

HOUSE BILL No. 5770

April 10, 2018, Introduced by Reps. Barrett, Lower and Albert and referred to the Committee on Agriculture.

A bill to amend 2000 PA 190, entitled
"Privately owned cervidae producers marketing act,"
by amending section 6 (MCL 287.956), as amended by 2006 PA 561.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The initial application to construct a cervidae
2 livestock facility ~~shall~~ **MUST** be accompanied by the application fee
3 described in section 8. The department shall approve, deny, or
4 propose a modification to the completed application within 60 days.
5 ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE** department
6 shall utilize the standards contained in "Operational Standards for
7 Registered Privately Owned Cervidae Facilities", published by the
8 Michigan department of natural resources, (revised December 2005),
9 adopted by the Michigan commission of agriculture on January 9,

2006, and adopted by the natural resources commission on January 12, 2006, and incorporated by reference, to evaluate the issuance, construction, maintenance, administration, and renewal of a registration issued under this act. ~~The~~ **WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2018 AMENDATORY ACT THAT AMENDED THIS SUBSECTION AND EVERY 5 YEARS AFTER THAT DATE, THE** department **SHALL,** after consultation with the department of agriculture and **RURAL DEVELOPMENT AND** with concurrence of the ~~commissions of natural resources COMMISSION and THE COMMISSION OF~~ agriculture ~~may, by amendment of this act, amend or~~ **AND RURAL DEVELOPMENT, REVISE AND** update the standards adopted in this subsection **AND SHALL UTILIZE THOSE UPDATED STANDARDS.** Before issuing any registration under this act, the director shall verify, through written confirmation, ~~both~~ **ALL** of the following:

(a) The department has approved the method used to flush any free-ranging cervidae species from the facility, if applicable, and all free-ranging cervidae species have actually been flushed.

(b) The department has determined that the size and location of the facility will not place unreasonable stress on wildlife habitat or migration corridors.

(2) As part of the initial application or the application to modify a cervidae livestock facility, the applicant for registration shall submit a business plan complying with the standards established under this section that includes all of the following:

(a) The complete address of the proposed cervidae livestock facility and the size of, the location of, and a legal description

1 of the lands on which the cervidae livestock operation will be
2 conducted.

3 (b) The number of each cervidae species included in the
4 proposed facility.

5 (c) Biosecurity measures to be utilized, including, but not
6 limited to, methods of fencing and appropriate animal
7 identification.

8 (d) The proposed method of flushing wild cervidae species from
9 the enclosure, if applicable.

10 (e) A record-keeping system in compliance with this act and
11 the operational standards incorporated by reference in subsection
12 (1).

13 (f) The method of verification that all free-ranging cervidae
14 species have been removed.

15 (g) The current zoning of the property proposed as a cervidae
16 livestock facility and whether the local unit or units of
17 government within which the cervidae livestock facility will be
18 located has an ordinance regarding fences.

19 (h) A disease herd plan in compliance with the operational
20 standards incorporated by reference in subsection (1) to be
21 approved by the state veterinarian under the animal industry act,
22 1988 PA 466, MCL 287.701 to ~~287.745~~-**287.746**.

23 (i) Any other information considered necessary by the
24 department.

25 (3) Upon receipt of an application, the director shall forward
26 1 copy each to the ~~departments~~-**DEPARTMENT** of agriculture and **RURAL**
27 **DEVELOPMENT AND THE DEPARTMENT OF** environmental quality. Upon

1 receipt of an application, the department shall send a written
2 notice to the local unit or units of government within which the
3 proposed cervidae livestock facility will be located unless the
4 department determines, from information provided in the
5 application, that the local unit of government has a zoning
6 ordinance under which the land is zoned agricultural. The local
7 unit or units of government may respond, within 30 days of receipt
8 of the written notice, indicating whether the applicant's cervidae
9 livestock facility would be in violation of any ordinance.

10 (4) The department shall not issue an initial cervidae
11 livestock facility registration or modification unless the
12 application demonstrates all of the following:

13 (a) The cervidae livestock facility has been inspected by the
14 director and he or she has determined that the cervidae livestock
15 facility meets the standards and requirements prescribed by and
16 adopted under this act, complies with the business plan submitted
17 to the department, and determines that there are barriers in place
18 to prevent the escape of cervidae species and prevent the entry of
19 wild cervidae species. A renewal or initial applicant must provide
20 a perimeter fence in compliance with the operational standards
21 incorporated by reference under subsection (1). **BEGINNING 1 YEAR**
22 **AFTER THE EFFECTIVE DATE OF THE 2018 AMENDATORY ACT THAT AMENDED**
23 **THIS SUBSECTION, A RENEWAL OR INITIAL APPLICANT MUST PROVIDE A**
24 **SECOND PERIMETER FENCE THAT IS IN COMPLIANCE WITH THE OPERATIONAL**
25 **STANDARDS INCORPORATED BY REFERENCE UNDER SUBSECTION (1). THE**
26 **DEPARTMENT SHALL DETERMINE THE REQUIRED DISTANCE BETWEEN THE FIRST**
27 **PERIMETER FENCE AND THE SECOND PERIMETER FENCE.**

1 (b) The method for individual animal identification complies
2 with the standards incorporated by reference under this section.

