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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 687 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Nick Smith

Committee: Agriculture and Forestry

Date Completed: 1-17-90

RATIONALE

For almost 70 years, the handling of animals with communicable diseases, the prevention of these diseases, the importation of livestock and the powers and duties of the State veterinarian had been governed by Public Act 181 of 1919. Last session, the Legislature repealed Public Act 181 and enacted Public Act 466 of 1988, the Animal Industry Act. The new Act updated provisions concerning the State's animal industry to reflect current practices and incorporated into the law rules and policies affecting the animal industry that the Department of Agriculture had developed over the years. Since the new Act took effect, the Department reportedly has been advised by the Attorney General's office that further modifications and clarifications are needed in certain areas, including the movement of diseased animals and the necessity of the Department's having statutory authority to perform tests that are required by the Federal government.

CONTENT

The bill would amend the Animal Industry Act to:

- Delete references to "livestock" in provisions on reporting diseased or contaminated "livestock" and replace them with references to "animal".
- Permit the Director of the Department of Agriculture to enter

premises where animal products or feeds were suspected of being contaminated, and permit the Director to dispose of contaminated animal products or feed.

- Prohibit a person from importing an animal from another state if that animal were under quarantine by the other state, unless the Director gave prior permission.
- Prohibit the indemnification of an animal owner for animals that had been exposed to diseased animals that came into the owner's possession with the owner's knowledge.
- Specify that various testing and identification programs would have to meet specifications of certain Federal regulations.
- Permit the Attorney General to bring a criminal action against a person who unlawfully introduced infectious, contagious, or toxicological diseases into animals or animal products or feeds in the State.
- Allow the Director to require wild animals to test negative to certain official tests and to be identified in a manner approved by the Director before importation into the State.
- Require a fair, exhibitor, or show authority to notify exhibitors of required health tests and

certificates, and to approve required certificates and show papers prior to a livestock exhibition.

Animal Diseases

Reporting, Quarantine. Currently, a person who discovers, suspects, or believes that livestock are affected with a reportable disease or contaminated with a toxic substance is required to report that to the Department Director. In addition, a person who possesses livestock that are, or are suspected of being, diseased or contaminated must permit the Director to examine the livestock or collect diagnostic specimens. The Act also provides that a person who knowingly possesses affected or suspected livestock cannot expose other livestock or move the affected livestock, except with permission from the Director. A person owning livestock is required to provide reasonable assistance to the Director during an examination and testing procedures. The bill would delete references to "livestock" and replace them with references to "animal" in these provisions.

The bill also would permit the Director to enter premises where animal products or feeds were suspected of being contaminated with an infectious, contagious, or toxicological disease and seize, impound, or dispose of the animal products or feed located on the premises. The Director could withhold a certain amount from destruction for the purpose of controlled research and experimentation. A person also would be prohibited, under the bill, from importing into the State an animal from another state or jurisdiction if that animal were under quarantine by the other state or jurisdiction unless that person obtained prior permission from the Director. The bill also would permit the Director to approve facilities for the orderly disposal of animals, animal products, and animal feeds in order to control or prevent the spread of an infectious, contagious, or toxicological disease. The Director could select a site for the disposal with the advice of the Director of the Department of Natural Resources (DNR).

Indemnification. The Act currently permits the Director to allow indemnification for the slaughter, destruction, or disposition of animals

due to livestock diseases or toxicological contamination. Under the bill, the Director would be prohibited from indemnifying an owner for animals that had been exposed to 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.

Currently, the Act permits the Attorney General to bring a civil action against a person who is responsible for intentionally or negligently introducing an infections, contagious, or toxicological disease into livestock in the State. The bill would add that the Attorney General also could bring a criminal action against a person who introduced such diseases into animals, animal products, or animal feeds, and would delete the reference to livestock.

Testing Programs. The Act requires the Department to cooperate with the U.S. Department of Agriculture in the control and eradication of brucellosis and pseudorabies in all porcine species in the State. The bill would permit the Department to participate in the market swine identification program set forth in Title 9 of the Code of Federal Regulations and the Uniform Methods and Rules for Brucellosis Eradication approved by veterinary services of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, which took effect July 1, 1986, or the Department could test for these diseases in any samples of porcine blood or tissue collected at a U.S. Department of Agriculture or Department-approved slaughter facility, any livestock collection or market facility, or any sample of porcine blood or tissue submitted for diagnostic purposes to a U.S. Department of Agriculture officially approved laboratory. The slaughter facility, livestock collection or market facility, or laboratory would have to provide adequate room, time, and safe conditions for the collection of blood or tissue samples. The bill also would change references to feeder swine to feeder pigs.

Importation

General Requirements. The Act establishes requirements on the importation of livestock into the State. Currently, cattle must originate

from an accredited tuberculosis-free state or herd, and goats must test negative to an official tuberculosis test or originate from an accredited tuberculosis-free herd. In addition, the Act provides that certain female cattle and breeding swine must test negative to an official brucellosis test or originate from a certified brucellosis-free herd. The bill specifies that these designations would have to meet the definitions included in Federal regulations, specified in the bill, for bovine tuberculosis eradication and brucellosis eradication.

