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BILL



ANALYSIS

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Senate Bill 996 (as introduced 3-1-12)
Sponsor: Senator Tom Casperson
Committee: Agriculture

Date Completed: 5-23-12

CONTENT

The bill would create the "Wildlife Depredation Indemnification Act" to do the following:

- **Require the Michigan Department of Agriculture and Rural Development (MDARD) to provide for indemnification for the death, injury, or loss of livestock, domestic animals, and pets from wolves, coyotes, and cougars.**
- **Require the Department of Natural Resources (DNR) to reimburse MDARD for indemnification payments.**
- **Establish requirements for animal owners to qualify for indemnification, including reporting the incident to MDARD within 24 hours.**
- **Require MDARD to appraise and inventory the animals for which indemnification was sought and to pay an indemnification claim within 30 days.**
- **Specify that a claimant would be entitled to receive twice the amount of the claim if MDARD failed to meet the 30-day requirement.**
- **Establish procedures for determining the amount of indemnification.**
- **Include a deduction in indemnification amounts for other compensation received, or to be received, for the death, injury, or loss of animals.**
- **Require MDARD to provide for indemnity, up to \$100,000 per order, from any budgetary line item, and provide that any agreement for indemnification of a larger amount would be subject to specific appropriations and not paid from MDARD funds.**
- **Provide that acceptance of compensation under the Act would constitute a full and complete release of any claim against the State.**
- **Specify conditions under which animals would be ineligible for indemnification.**

Indemnification Program

The bill would require MDARD to provide indemnification for the death, injury, or loss of livestock, domestic animals, and pets from wolves, coyotes, and cougars. The DNR would have to reimburse MDARD for all indemnification payments made under the bill.

To qualify for indemnification, the owner of the animals that were killed, injured, or otherwise lost would have to do all of the following:

- Report the incident to MDARD within 24 hours of discovery of the dead or injured animal, or when the animal was discovered to be missing.

- File with MDARD a claim for indemnification verifying the type and number of animals for which indemnification was sought.
- Upon request, provide MDARD with access to the owner's property as necessary to conduct an investigation.
- Upon its request, provide MDARD with documentation that the animals had official identification, if required under the Animal Industry Act.

If a claim for indemnification included indemnification for missing animals, a notarized statement from the owner would be sufficient documentation that one or more animals were missing and eligible for indemnification.

Appraisal & Payment

Upon receiving a claim for indemnification, MDARD would have to appraise and inventory the livestock, domestic animals, or pets for which indemnification was sought and would have to make an indemnification payment within 30 days after receiving the claim. If MDARD failed to make a payment within that period to a person who was eligible to receive indemnification, the person would be entitled to receive twice the amount of the original claim.

Except as otherwise provided, the amount of indemnification would have to be determined as described below.

For livestock and domestic animals, MDARD would have to reimburse the claimant the fair market value, that was the feeder market value of young or replacement value for adult (older than one year old), not to exceed the maximum amount for that animal type as established by the Commission of Agriculture and Rural Development. By January 30 of each year, the Commission, with input from a statewide farming advocacy organization, would have to establish a maximum amount to be paid on an indemnification claim for each type of animal. Livestock organizations within Michigan also could provide input for the Commission to consider when establishing the maximum amount to be paid on an indemnification claim.

For an entire herd or flock, MDARD would have to reimburse the claimant based upon 100% of the fair market value of that type of animal as appraised for the purpose for which the livestock or domestic animal was intended, not to exceed an average of \$4,000 per animal in the flock or herd.

For pets, MDARD would have to reimburse the claimant the fair market value based upon recent sale records for similar animals, up to a maximum of \$2,500 per animal.

The indemnification amounts described above would have to include a deduction for any compensation received, or to be received, from any other source including indemnification by the U.S. Department of Agriculture, insurance, or salvage value. The animal owner would have to furnish to MDARD all 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 before indemnification under the proposed Act.

The Department would have to provide for indemnity not to exceed \$100,000 per order, from any line item in the annual MDARD budget in the applicable fiscal year. Any agreement greater than that amount entered into between MDARD and an owner of livestock, domestic animals, or pets would have to contain a provision indicating that indemnification would be subject to specific appropriations by the Legislature and not be paid from MDARD funds.

Release of Claim & Ineligibility

Acceptance of compensation under the proposed Act would constitute a full and complete release of any claim the owner had against the State or its departments, agencies, officers, employees, agents, and contractors related to the death, injury, or loss of the livestock, domestic animals, or pets, to the extent they acted 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.

The right to indemnity from the State for animals eligible for indemnification under the proposed Act would apply only to livestock, domestic animals, and pets. Indemnification would not apply to livestock or domestic animals determined by MDARD to have been imported without meeting import requirements (such as an official interstate health certificate or official interstate certificate of veterinary inspection), required testing, or required vaccination, or livestock or domestic animals determined by MDARD to have been illegally moved within the State.

In addition, an owner would not be entitled to indemnity from the State for an animal that came into the owner's possession with the owner's knowledge that the animal was diseased or was suspected of having been exposed to an infectious, contagious, or toxicological disease. The MDARD Director could not indemnify an owner for animals that had been exposed to an animal that came into the possession of the owner with the owner's knowledge that the animal was diseased or suspected of having been exposed to a disease.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the DNR or MDARD. Boilerplate language in fiscal year 2011-12 budgets (Sec. 453 of Article 1 and Sec. 402 of Article XIV of Public Act 63 of 2011) provides for an indemnity program and requires the DNR to reimburse MDARD for indemnification payments made to farmers for losses of livestock due to coyotes, wolves, and cougars. The bill would codify these sections of boilerplate, which have been enacted for a number of years. The payments made each year are variable, but are approximately \$40,000 to \$50,000 annually.

The amount of yearly average payments under the program could possibly increase over current averages due to the inclusion in the bill of eligibility for indemnity payments for domestic animals and pets, rather than just livestock as under current guidelines. The amount of any increase cannot be determined at this time.

Fiscal Analyst: Bruce Baker
Josh Sefton

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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.