

PENALTIES FOR MOVING CERVIDAE INTO MICHIGAN

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House Bill 5146 (substitute H-2 as reported from committee)

Sponsor: Rep. John Kivela

Committee: Natural Resources

Complete to 3-25-16

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

BRIEF SUMMARY: House Bill 5146 would amend Section 40118 of the Natural Resources and Environmental Protection Act (NREPA) to increase the penalty for improper importation of cervid carcasses, or parts of cervid carcasses, from a state or province detected to have chronic wasting disease.

FISCAL IMPACT: Any increase in penal fine revenues resulting from HB 5146 would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

THE APPARENT PROBLEM:

Since May 2015, seven deer in Michigan have tested positive for Chronic Wasting Disease (CWD), which is fatal to deer who contract it. While highly contagious to deer and other cervids, at present, it is not known to affect humans.

As noted by several individuals giving testimony to the committee, CWD has resulted in a widespread reduction in the number of deer, elk, and other cervid herds. As Michigan attempts to control the CWD outbreak, the bill was promoted as an easy way to get hunters' attention by increases the fines related to bringing into the state parts of cervid carcasses that could contain the disease.

THE CONTENT OF THE BILL:

Presently, the Natural Resources and Environmental Protection Act (NREPA) says any violation of Part 401, or an order or interim order issued under Part 401, is a misdemeanor punishable by not more than 90 days imprisonment and/or a fine of at least \$50 but not more than \$500, plus the costs of prosecution. Section 40118, however, contains several instances where specific violations result in a penalty differing from that default penalty. The bill would add a new violation to that list.

Under House Bill 5146, importing a cervid carcass, or part of a cervid carcass, from a state or province detected to have chronic wasting disease in violation of an order or interim order would be a misdemeanor punishable by imprisonment for not more than 90 days, and/or a fine of not less than \$500 nor more than \$2,000, plus the costs of prosecution.

The bill would exempt the hide, deboned meat, antlers, or antlers attached to a skullcap cleaned of brain and muscle tissue from this penalty.

ARGUMENTS:

For:

Proponents of the bill say increasing fines will discourage individuals from bringing carcasses of potentially infected animals into Michigan and spreading CWD to the state's cervid populations. Supporters add that the intent is not to punish individuals so much as to make them aware of the risk that the disease poses to Michigan's cervid populations. If disease diminishes the quantity and quality of the herds, then it would likely impact the economic benefit brought by hunters.

Against:

While critics were not opposed to taking measures to prevent the spread of CWD, some questioned whether it was fair to penalize individuals who regularly hunt out of state and suddenly find that their previously legal activity would now result in a large fine. Additionally, concerns were raised about enforcement, and how equitably the newly increased fines would be levied if law enforcement was not setting up checkpoints at the border.

POSITIONS:

The following indicated support for HB 4156:

Department of Natural Resources (3-8-16)
Michigan United Conservation Clubs (3-8-16)
Michigan Environmental Council (2-23-16)
Quality Deer Management Association- Michigan Advisory Council (2-23-16)
UP Whitetails Association of Marquette County (2-23-16)

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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.