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Senate Bill 174 (Substitute S-2)  
Senate Bills 179 and 180 (as introduced 3-7-19)  
Senate Bills 181 and 182 (Substitute S-1)  
Senate Bill 183 (as introduced 3-7-19)  
Senate Bill 361 (as introduced 6-5-19)  
Sponsor: Senator Kevin Daley (S.B. 174)  
          Senator Roger Victory (S.B. 179)  
          Senator Dan Lauwers (S.B. 180 & 181)  
          Senator Ed McBroom (S.B. 182 & 183)  
          Senator Jim Ananich (S.B. 361)

Committee: Agriculture

Date Completed: 10-16-19

## **CONTENT**

**Senate Bill 174 (S-2) would amend the Animal Industry Act to do the following:**

- **Add, revise, and eliminate various terms and definitions.**
- **Allow the Director of the Department of Agriculture and Rural Development (MDARD) to develop, implement, and enforce a scientifically based extraordinary emergency order if he or she determined that a delayed response to a reportable animal disease would cause a significant impact on animals, animal industry, or public health.**
- **Authorize the Director to develop, implement, and enforce scientifically based orders, such as requirements for testing or animal or premises identification, that would have to be completed before the movement of animals from or between premises in Michigan.**
- **Authorize the State Veterinarian to serve as the authority for animal welfare oversight on livestock-related matters, and to maintain requirements for the importation of animals into the State.**
- **Prescribe additional requirements for the importation, distribution, and use of veterinary biologicals for experimental or field trial purposes.**
- **Specify that State employees could not divulge to an unauthorized person medical or epidemiological information that identified the owner of an animal that was gathered by MDARD in connection with a reportable animal disease.**
- **Eliminate certain provisions pertaining to bovine tuberculosis (TB) testing.**
- **Specify that a requirement that all cattle must bear official identification before they leave a premises would apply unless the first point of destination was a tagging agreement site approved by the Director.**
- **Specify that the Director could require movement controls for the movement of animals within the State to prevent or control a specific reportable animal disease.**
- **Modify the requirements for intrastate movement of privately owned cervids.**

- **Require an owner of live privately owned cervids to notify MDARD of certain information within five days of a movement from one premises to another within Michigan.**
- **Increase amounts prescribed for indemnification in the event animals were destroyed because of a reportable animal disease or toxicological contamination.**
- **Require a privately owned cervid premises licensed under the Privately Owned Cervidae Producers Marketing Act to participate in the chronic wasting disease (CWD) herd certification program.**
- **Require livestock imported into Michigan to meet certain Federal regulations for official identification.**
- **Prescribe additional requirements for exhibition facilities, the presence of veterinarians at fairs and exhibitions, and the exhibition of poultry.**
- **Prescribe requirements for live bird markets.**
- **Prohibit a farm owner or operator from tethering or confining an egg-laying hen in an enclosure other than a cage-free housing system or with less than the amount of usable floor space per hen as provided in the United Egg Producer's housing guidelines for cage-free egg production.**
- **Prohibit a business owner from knowingly selling an egg that was the product of a farm with 3,000 or more egg-laying hens if the owner knew or should have known that the egg was produced by a hen that was confined in violation of the egg-laying hen confinement standards, beginning December 31, 2025.**
- **Replace certain references to "animals" with references to "livestock".**
- **Reorganize various provisions of the Act.**

**Senate Bill 179 through Senate Bill 183 and Senate Bill 361 would amend various acts to update Michigan Compiled Laws references to the Animal Industry Act to reflect the changes proposed by Senate Bill 174 (S-2).**

Senate Bill 174 (S-2) also would repeal Sections 4, 5, 6, 8, 10, 13, 13a, 15, 16, 17a, 23, 24, 24a, 26a, 27, 28, 29, 29a, 30, 30a, 30b, 30c, 30d, 32, 33, 35, and 41 of the Act. (Many of these sections would be recodified, in whole or in part, throughout the bill. Others, including Sections 13a (terminal operations), 16 (branding of livestock for destruction), 24 (identification of nonnative cattle), 24a (placement of nonnative cattle), 27 through 30 (importation of sheep, goats, new world camelids, aquaculture, and poultry), and 32 (importation of San Juan rabbits) would be eliminated.)