Breeding swine. The Act provides that breeding swine brought into the State must be quarantined at their destination, and can be released upon receipt of an official negative pseudorabies test result. Under the bill, breeding swine would have to remain at the destination stated on the official interstate health certificate or official interstate certificate of veterinary inspection until the producer obtained an official test negative for pseudorabies, within the time frame already specified in the Act. The bill also provides that any person bringing breeding swine into the State on to a premises not quarantined for pseudorabies would have to have these swine tested for pseudorabies at least 30 and up to 60 days following the date of importation.

Importation of Wild Animals. Importation of a wild animal, not regulated by the Fish and Wildlife Service of the U.S. Department of Interior or the State DNR, currently requires a prior entry permit from the Director and an immediate examination, if considered necessary, to determine health status, proper housing, husbandry and confinement; an official interstate health certificate or certificate of veterinary inspection signed by an accredited veterinarian from the state of origin; and housing, feeding, restraining, and care that was approved by the Director.

Under the bill, the Director could require wild animals to test negative to specific official tests required by the Director within a time frame before importation into the State as determined by the Director. The Director could require wild animals to be identified in a manner approved by the Director. In addition, the official interstate health certificate or certificate of veterinary inspection would have to comply with all the Act's current requirements for

completing such certificates (MCL 287.720).

Exhibitions

A fair, exhibition, or show authority would be required to do both of the following: notify exhibitors of health tests and certificates required for importation and exhibition in the State, and examine and approve required livestock health certificates and show papers prior to the livestock exhibition. The Act requires provides that swine for exhibition be accompanied by certain test reports. Under the bill, this information still would be required, unless the swine originated from a Michigan county that the Director determined to have been free of pseudorabies for at least one year prior to the exhibition.

General Provisions

Currently, the Act requires that an official brucellosis calfhood vaccination be performed by an accredited veterinarian, that a brucellosis ring test be conducted on each herd shipping milk to a dairy plant in the State, and that disease surveillance for tuberculosis and brucellosis be conducted through a market cattle identification program. The bill would require that these tests and program be conducted under provisions set forth in Federal regulations, specified in the bill, for brucellosis eradication and bovine tuberculosis eradication.

In addition, the Department could participate in brucellosis and tuberculosis testing and surveillance, and could test for brucellosis and tuberculosis in any sample of cattle blood or tissue collected at a U.S. Department of Agriculture or Department-approved slaughter facility, any livestock collection or market facility, or any sample of cattle blood or tissue submitted for diagnostic purposes to a U.S. Department of Agriculture officially approved laboratory. The slaughter facility, livestock collection or market facility, or laboratory would have to provide adequate room, time, and safe conditions for the collection of blood or tissue samples.

MCL 287.706 et al.

FISCAL IMPACT

The bill would require the State to spend about

\$44,000 for one additional FTE, contractual services, supplies, and material, and travel. There would be minimal costs for fairs to implement additional duties.

ARGUMENTS

Supporting Argument

The bill would modify the year-old Animal Industry Act and address issues that have developed since the Act took effect, such as regulating the indemnification for animals that had been exposed to diseased animals with the owner's knowledge. The need for changes in the indemnification provisions reportedly resulted from the State's participation in the case of a farmer who was found to have deliberately infected his sheep with scrapie, an incurable disease of the brain. In addition, the bill would: clarify the responsibility of a county fair, exhibitor, or show authority to notify exhibitors of required health tests and certificates; establish additional requirements for the importation of wild animals into the State; clarify provisions permitting the Attorney General to bring a criminal action against a person who unlawfully introduced certain diseases into animals or animal products or feeds; and, provide statutory authority for certain practices, such as the drawing of animals' blood for testing when the animals were housed in stock yards or market facilities, that the Department and State veterinarian had been performing over the years.

Opposing Argument

Under the bill, the Director of the Department would be permitted to enter premises where animal products or feeds were suspected of being contaminated and would be able to seize, impound, or dispose of the animal products or feeds. While public health concerns would necessitate action by the Director when animal products or feeds were contaminated, permitting the Director to dispose of animal products or feeds that merely were suspected of being contaminated would give too much authority to the Director to take action that could have serious financial ramifications for a farmer. Proponents of the bill cite as precedent provisions of the Michigan Food Law that permit the condemnation of adulterated foods. Under the food law, a Department agent who suspects that food is adulterated is required to tag the food with a notice that the

food is or is suspected of being adulterated and has been detained or embargoed. The food law, however, requires the agent, upon finding that the food is adulterated, to petition the circuit court for a "libel of condemnation" of the food before the food can be destroyed (MCL 289.711). Thus, there must be a finding that the food, indeed, is adulterated--and not merely suspected of being adulterated--before it can be destroyed. As to Senate Bill 687 (S-1), there is no argument that animal products or feed that are suspected of being contaminated with disease should be seized or impounded, as the bill would provide, but disposal of such products or feed should be permitted only when contamination was determined, not merely suspected.

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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.