

Legislative Analysis



LARGE CARNIVORE BREEDING

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House Bill 5778 as enacted
Public Act 610 of 2018
Sponsor: Rep. Thomas Albert
House Committee: Agriculture
Senate Committee: Agriculture
Complete to 7-12-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 5778 amends the Large Carnivore Act to allow for breeding of large carnivores in certain situations.

FISCAL IMPACT: The bill would have no apparent impact on local units of government. (See **Fiscal Information**, below, for further discussion.)

THE APPARENT PROBLEM:

The Large Carnivore Act was created in 2000 to allow accredited zoos in Michigan to possess, transfer, and breed large carnivores to ensure the conservation, safety, and welfare of the animals.¹ However, due to a drafting error, accredited zoos were not exempted from the act's general prohibition against breeding large carnivores. Legislation was introduced to allow persons that meet certain qualifications to breed large carnivores and thereby address the absence in the original law of an exception that would allow zoos to breed large carnivores.

THE CONTENT OF THE BILL:

Previously under the act, a person was prohibited from breeding a large carnivore (defined as including lions, tigers, leopards, cougars, jaguars, panthers, and cheetahs; a hybrid cross with any of these cats; and bears).

Breeding license application

The bill allows a person to apply to the Michigan Department of Agriculture and Rural Development (MDARD) for a breeding license to breed large carnivores. The license is valid for three years. Persons applying for the license must meet the following requirements:

- Be conducting a for-profit or nonprofit business that presents animals to the public for education or exhibition purposes.
- Hold a Class C license under the Code of Federal Regulations (9 CFR Parts 1 and 2), subject to certain requirements.
- Not allow a patron to come into direct contact with a large carnivore.
- Not sell large carnivores, except to another person who also meets these requirements.

The application must be on a form prescribed by MDARD and must contain certain information about the applicant as well as a description of the two large carnivores the applicant intends to breed. Additional documentation proving compliance with the license must accompany the

¹ See <http://legislature.mi.gov/doc.aspx?1999-SB-0782>

application, as well as documentation from a local law enforcement agency that the applicant complies with relevant emergency protocols. Revocation of a license can occur after notice and a hearing as provided under the Administrative Procedures Act.

An applicant must also submit an application fee of \$2,500. The revenue received from the application fees is to be deposited in the Agriculture Licensing and Inspection Fees Fund created in the Insect Pest and Plant Disease Act and may be used by MDARD only to implement the breeding license application process.

MDARD may allow a person to amend a breeding license to breed a large carnivore that was not identified on the original application if the person provides a description of the animals being removed from and added to the breeding license and identifies the reasons the original animal was unable to breed.

Advisory committee

The bill creates a Large Carnivore Breeding Advisory Committee. The committee consists of the state veterinarian and two other members (one from a public zoo, and one from a private zoo). MDARD must forward all applications to this committee. The committee must advise on the application, and MDARD must make a final determination to approve or deny the application within 90 days of originally receiving the application. MDARD may not grant more than 10 new breeding licenses in a calendar year.

Responsibilities

A person who holds a breeding license must satisfy various requirements listed in the bill related to staffing, facilities, animal welfare, veterinary care, safety, and contingency planning. Among other things, the requirements include the following:

- Ensuring that the facility housing the large carnivore is adequately lit and free of clutter.
- Training staff to recognize abnormal behavior and clinical signs of illness, as well as training them in the specific knowledge needed to ensure the well-being of the large carnivores under their care.
- Meeting all applicable local, state, federal, and international laws and regulations when designating a large carnivore for reintroduction and release into the wild.
- Maintaining a written conservation action plan and strategy that is part of a collaborative, scientifically managed species conservation program for each species of large carnivore held.

A person who holds a breeding license is prohibited from engaging in the following acts:

- Transferring a large carnivore to a person who is not qualified or capable of safely maintaining the large carnivore or ensuring its well-being, to a person who allows the hunting of large carnivores, or to a person or animal auction that may display or sell the large carnivore at an animal auction.
- Raising or transferring a large carnivore for the purpose of providing food or animal parts.
- Performing disfiguring procedures, unless considered medically necessary by the attending veterinarian.
- Removing dependent young from their mothers for hand-rearing unless deemed medically necessary by the attending veterinarian.

Other Provisions

If there is probable cause to believe that the act is being violated, the large carnivore may be transferred to an animal control or animal protection shelter or to a person licensed or approved by the Department of Natural Resources (DNR) or the Fish and Wildlife Service of the United States Department of the Interior. [Previously, the act also allowed transfer to a zoo approved or accredited by the American Zoo and Aquarium Association or a person approved by the Association of Sanctuaries or the American Sanctuary Association.]

An animal control or protection shelter in possession of a large carnivore to provide humane euthanasia or to export the large carnivore to another state under section 8 is exempt from sections 4, 5, 6(1)(d) through (5)(d), and 14(3) of the act, which generally regulate possession of, subcutaneous identification chips for, and confinement of animals, as well as knowingly failing to obtain a permit.