Senate Bill 179 would amend the Agricultural Commodities Marketing Act. Senate Bill 180 would amend the Code of Criminal Procedure. Senate Bill 181 (S-1) would amend the Michigan Penal Code. Senate Bill 182 (S-1) would amend the Wildlife Depredations Indemnification Act. Senate Bill 183 would amend the Wolf-Dog Cross Act. Senate Bill 361 would amend the Michigan Fireworks Safety Act.

Senate Bills 179 through 183 and Senate Bill 361 are tie-barred to Senate Bill 174. Each bill would take effect 90 days after its enactment.

Senate Bill 174 (S-2) is discussed in greater detail below.

#### Definitions

"Animal welfare" would mean the well-being of animals based upon animal husbandry, animal science, and veterinary science practices and standards.

"Animal" means mollusks, crustaceans, and vertebrates other than human beings including livestock, exotic animals, aquaculture, and domestic animals. The bill would refer to

aquaculture *species*. "Aquaculture species" would mean that term as defined in the Michigan Aquaculture Development Act: aquatic animal organisms including fish, crustaceans, mollusks, reptiles, or amphibians reared or cultured under controlled conditions in an aquaculture facility.

"Livestock" means those species of animals used for human food and fiber or those species of animals used for service to humans. The term includes cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. The term does not include dogs and cats. Under the bill, the term also would include old world camelids.

"Exhibition or exposition" means a congregation, gathering, or collection of livestock that are presented or exposed to public view for show, display, swap, exchange, entertainment, educational event, instruction, advertising, or competition. The term does not include livestock for sale at public stockyards, auctions, saleyards, and livestock yards licensed under Public Act 284 of 1937 (which pertains to the licensing of livestock dealers). Under the bill, instead of "livestock", the definition would refer to "animals".

### Emergency Orders

Under the Animal Industry Act, if the MDARD Director determines that a disease or condition in animals poses an extraordinary emergency to the livestock industry, public health, or human food chain of the State, he or she must notify the Governor of that determination and the reasons for the determination. The Director must recommend the procedures he or she considers necessary to eliminate the threat. The Governor then may issue a proclamation declaring a state of emergency, and is authorized to expedite necessary procedures to control the spread of, or to eradicate, the disease or condition.

Under the bill, the Director could develop, implement, and enforce a scientifically based extraordinary emergency order if he or she determined that a delayed response to a specific reportable animal disease or condition would cause a significant impact on animals, an animal industry, or public health. The order would have to be specific and would have to consider the impact on animals and product movement. An order could not be in effect for more than 72 hours without the approval of the Department and notification to and advice from representatives of the affected industry and could not remain in effect for longer than six months. The Director would have to act in consultation with the Department of Health and Human Services (DHHS) if there were an extraordinary emergency causing a significant impact on public health.

### Scientifically Based Orders

The Act authorizes the Director to develop, implement, and enforce scientifically based movement restrictions and requirements. The bill, instead, would authorize the Director to develop, implement, and enforce scientifically based orders, including requirements for testing, animal or premises identification, record keeping or premovement documentation, or on-farm management practices that would have to be completed before the movement of animals from any premises, or between premises within Michigan.

The Department of Agriculture and Rural Development must comply with the following procedure before issuing zoning requirements:

- Develop scientifically based zoning requirements with advice and consultation from the livestock industry and veterinary profession.

- Place the proposed zoning requirements on the Commission of Agriculture and Rural Development agenda at least one month before final review and order by the Director, during which written comments may be submitted to the Director, and the Director must hold at least one public forum within the affected areas.
- At least one month before implementation, place the proposed zoning requirements in a newspaper of each county within the proposed zoning requirement area and at least two newspapers having circulation outside of the area.

Under the bill, this procedure would continue to apply before the Department could issue a scientifically based order described above, except one month before implementation of the order, the Department would have to place the proposed requirement in a media channel in each county within the area subject to the proposed requirement, and at least one media channel having circulation outside of the area.

The Director may revise or rescind movement restrictions and other requirements implemented. The revision or revocation of a movement restriction or other requirement must comply with the procedure described above unless it does not alter the boundary of a previously established zone. This would apply to the revision or rescission of an order issued under the bill.

