

ALLOW LARGE CARNIVORE BREEDING

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House Bill 5778 (H-5) as passed by the House
Sponsor: Rep. Thomas Albert
Committee: Agriculture
Complete to 9-20-18

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

BRIEF SUMMARY: House Bill 5778 would amend 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.

The current bill was introduced to allow persons that meet certain qualifications to breed large carnivores and to act as a solution to the absence in the original law of an exception that would allow zoos to breed large carnivores.

THE CONTENT OF THE BILL:

Currently under the Act, a person is prohibited from breeding a large carnivore (defined to include lions, tigers, leopards, cougars, jaguars, panthers, and cheetahs; a hybrid cross with any of these cats; and bears).

Breeding License Application

The bill would allow a person to apply to the Michigan Department of Agriculture and Rural Development (MDARD) for a breeding license to breed large carnivores. The license would be valid for two years. However, persons applying for the license would have to 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).
- 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.

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

The application would have to be on a form derived by MDARD and would have to contain certain personal information of the applicant as well as the description of the two large carnivores the applicant intends to breed. Additional documentation proving compliance with the license would have to accompany the application and would have to include documentation from a local law enforcement agency that the applicant complies with relevant emergency protocols. Revocation of a license could occur after notice and a hearing as provided under the Administrative Procedures Act (MCL 24.201 to 24.328).

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

Advisory Committee

The bill would also create a Large Carnivore Breeding Advisory Committee. MDARD would forward all applications to this committee, the committee would advise on the application, and MDARD would make a final determination to approve or deny the application within 90 days of originally receiving the application and could not grant more than 10 breeding licenses in a year. The committee would consist of the State Veterinarian, as defined in the Animal Industries Act (MCL 287.706), and two other members (one member of a public zoo, and one member of a private zoo).

Responsibilities

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

- Ensure that the facility housing the large carnivore is adequately lit and free of clutter.
- Train staff to recognize abnormal behavior and clinical signs of illness, as well as in the specific knowledge needed to ensure the well-being of the large carnivores under their care.
- Meet all applicable local, state, federal, and international laws and regulations when designating a large carnivore for reintroduction and release into the wild.
- Maintain 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.

Under the bill, a person who holds a breeding license would also be 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; Exemptions

The bill also would amend definitions under the act to include *breeding license*, which would refer to the newly created large carnivore breeding license described above.

Currently, 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, a person licensed or approved by the Department of Natural Resources or the Fish and Wildlife Service of the United States Department of the Interior, 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. Under the bill, such a transfer would have to be to an animal control or animal protection shelter, a person licensed or approved by the Department of Natural Resources or the Fish and Wildlife Service of the United States Department of the Interior, or a zoo accredited by the Association of Zoos and Aquariums.

A person who holds a valid breeding license would be exempt from Sections 4, 5, 6(1)(d) through (5)(d), and 14(3) of the act, which generally regulate possession, identification chips, and confinement of animals, as well as knowingly failing to obtain a permit. Those sections also would not apply to 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.

Except for Sections 4, 6(1)(d) through (5)(d), 8, and 14(3), the act would now apply 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 would specify that if the United State Department of Agriculture has within the last 5 years confiscated an animal of a Class C licensee, or issued an official warning letter or civil penalty against a Class C licensee, then that licensee would not be considered to meet the standards of a Class C licensee.

Finally, a zoological park approved or accredited by the American Zoo and Aquarium Association and a person approved by the Association of Sanctuaries or the American Sanctuary Association would be subject to all provisions under the act, except that Sections 3(b), 4, and 5 would not apply to a zoo accredited by the Association of Zoos and Aquariums. Those provisions concern possessing and breeding large carnivores and a requirement to use a subcutaneous microchip to identify a large carnivore.

The bill would take effect 90 days after enactment.

MCL 287.1102 et al.

BACKGROUND INFORMATION:

Attempts to exempt zoos from the blanket ban on breeding large carnivores began in 2008 with the introduction of House Bill 6572.² Senate Bill 210³ was introduced in 2011, House Bill 5163⁴ and Senate Bill 538⁵ in 2013, and Senate Bill 146⁶ in 2015.

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.

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

² <http://legislature.mi.gov/doc.aspx?2008-HB-6572>

³ <http://legislature.mi.gov/doc.aspx?2011-SB-0210>

⁴ <http://legislature.mi.gov/doc.aspx?2013-HB-5163>

⁵ <http://legislature.mi.gov/doc.aspx?2013-SB-0538>

⁶ <http://legislature.mi.gov/doc.aspx?2015-SB-0146>

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 (MCL 286.201 et seq.). 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 licenses each year.

ARGUMENTS:

For:

Supporters of the bill want to enable zoos to breed large carnivores, as it helps endangered and threatened animals in their care to thrive and survive. Currently, 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 would best promote conservation efforts for the survival and continuance of these species.

Against:

Opponents of the bill are critical of the language that would be added to the act; instead of fixing a simple typographical error to allow zoos to breed large carnivores, the bill would allow 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 of the bill have 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 are 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. In allowing private citizens to breed large carnivores, some kind of enforcement would have to take place, yet the bill does not provide those specifics.

POSITIONS:

Representatives of the following organizations testified in support of the bill:

- Zoological Association of America (4-11-18)
- John Ball Zoo (4-11-18)
- Binder Park Zoo (4-11-18)
- Oswald Bear Ranch (4-11-18; and indicated support 5-23-18)

A representative of the Michigan Department of Agriculture and Rural Development testified with a neutral position regarding the bill. (5-23-18)

Representatives of the Detroit Zoological Society testified in opposition to the bill. (4-11-18 and 5-23-18; and indicated opposition 6-11-18)

The following organizations indicated opposition to the bill:

- Attorneys for Animals (4-11-18)
- State Bar of Michigan Animal Law Section (4-22-18)
- Michigan Humane Society (5-23-18)

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Fiscal Analyst: William E. Hamilton

■ 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.