registration application.

7 (4) The application for a registration may be denied for
8 failure to comply with the requirements of this act. The depart-
9 ment shall notify an applicant of the reasons for a registration
10 denial within 60 days after receipt of an application. The
11 notice shall specify the deficiencies to be corrected in order
12 for a registration to be issued.

13 (5) Without filing a second application under this section,
14 an applicant may request a second inspection after the specified
15 deficiencies have been corrected. The department shall not make
16 more than 2 preregistration inspections of the same proposed cap-
17 tive cervidae operation application.

18 (6) The applicant may request a hearing pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328, on a denial of a registration.

21 (7) The department shall not return a registration fee or a
22 portion of a registration fee to an applicant if a registration
23 is denied.

24 (8) A registration issued by the department shall contain
25 the following information:

26 (a) The registration number and expiration date.

1 (b) The complete name, business name, business address, and
2 telephone number of the captive cervidae operation registration
3 holder.

4 (c) The complete address of the captive cervidae operation
5 location.

6 (d) The complete name, address, and telephone number of the
7 department contact person regarding captive cervidae.

8 (9) Initial and renewal applications for a captive cervidae
9 operation shall be accompanied by a fee of \$45.00 and the larger
10 of either of the following but not to exceed a total of \$150.00:

11 (a) Fifteen dollars per animal in excess of 500 animals.

12 (b) Fifteen dollars per 40-acre plot or portion of a 40-acre
13 plot.

14 (10) Application for renewal of a registration shall be sub-
15 mitted not later than October 1 of each year. Each registration
16 issued shall be for a period of 1 year commencing October 1 and
17 ending the following September 30.

18 (11) A renewal submitted later than October 31 shall require
19 submission of an initial application and initial registration
20 fee.

21 Sec. 7. (1) The department or its duly authorized agent
22 shall have free access at all reasonable hours to any captive
23 cervidae operation to inspect and to determine if this act is
24 being violated and to secure samples or specimens of any captive
25 cervidae. An inspection shall be conducted under generally rec-
26 ognized practices designed not to jeopardize the health of the
27 captive cervidae.

1 (2) The director may periodically inspect a registered
2 captive cervidae operation for confirmation that there are in
3 place procedures or barriers designed to prevent the escape of
4 captive cervidae into public lands and to prevent entry by wild
5 cervidae and for confirmation of compliance with other require-
6 ments as set forth in this act or as required by law.

7 Sec. 8. A person shall not knowingly provide false informa-
8 tion in a matter pertaining to this act and shall not resist,
9 impede, or hinder the director in the discharge of his or her
10 duties under this act.

11 Sec. 9. The director may promulgate rules he or she consid-
12 ers necessary to implement and enforce this act, pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 Sec. 10. (1) A person who violates this act or a rule
16 promulgated under this act is guilty of a misdemeanor punishable
17 by a fine of not less than \$300.00 or imprisonment for not less
18 than 30 days, or both.

19 (2) The court may allow the department to recover reasonable
20 costs and attorney fees incurred in a prosecution resulting in a
21 conviction for a violation of subsection (1).

22 (3) The director, upon finding that a person has violated
23 any provisions of this act or a rule promulgated under this act,
24 may do any of the following:

25 (a) Issue a warning.

26 (b) Impose an administrative fine of not more than \$1,000.00
27 for each violation after notice and an opportunity for a

1 hearing. A person aggrieved by an administrative fine issued
2 under this section may request a hearing pursuant to the adminis-
3 trative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328.

5 (c) Issue an appearance ticket as described and authorized
6 by sections 9a to 9g of chapter 4 of the code of criminal proce-
7 dure, 1927 PA 175, MCL 764.9a to 764.9g.

8 (4) The director shall advise the attorney general of the
9 failure of any person to pay an administrative fine imposed under
10 this section. The attorney general shall bring a civil action in
11 a court of competent jurisdiction to recover the fine. Civil
12 penalties collected shall be paid to the general fund.

13 (5) Notwithstanding any other provisions of this act, the
14 director may bring an action to do either or both of the
15 following:

16 (a) Obtain a declaratory judgment that a method, activity,
17 or practice is a violation of this act.

18 (b) Obtain an injunction against a person who is engaging in
19 a method, activity, or practice that violates this act.

20 Sec. 11. This act takes effect 90 days after the date of
21 its enactment.

22 Enacting section 1. This act does not take effect unless
23 all of the following bills of the 90th Legislature are enacted
24 into law:

25 (a) Senate Bill No. _____ or House Bill No. _____ (request
26 no. 02151'99 a *).

1 (b) Senate Bill No. _____ or House Bill No. _____ (request
2 no. 02151'99 c *).

3 (c) Senate Bill No. _____ or House Bill No. _____ (request
4 no. 02151'99 d *).