The Act authorizes the Director to establish high-risk areas and potential high-risk areas based upon scientifically based epidemiology. The Director must notify the Commission and publish public notice in a newspaper of each county with general circulation in any area designated as a high-risk or potential high-risk area. Under the bill, the Director could create an order to establish high-risk areas, potential high-risk areas, a disease-free zone, an infected zone, or a surveillance zone based upon the finding of a reportable animal disease or scientifically based epidemiology. The Director would have to notify the Commission, as currently required, and the affected animal industry.

(Under the Act, "high-risk area" means an area designated by the Director where bovine TB has been diagnosed in livestock. Under the bill, the term would mean an area in the State that has a defined dimension determined by the Director in which a specific reportable animal disease has been diagnosed in domesticated animals.)

("Surveillance zone" means any area in the State with defined dimensions that is located adjacent and contiguous to an infected zone as determined by the Department in consultation with the United State Department of Agriculture (USDA). Under the bill, the term would mean an area in the State that has a defined dimension determined by the Director to be at risk for a specific reportable animal disease and is located adjacent and contiguous to an infected zone. "Infected zone" means any area in the State with defined dimensions in which bovine TB is present in livestock and separated from the disease-free zone by a surveillance zone as determined by the Department in consultation with the USDA. Under the bill, the term would mean an area in the State that has a defined dimension determined by the Director in which a specific reportable animal disease is present in animals and separated from a disease-free zone by a surveillance zone.)

The bill would retain provisions authorizing the Director to call upon a law enforcement agency to assist in enforcing orders, and to enter into agreements with other governments or a person to protect the State's animal industry or human food chain. "Law enforcement agency" means the Department of State Police, the Department of Natural Resources (DNR), or a law enforcement agency of a county, township, city, or village that is responsible for the prevention and detection of crime and enforcement of the criminal laws of the State. Under the bill, the term would include a tribal law enforcement agency.

## State Veterinarian

The Act requires the Director to appoint a State Veterinarian to serve as the chief animal health official of the State. Under the direction of the Director, the State Veterinarian must do all of the following:

- Develop and enforce policy and supervise activities to carry out the Act and other State and Federal laws, rules, and regulations that pertain to the health and welfare of animals in Michigan on public or private premises.
- Develop and implement scientifically based surveillance and monitoring programs for reportable animal diseases.
- Maintain a list of veterinary biologicals whose sale, distribution, use, or administration by any person is reported to the Director within 10 working days of the sale, distribution, use, or administration.
- Promulgate rules for the use of veterinary biologicals, including diagnostic biological agents.

The Act requires the State Veterinarian to maintain a list of reportable animal diseases, which the State Veterinarian must review annually and more often if necessary. Under the bill, when feasible and practicable, the State Veterinarian would have to seek input from stakeholders for any changes in the list.

The bill would require the State Veterinarian to serve as the authority for animal welfare oversight on livestock-related issues, and to maintain requirements for the importation of animals into the State. When feasible and practical, the State Veterinarian would have to seek input from stakeholders for any changes in importation requirements.

## Autogenous Veterinary Biologicals

Section 43 of the Act, among other things, prescribes notification requirements for the exportation, distribution, and sale of veterinary biologicals, and requires the Director to pursue restrictions on the distribution and use of veterinary biologicals when he or she determines that those restrictions are necessary for the protections of domestic animals or the public health, interest, or safety. In these provisions, where Section 43 refers to "veterinary biologicals", the bill would refer to "autogenous veterinary biologicals". "Autogenous veterinary biological" would mean all bacteria, viruses, serums, toxins, or analogous products from a specific herd that are custom-made with herd-specific antigens.

("Veterinary biological" means all viruses, serums, toxins, and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals. Under the bill, the term would include all bacteria intended for use in the diagnosis, treatment, or prevention of diseases in animals.)

Under the bill, notwithstanding any other provision of the Act, the Director could at any time revoke the distribution of a veterinary biological or an autogenous veterinary biological if it had a substantial impact on public health, animal health, or the animal industry.

A person that requested permission to distribute in Michigan veterinary biologicals that were conditionally licensed by the USDA or that were subject to import permits for distribution and sale by the USDA would have to submit all of the following information to MDARD:

- A copy of the USDA license.