3 (c) The applicant has all necessary permits that are required
4 under part 31 regarding water resources protection, part 301
5 regarding inland lakes and streams, and part 303 regarding wetland
6 protection of the natural resources and environmental protection
7 act, 1994 PA 451, MCL 324.3101 to ~~324.3133~~, **324.3134**, 324.30101 to
8 324.30113, and 324.30301 to ~~324.30323~~, **324.30328**, and any other
9 permits or authorizations that may be required by law.

10 (5) ~~Beginning the effective date of the amendatory act that~~
11 ~~added this subsection, the~~ **THE** department shall issue **OR DENY** an
12 initial registration or modification registration allowing an
13 expansion of an existing facility not later than 120 days after the
14 applicant files a completed application. ~~Renewal applications shall~~
15 ~~be issued~~ **THE DEPARTMENT SHALL ISSUE OR DENY A RENEWAL APPLICATION**
16 not later than 60 days after the applicant files a completed
17 application. Receipt of the application is considered the date the
18 application is received by the department. If the application is
19 considered incomplete by the department, the department shall
20 notify the applicant in writing, or make the information
21 electronically available, within 30 days after receipt of the
22 incomplete application, describing the deficiency and requesting
23 the additional information. The determination of the completeness
24 of an application does not operate as an approval of the
25 application for the registration and does not confer eligibility
26 upon an applicant determined otherwise ineligible for issuance of a
27 registration. The 120-day period is tolled under any of the

1 following circumstances:

2 (a) Notice sent by the department of a deficiency in the
3 application until the date all of the requested information is
4 received by the department.

5 (b) The time period during which required actions are
6 completed that include, but are not limited to, completion of
7 construction or renovation of the facility; mandated reinspections
8 if by the department; other inspections if required by any state,
9 local, or federal agency; approval by the legislative body of a
10 local unit of government; or other actions mandated by this act or
11 as otherwise mandated by law or local ordinance.

12 (6) If the department fails to issue or deny a registration
13 within the time required by this subsection, the department shall
14 return the registration fee and shall reduce the registration fee
15 for the applicant's next renewal application, if any, by 15%. The
16 failure to issue a registration within the time required under this
17 section does not allow the department to otherwise delay the
18 processing of the application, and **THE DEPARTMENT SHALL PLACE** that
19 application, upon completion, ~~shall be placed~~ in sequence with
20 other completed applications received at that same time. The
21 department shall not discriminate against an applicant in the
22 processing of the application based upon the fact that the
23 registration fee was refunded or discounted under this subsection.

24 (7) Upon receipt of a denial under this section and without
25 filing a second application, the applicant may request in writing
26 and, if requested, the department shall provide an informal review
27 of the application. The review ~~shall~~ **MUST** include the applicant,

1 the department, ~~and the departments~~ **DEPARTMENT** of agriculture and
2 **RURAL DEVELOPMENT, AND THE DEPARTMENT OF** environmental quality, if
3 applicable. After the informal review, if the director determines
4 that the proposed cervidae livestock facility or cervidae livestock
5 operation complies with the requirements of this act, the director
6 shall issue a registration within 30 days after the applicant
7 notifies the department of completion of the facility. After the
8 informal review, if the director determines that the proposed
9 cervidae livestock facility or cervidae livestock operation does
10 not comply with the requirements of this act, the director shall
11 affirm the denial of the application in writing and specify the
12 deficiencies needed to be addressed or corrected in order for a
13 registration to be issued. The applicant may waive the informal
14 review of the application.

15 (8) As used in this subsection, "completed application" means
16 an application complete on its face and submitted with any
17 applicable registration fees as well as any other information,
18 records, approval, security, or similar item required by law or
19 rule from a local unit of government, a federal agency, or a
20 private entity but not from another department or agency of ~~the~~
21 ~~state of Michigan.~~ **THIS STATE.**

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.

24 Enacting section 2. This amendatory act does not take effect
25 unless all of the following bills of the 99th Legislature are
26 enacted into law:

27 (a) Senate Bill No. _____ or House Bill No. 5771 (request no.

1 05140'17).

2 (b) Senate Bill No. _____ or House Bill No. 5772 (request no.

3 05270'18).