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BILL ANALYSIS

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House Bill 5686 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Michael Lahti  
House Committee: Agriculture  
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 9-22-08

### **RATIONALE**

As the population of gray wolves has recovered from near-elimination in Michigan, attacks by gray wolves on livestock have become a concern. Although the gray wolf has been protected under Michigan and Federal law since 1965 and 1973, respectively, it was removed from the Federal list of endangered and threatened species in a portion of the country, including this State, in 2007. Under the Michigan Administrative Code, the gray wolf remains on the State's list of threatened species, which means that gray wolves may be taken, or killed, only in an emergency situation involving an immediate threat to human life, or as authorized by a permit in order to protect property or human life. Although a proposed rule change would remove the gray wolf from the State's list of threatened species, it has been suggested that the statute should specifically permit livestock owners to kill, capture, or remove a gray wolf that is pursuing or attacking their animal.

### **CONTENT**

**The bill would create a new act to do the following:**

- Allow the owner of livestock, or the owner's designated agent, to remove, capture, or kill a gray wolf that was in the act of preying upon the owner's livestock.**
- Require the owner or agent to report to a Department of Natural Resources (DNR) official within 12 hours after taking a gray wolf, and retain the wolf until a DNR official**

**could take possession of it for examination.**

- Prohibit a person from moving or disturbing a gray wolf that was killed until the person photographed the wolf and the area where it was killed; and allow the DNR to request copies of the photos.**
- Make it a misdemeanor to violate these provisions.**
- Require a DNR official to respond to the scene where a wolf was killed within 12 hours after a Department official was notified.**

Specifically, the owner of livestock, or his or her designated agent, could remove, capture, or, if deemed necessary, use lethal means to destroy a gray wolf that was in the act of preying upon the owner's livestock.

The owner or designated agent would have to report the taking of a gray wolf to a Department of Natural Resources official as soon as practicable, but not later than 12 hours after the taking. Except as otherwise provided below, the owner or designated agent would have to retain possession of a gray wolf taken until a DNR official was available to take possession of and transfer it to the appropriate Department personnel for examination.

If lethal means were used to destroy a gray wolf, a person could not move or disturb the wolf until he or she took photographs of it and the area where lethal means were used. The DNR could request copies of the photographs for examination.

A person who violated any of these provisions would be guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of at least \$100 but not more than \$1,000, and the costs of prosecution.

A DNR official would have to respond to the scene where lethal means were used within 12 hours after a Department official was notified.

The owner or designated agent could report the taking of a gray wolf by using the DNR's Report All Poaching hotline at 1-800-292-7800.

If any Federal or State legislation overturned the decision to remove gray wolves from the list of endangered species, the DNR would have to report the impact of that litigation on the proposed act to the standing committees of the Legislature with jurisdiction over issues dealing primarily with natural resources and the environment.

"Livestock" would mean those species of animals used for human food or fiber or used for service to humans. Livestock would include cattle, sheep, goats, bison, swine, equine, poultry, aquaculture, and rabbits. Livestock also would include new world camelids (e.g., alpacas and llamas), privately owned cervids (e.g., deer and elk), and ratites (e.g., ostriches).

## **BACKGROUND**

### **Federal Endangered Species List**

The Federal Endangered Species Act authorizes the U.S. Fish and Wildlife Service to list and delist species, subspecies, and distinct population segments of animals. A distinct population segment (DPS) is a discrete and separate population that occurs in a portion of a species' or subspecies' range. The Western Great Lakes DPS includes the wolf populations in Michigan, Minnesota, and Wisconsin, portions of Illinois, Iowa, North Dakota, and South Dakota, and fractions of Indiana and Ohio. This DPS encompasses a "core area" where wolf recovery has occurred. The core area includes the Upper Peninsula of Michigan as well as northern and central forested areas of Minnesota and Wisconsin.

In January 2007, the U.S. Fish and Wildlife Service removed the Western Great Lakes Distinct Population Segment of gray wolves from the Federal list of threatened and endangered species, and removed Federal protection for critical habitat for the species in Michigan and Minnesota. According to the Service, the affected states have management plans in place and will manage wolf populations in accordance with population objectives. At the time of the delisting, the wolf populations were estimated to be 434 in Michigan, 3,020 in Minnesota, and 465 in Wisconsin.

A lawsuit against the delisting is pending in the U.S. District Court in Washington, D.C. To date, no injunction has been issued.

### **Wolf Management in Michigan**

According to the Department of Natural Resources, it is believed that gray wolves were once present in all of Michigan's 83 counties. A combination of factors, including active predator control programs, virtually eliminated gray wolves from Michigan. They had completely disappeared from the Lower Peninsula by around 1910, and had nearly vanished from the Upper Peninsula by 1960, when the State-paid bounty on wolves was repealed. The species was given legal protection in Michigan in 1965, and placed on the Federal list of endangered species in 1973. Michigan's gray wolf population began to recover in the 1990s, and grew from an estimated 20 wolves in 1992 to 361 in 2004.