- Any restrictions set forth by the USDA.
- A complete name of the product, including the generic and trade name.
- Product information, including directions for use.
- Slaughter withdrawal times, if applicable.

A person that desired to import into the State or to distribute intrastate, for experimental or field trial use, a biological that was not licensed by the USDA would have to request and obtain permission from the Director before importing it into the State.

A person that requested permission to import or distribute intrastate and veterinary biological to be administered to animals owned by the public for experimental or field trial purposes would have to submit a written statement to the Department, which would have to be given to the owner of the animal before the administration, prescription, or distribution of the biological. The written statement would have to state the following:

- That the veterinary biological to be administered, prescribed, or dispensed to the animal was an experimental or field trial biological.
- That the veterinary biological had not been approved by the USDA or MDARD for unconditional use.

A determination of whether to allow the import or intrastate distribution of a veterinary biological for experimental or field trial purposes would have to be based on at least all of the following:

- The need for the product by the animal industry.
- The safety of the product for the target animal species and the person who administered it.
- The safety of the human food chain, if the biological were used in food-producing animals.

A veterinary biological for experimental or field trial purposes would have to be shipped only to a veterinarian, and would have to be used only by the veterinarian to whom it was shipped or by an individual under his or her direct supervision. A person that consigned, shipped, or transported a veterinary biological for those purposes into or within the State would have to file a report of each requested shipment with MDARD within five business days of the shipment. The report would have to contain all of the following information:

- The quantity consigned, shipped, or transported.
- The expiration date of the product.
- The complete name of the veterinary biological.
- The name and address of the veterinarian receiving the biological.

The Department would not be liable to a person that had received permission to import or distribute intrastate a biological for experimental or field trial purposes for any injury due to the use of that biological to humans or animals or for the loss of any animals. A person that received permission to import or distribute intrastate a biological for those purposes would have to report an adverse reaction to the Department within five business days.

The Director could limit the distribution of a veterinary biological for experimental or field trial purposes to certain geographical regions within the State and for specific time periods. The Director at any time could revoke permission to distribute a veterinary biological for experimental or field trial purposes.

## Reportable Animal Diseases; Information Identifying Owner

A person who discovers, suspects, or has reason to believe that an animal is affected by a reportable disease or contaminated with a toxic substance must immediately notify the Director. The Director must take appropriate action to investigate the report. The person who owns the animal must provide reasonable assistance to the Director during the examination and necessary testing procedures.

The Act specifies that medical or epidemiological information that identifies the owners of animals and is gathered in connection with a report described above, or information gathered in connection with an investigation of the report, is confidential and exempt from disclosure under the Freedom of Information Act. Under the bill, in addition, State employees or contractors would be bound by Section 2 of Public Act 196 of 1973 with respect to the information. (Section 2 of that Act prohibits a public officer or employee from divulging to an authorized person confidential information acquired in the course of employment in advance of the time prescribed for its authorized release.)

Under the Animal Industry Act, the information is not open to public inspection without the owner's consent unless public inspection is necessary to protect the public or animal health as determined by the Director. Under the bill, the information would not be open to public inspection without the owner's consent unless one of the following applied: a) public inspection was necessary to protect the public or animal health as determined by the Director; or b) public inspection was necessary to protect the public health as determined by the Director of the DHHS.

Notwithstanding any other provision of the Act, the State Veterinarian would have to be notified of a reportable animal disease found in a wild bird, wild animal, game, or protected animal under the Natural Resources and Environmental Protection Act, or a State or Federal fish hatchery. The appropriate resource agency, including the DNR and the United States Fish and Wildlife Service, would have to retain authority over that animal.

("Wild animal" means any nondomesticated animal or any cross of a nondomesticated animal. Under the bill, "wild animal" would mean that term as defined in Section 43508 of the Natural Resources and Environmental Protection Act: a mammal, bird, fish, reptile, amphibian, or crustacea of a wild nature indigenous to the State or introduced to the State by the DNR or a species determined by the DNR to be of public benefit.)

## Official Identification

The Animal Industry Act requires all cattle, goats, sheep, and privately owned cervids to bear official identification before they leave a premises. Under the bill, this would apply to cattle unless the first point of destination was a tagging agreement site approved by the Director. As used here, "official identification" would mean an electronic radio frequency identification or other forms of official identification for cattle as approved by the Director.

