

Legislative Analysis



REVISE CERVIDAE PRODUCERS MARKETING ACT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6245 with House committee amendment

Sponsor: Rep. Tom Casperson

Committee: Conservation, Forestry, and Outdoor Recreation

Complete to 6-29-06

A SUMMARY OF HOUSE BILL 6245 AS REPORTED BY COMMITTEE

House Bill 6245, as amended, would amend the Privately Owned Cervidae Producers Marketing Act to increase registration fees and to reflect the shifting of the primary regulatory responsibility for the act, and standards issued under it, to the Department of Natural Resources from the Department of Agriculture. (The *cervidae* species includes deer, elk, moose, reindeer, and caribou. *Cervidae* products include any co-products or by-products of *cervidae*, including antler, antler velvet, meat, or any part of the animal.) A more detailed explanation of the bill follows.

Administered by Department of Natural Resources. Currently under the statute, the Department of Agriculture administers the act (in consultation with the Departments of Natural Resources and Environmental Quality). Under the bill, the act would be administered by the Department of Natural Resources (in consultation with the Departments of Agriculture and Environmental Quality). However, under the bill, the director of the Department of Agriculture would continue to assure that *cervidae* livestock operations are afforded all rights, privileges, opportunities, and responsibilities of other agricultural enterprises. This change appears to make the statute conform to the transfer of regulatory responsibilities to the DNR from Agriculture under Executive Order 2004-3 issued by Governor Granholm in April 2004.

Animal Industry Act. The bill would retain the provision that specifies that any movement, importing, or exporting of *cervidae* species or products be in compliance with the Animal Industry Act (which is administered by the Department of Agriculture).

Registration fees. The bill requires that the department charge a non-refundable application fee of \$250 for an initial application, and the following initial inspection fees:

- ** For facilities containing 40 acres or less, \$250.
- ** For facilities greater than 40 acres, \$500.

The fee for a second inspection of a *cervidae* livestock facility would be \$100.

The department would charge the following fees for initial and renewal applications for *cervidae* facilities:

- ** Class I (hobby) renewal.....\$450 (increased from \$45)

- ** Class II (exhibition).....\$450 (increased from \$75)
- ** Class III (ranch).....\$750 (increased from \$500)
- ** Full registration.....\$750 (increased from \$150)

Registration. Currently under the law, a person cannot engage in a *cervidae* livestock operation unless he or she first obtains a *cervidae* livestock facility registration. Under the bill, this provision would be retained; however, one also could not "possess" *cervidae* without a registration.

December 2005 operating standards. Until January 1, 2008, a *cervidae* livestock facility registered before the effective date of this legislation (if it is enacted into law) must comply with the facility standards issued by the Michigan Department of Agriculture and dated May 2000. However, after January 1, 2008, the facility would have to be in compliance with the standards adopted by the Department of Natural Resources, the Michigan Commission of Agriculture, and the Natural Resources Commission, in December 2005, and on January 9, 2006, and January 12, 2006, respectively. Under the bill, the Department of Natural Resources could amend or update the standards after consultation with the Department of Agriculture, and with the concurrence of the Commissions of Natural Resources and Agriculture.

Responsibilities of the department. The bill would require that an initial application to construct a *cervidae* livestock facility be accompanied by an application fee, and require the Department of Natural Resources to approve, deny, or propose a modification to the completed application within 60 days. The application would be evaluated using the December 2005 standards. Before issuing any registration, the director would be required to verify, through written confirmation, both of the following: a) that the department had approved the method used to flush any free-ranging *cervidae* species from the facility, if applicable, and all free-ranging *cervidae* species had actually been flushed; and b) that the department had determined that the size and location of the facility would not place unreasonable stress on wildlife habitat or migration corridors.

Business plan; disease herd plan. Currently under the law, an applicant who wishes to operate a *cervidae* livestock facility must submit a business plan. Under the bill, the same would be true of an applicant who wished to modify a *cervidae* livestock facility. Currently the law specifies the necessary components of a business plan. Under the bill, those provisions would be retained, and in addition, an applicant would be required to submit a "disease herd plan" for approval by the state veterinarian under the Animal Industry Act of 1988, and in compliance with the December 2005 standards. Currently the law specifies the kind of perimeter fence required at a facility (the specifications of which vary, depending upon the species). Under the bill, the fencing requirements would be those found in the December 2005 standards.

Expansion of facilities. Beginning on the effective date of this legislation (if enacted into law), the Department of Natural Resources would be required to issue an initial or modification registration allowing an expansion of an existing facility not later than 120 days after the applicant filed a completed application. Renewal applications could not be

issued later than 60 days after the applicant filed a complete application. (Receipt of the application would be considered to be the date the application was received by the department.) If the application was considered incomplete, the department would be required to notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiencies and requesting the additional information.

The bill describes several circumstances under which the 120-day period is tolled. If the department failed to issue or deny a registration within the time-period, it would return the registration fee, and also reduce the fee for the applicant's next renewal by 15 percent. The department could not discriminate against an applicant in the processing of the application based on the fact that the registration fee was refunded or discounted. The bill defines the phrase "completed application" to mean an application complete on its face and submitted with any applicable registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the State of Michigan.

Three-year registration. Registrations issued by the department would be valid for three years (as is the case now).