A person who holds a valid breeding license is exempt from sections 3(b), 4, 5, 6(1)(d) to (5)(d), and 14(3) of the act. (Section 3(b) is the general ban on breeding large carnivores.)

Except for sections 4, 6(1)(d) through (5)(d), 8, and 14(3) of the act, the act now applies to Michigan residents conducting a for-profit or nonprofit business that presents animals to the public for education or exhibition purposes and who hold and meet the standards of a Class C license under the Code of Federal Regulations.

The bill specifies that if the United State Department of Agriculture has within the last five years confiscated an animal of a Class C licensee, or issued a finally determined direct or critical noncompliance to or civil penalty against a Class C licensee, then that licensee does not meet the standards of a Class C licensee.

The bill removes a provision that had exempted circuses from the act.

Finally, the bill contains provisions concerning the breeding of black bear sows by certain entities. These provisions are from House Bill 6050 (enacted as 2018 PA 609) and were included in HB 5778 so that its subsequent enactment would not inadvertently overwrite them.²

The bill took effect March 28, 2019.

MCL 287.1102 et seq.

FISCAL INFORMATION:

MDARD currently has limited administrative responsibilities under the Large Carnivore Act—primarily as the designated recipient of information collected by local units of government, police agencies, and veterinarians:

Section 4(6) requires the local unit that issues a permit to notify MDARD of the name and address of the permit holder and the number of large carnivores owned by the permit holder.

² See <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6050-3A6133B3.pdf>

Section 6(5)(l) requires the owner of large carnivore that dies to arrange to have the death certified in writing by a veterinarian, law enforcement officer, or the permitting agency, and for the veterinarian, law enforcement officer, or permitting agency to submit the certification to MDARD within 20 business days after the death.

We note that section 9(1) requires the owner of a large carnivore that had potentially exposed a human to rabies to report the potential exposure to the local health department within 24 hours. Section 9(2) requires the owner of a large carnivore that had potentially exposed livestock or a mammalian pet to report the potential exposure to the to the local unit permitting agency within 24 hours. In neither instance is there a requirement that MDARD be notified.

Currently, MDARD's only direct active responsibility under the Large Carnivore Act appears to be in section 23, which requires the department to provide each pet shop, animal control shelter, and animal protection shelter with information on the requirements of the act.

House Bill 5778 would establish a new large carnivore breeding license. MDARD would have authority to "deny, grant, or grant with conditions the application for a breeding license after considering the recommendation of the state veterinarian." The state veterinarian is an MDARD employee. A review of breeding licenses sufficient to determine whether to deny, grant, or grant with conditions a breeding license would impose additional costs on the department. Those costs, which would depend on the number of breeding license applications and the extent of department license review, cannot be readily determined at this time.

It is not clear to what extent the department would perform site inspections or ongoing monitoring of licensees to ensure compliance with provisions of the license.

The bill would establish a large carnivore breeding license application fee of \$2,500. The bill directs that revenue from the application fees be deposited in the Agriculture Licensing and Inspection Fee Fund established in the Insect Pest and Plant Disease Act. Currently, a number of MDARD licensing and regulatory fees are credited to this fund and are used to support various MDARD regulatory and inspection programs.

The bill indicates that large carnivore breeding license fee revenue is to be "used only by the department to implement to provisions of the large carnivore breeding license requirements established in new section 22b."

The annual revenue from breeding license application fees would depend on the number of applications received by the department. The bill would authorize the department to grant 10 new licenses each calendar year.

ARGUMENTS:

For:

Supporters of the bill argued that it would enable zoos to breed large carnivores, which would help endangered and threatened animals in their care to thrive and survive. In the absence of the bill, to ensure that species of large carnivores can continue, they must be transferred out of state to breed. Transferring large carnivores such long distances is stressful for the animals. Being able to breed large carnivores at Michigan zoos in a responsible manner best promotes conservation efforts for the survival and continuance of these species.

Against:

Opponents of the bill were critical of the language added to the act; instead of fixing a simple typographical error to allow zoos to breed large carnivores, the bill allows anyone to breed large carnivores as long as they meet specific criteria. However, their purpose in breeding the animals could be for anything, not just sound conservation for the survival of the species. The bill could open up breeding for entertainment purposes, which is contrary to the conservation efforts that were the original intent of the act.

Response:

Supporters pointed out that conservation can overlap with entertainment; it is what zoos do all the time. The animals are there for the entertainment of the public, but they are protected and well cared for in the accredited facilities to promote conservation of the animals.

Against:

Critics of the bill were also concerned about which law enforcement agency would or could respond to violations of the act. Police officers and animal control officers are not trained to handle or subdue multiple large and dangerous animals such as tigers or lions. If allowing private citizens to breed large carnivores, some kind of enforcement would have to take place, yet the bill does not provide those specifics.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.