In 1992, the DNR Director appointed a Michigan Gray Wolf Recovery Team and charged it with developing a wolf recovery plan for the State. The Department finalized the *Michigan Gray Wolf Recovery and Management Plan* in 1997. Subsequently, the context of wolf management in Michigan changed due to several developments, including the expansion of the wolf population size and distribution; active involvement of the U.S. Department of Agriculture (USDA) Animal and Plant Inspection Service Wildlife Services; the development and implementation of *Michigan's Wildlife Action Plan* in 2005; and the delisting of wolves from the Federal endangered species list in the Western Great Lakes DPS.

These events contributed to the development of the *Michigan Wolf Management Plan*, which was finalized in May 2008. This plan resulted from discussions the DNR began with other State and Federal agencies in August 2004; public meetings the DNR held in May 2005; focus group meetings coordinated by the Michigan State University Department of Fisheries and Wildlife during the summer of 2005; and the work of an advisory committee convened by the DNR, the Michigan Wolf Management Roundtable. The Roundtable met between June and September 2006 and submitted its report the following November.

According to the *Michigan Wolf Management Plan*, the plan provides strategic guidance for the management of wolves in this State but does not outline operational details. The plan was developed to help do the following: 1) maintain a viable Michigan wolf population above a level that would warrant its classification as threatened or endangered; 2) facilitate wolf-related benefits; 3) minimize wolf-related conflicts; and 4) conduct science-based wolf management with socially acceptable methods.

#### Wolf-Related Conflicts

The *Michigan Wolf Management Plan* addresses the management of wolf depredation of domestic animals. The plan states that a depredation event occurs when a predator kills or injures one or more animals at a given time. Although wolves normally kill or injure wild prey and competitors, they sometimes attack domestic animals.

According to the plan, from 1998 through 2007, the Michigan DNR and the USDA Wildlife Services verified 70 wolf-livestock depredation events on 45, or 5%, of the 900-plus livestock farms in the Upper Peninsula. No wolf-livestock depredation events were verified in the Lower Peninsula.

Boilerplate language in the enacted budgets for the DNR and Michigan Department of Agriculture (MDA) provides for indemnification to owners of livestock killed by wolves. Specifically, Section 212 of Public Act 253 of 2008, which makes fiscal year (FY) 2008-09 appropriations for the MDA, requires that Department to make an indemnification payment for the fair market

value of livestock killed by a wolf, coyote, or cougar, if the kill is verified by the DNR. Section 501 of Public Act 252 of 2008, the DNR's FY 2008-09 appropriations act, specifies legislative intent that the DNR reimburse the MDA for costs incurred for indemnification for livestock losses caused by wolves, coyotes, or cougars under the Animal Industry Act.

### **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**

Michigan residents should have the right to protect their livestock from attacks by wolves, even when lethal means are necessary. Livestock are a commodity to farmers and ranchers, and can represent a significant financial investment. Although there is not a high number of documented incidents in which wolves have injured or killed livestock, these attacks are likely to increase as the wolf population continues to grow in Michigan and wolves become more accustomed to humans. It also is likely that the number of verified incidents understates the actual number of attacks.

Allowing livestock producers to remove or kill wolves that prey on their animals would have little impact on the population of wolves. On the other hand, if owners are not allowed to protect their livestock from wolf attacks, it is possible that these stakeholders might adopt indiscriminate antiwolf behavior would have a greater adverse impact on the wolf population. In addition, antiwolf sentiments and superstitions are largely responsible for the near-extinction of the species. As wolves become more populous and more common in developed areas, these negative attitudes could be reignited if residents cannot take steps, including lethal measures, to protect their animals.

#### **Opposing Argument**

The bill would conflict with ongoing efforts to manage the State's wolf population in a way that accommodates the interests of livestock producers, environmentalists, and animal rights advocates. First, the bill would not require that livestock owners take nonlethal measures to prevent depredation events, before using lethal means as a last resort.

As the *Michigan Wolf Management Plan* points out, certain human behaviors and practices--such as baiting and feeding other wildlife--can attract wolves and thus increase the risk of depredation of domestic animals. In addition to avoiding these practices, livestock producers can take a number of preventative measures, such as promptly and properly disposing of animal carcasses; erecting barrier fencing, lighting systems, or flagging (fladry); and using sirens or livestock-guarding animals. The strategy described in the management plan "...places a high priority on developing, evaluating and applying non-lethal management methods to reduce depredation problems". The plan recognizes that lethal means may be necessary "...when such practices prove to be ineffective, are not expected to be ineffective, or are infeasible...". The bill, however, simply would allow wolves to be killed "if deemed necessary".

Also, the overly broad and vague term "preying upon" could lead to overzealous lethal responses to wolf conflicts. In addition, the bill would not require the DNR to evaluate whether the actions of livestock owners had a negative impact on the State's wolf population.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have no fiscal impact on the State. The additional responsibilities of DNR officials to retrieve a gray wolf from the owner of livestock would be paid for from existing resources.

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed offenses involving the taking of gray wolves. To the extent that the bill resulted in convictions, local units would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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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.