Prohibit hobby registrations. The bill specifies that beginning on the effective date of this legislation (if enacted into law), the department would be prohibited from issuing an initial registration for a Class I (Hobby) *cervidae* facility, but it could renew the registration of an existing Class I (Hobby) facility.

Modification applications. The bill would require a registered *cervidae* livestock facility to submit and have approved a modification registration before either of the following changes occurred: a) a change in registration class and b) a modification to the size of a *cervidae* livestock facility. The modification application would have to include the appropriate fee for the new class (if applicable), or \$100 if submitted to change the facility's size. A modification application would have to be submitted within 30 days after any of the following occurred:

- 1) A change to the complete name, business name, business address, or telephone number of the current *cervidae* livestock facility registration holder.
- 2) A change of the complete address of the *cervidae* livestock facility location.
- 3) A sale or transfer of ownership of a *cervidae* livestock facility (including a written statement signed by the new and previous owners verifying the sale or transfer of ownership).
- 4) The introduction of new species into a *cervidae* livestock facility.

Decommissioning a facility. A registrant can ask to decommission a facility, and any decommission is done in compliance with operational standards, unless there is a risk to the environment and to the health of other free-ranging animals in the area in the removal of fencing and other barriers. Under the bill, an owner is prohibited from abandoning a

registered *cervidae* livestock facility without first notifying the Department of Natural Resources and the Department of Agriculture. Under the bill, a person may not cause the ingress of free-ranging *cervidae* species into a registered *cervidae* livestock facility; nor release or allow the release of any *cervidae* species from a *cervidae* livestock facility.

Disease herd plans. Under the bill, the director of the Department of Natural Resources would enter into a memorandum of understanding with the Department of Agriculture for approving disease herd plans.

Administrative Rules. The bill would repeal Section 15 of the act, which allows the promulgation of rules to implement and enforce the act.

BACKGROUND INFORMATION:

A March 23, 2005 memorandum from the House Fiscal Agency provides background information on the Privately Owned Cervid Licensing and Inspection Program. The memorandum can be found at the following link:

<http://www.house.mi.gov/hfa/PDFs/cervidae%20memo.pdf>

FISCAL IMPACT:

Section 8 of Public Act 190 of 2000 deals with registration fees established under the Privately Owned Cervidae Producers Marketing Act (Public Act 190 of 2000). The bill would amend Section 8 to eliminate the current registration requirement for new Class I (Hobby) facilities, but would authorize renewal registrations for Class I facilities that were registered as of the effective date of the enacted bill.

The bill would add a new \$250 non-refundable application fee, and new initial inspection fees of \$250 for facilities of 40 acres or less, and \$500 for facilities greater than 40 acres. The bill would also add a new fee for a second facility inspection of \$100, and a new \$100 application modification fee for applications to modify a previously registered facility. The bill would increase registration fees as follows:

Class	Total Facilities	3-year Registration Fee		Revenue Estimate Based on Proposed Registration Fees
		Current Fee	Proposed Fee	
Class I (Hobby) (renewal only)	166	\$45	\$450	\$74,700
Class II (Exhibition)	33	\$75	\$450	\$14,850
Class III (Ranch)	142	\$500	\$750	\$106,500
Class IV (Full)	399	\$150	\$750	\$299,250
Total Facilities/Fees	740			\$495,300
<i>Note that the number of facilities in each class is based on information obtained from the Michigan Department of Agriculture in March 2005.</i>				

Although the act does not define the four classes of facility, the "Operational Standards for Registered Privately Owned Cervidae Facilities," which are incorporated in the act by reference, does define them.

Note that the registration fees shown in the above table are for a three-year registration period. The average annual fee revenue would be approximately \$165,100.

The Public Act 190 of 2000 did not establish a separate restricted fund in the State Treasury. The bill would not change current law in this regard. However, fee revenue has been credited to state restricted funds (and not to the state General Fund), and used for Cervidae industry regulatory programs in the Agriculture and DNR budgets. When Public Act 190 was first enacted, registration fee revenue was credited to Licensing and Inspection Fee revenue in the Michigan Department of Agriculture budget. After the Executive Order transfer of program authority, registration fee revenue was credited to Cervidae Licensing and Inspection Fees, a fund source in the DNR budget.

Cervidae inspection fee revenue is approximately \$50,000 annually. The cost of the regulatory and inspection program has been significantly higher than the revenue generated by the license fees.

The Department of Natural Resources indicates the annual cost of its regulatory activities to be \$310,000. Those activities include application processing, field inspection of proposed and existing facilities, program administration, database development and maintenance, response to released animals, and law enforcement. The fee structure as proposed in the bill would provide approximately half of the proposed regulatory costs, with the balance effectively provided from the state General Fund.

The Michigan Department of Agriculture indicates that the annual costs of Cervidae industry animal health and disease monitoring are approximately \$180,000. Those activities include review of herd health plans, TB accreditation, and CWD certification and testing. Specific cost generators include compliance and suspect animal farm visits, TB testing, CWD lab and transportation fees, and private veterinarian sample collection and compliance testing. These costs are funded through state General Fund support in the Animal Industry appropriations unit of the Agriculture budget.

POSITIONS:

The Michigan Deer & Elk Association supports the bill. (6-29-06)

The Michigan Farm Bureau supports the bill. (6-29-06)

The Department of Natural Resources supports the bill. (6-29-06)

Legislative Analyst: J. Hunault

Fiscal Analyst: William Hamilton

■ 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.