The official identification requirement would apply to all goats, sheep, and privately owned cervids. Sheep and swine presented for exhibition or exposition or at fairs within Michigan would have to be identified individually with an official identification tag. For this purpose, a tattoo would not be an official identification tag.

The bill would retain the Act's prohibitions against removing or altering the official identification of an animal, or misrepresenting an animal's identity or the ownership of an animal.

## Movement Controls & Documentation

The Director of MDARD could require movement controls for the movement of animals within the State to prevent or control a specific reportable animal disease, and could require an official intrastate health certificate or official intrastate certificate of veterinary inspection or another approved form to be prepared and signed by a veterinarian. The forms described above would have to include certain information, described below. Animals subject to movement controls would have to be accompanied with an official intrastate health certificate or official intrastate certificate of veterinary inspection or another approved form. When the intrastate movement of livestock caused livestock to cross from one zone into another, it would have to meet the testing requirements for their zone of origin or destination.

The bill would retain a provision prohibiting livestock that have entered a slaughter facility premises, and their offspring, from leaving the premises unless prior permission is granted by the Director to move the livestock to another premises.

## Intrastate Movement of Privately Owned Cervids

The Act requires all live privately owned cervids moving from one premises to another premises within the State to be officially identified with an identification approved by the Director. The bill retains this requirement, and would require the owner to notify the Department within five business days of the movement of privately owned cervids of the complete names, telephone numbers, and physical addresses of the consignor and consignee, the address of the premises of the animals to be moved, the physical destination address (if different from the consignee address), and description of the animals by breed, sex, age, and individual official identification number by species.

The Act specifies that all live privately owned cervids six months of age or older moving from one premises to another premises within the State, except those consigned directly to a State or Federally inspected slaughter facility premises, must comply with one of several conditions pertaining to TB testing or monitoring.

One condition requires the cervids to originate directly from a herd that has received an official negative TB test of all privately owned cervids 12 months of age or older and all cattle and goats six months of age or older in contact with the herd more than 24 months before movement, receive an individual negative official test for TB within 90 days before movement, and be accompanied by a copy of the official tests for TB verifying that testing. Under the bill, this condition would require the cervids to receive an individual negative official test for TB within 90 days before movement and a negative official whole herd test within 120 months before movement, and to be accompanied by a copy of the official tests for TB verifying that testing.

The Act also specifies that all live privately owned cervids less than six months of age moving from one premises to another premises within the State, except those consigned directly to a State or Federally inspected slaughter facility premises, must comply with one of several conditions pertaining to TB testing or monitoring.

One condition requires the cervids to originate directly from a herd that has received an official negative TB test of all privately owned cervids 12 months of age or older and all cattle and goats six months of age or older in contact with the herd more than 24 months before movement and be accompanied by an official permit for movement of privately owned cervids less than six months of age within Michigan or an official interstate health certificate issued by an accredited veterinarian, and to remain at the destination stated on the permit or official interstate health certificate until it receives an official negative TB test when it reaches six,



but not more than eight, months of age. Where the Act refers to "more than 24 months", the bill would refer to "within the 120 months".

### Seizure & Destruction of Livestock or Domestic Animals

Under the Animal Industry Act, if the Director determines that the control or eradication of a disease or condition of livestock warrants entry onto property where livestock or domestic animals are located, he or she must order the entry onto property where livestock or domestic animals are located and authorize seizure, slaughter, destruction, or other disposition of individual livestock or domestic animals or the entire herd, flock, or school. Where the Act refers to "school", the bill would refer to "aquaculture lot". The bill would require animals ordered to be slaughtered, destroyed, or otherwise disposed of for infectious or toxicological disease to be identified and disposed of in a manner approved by the Director.

("Aquaculture lot" would mean a group of aquatic animals that share approximately the same risk of exposure to pathogenic agent or toxin within a defined location due to common management or sharing a common aquatic environment.)

The bill would eliminate a provision requiring the Director to notify the Attorney General, the House of Representatives and Senate Appropriations Committees, and the Department of Management and Budget if he or she has signed an order for the destruction of livestock or domestic animals.

The bill would retain provisions requiring a depopulated premises to be cleaned and disinfected, and specifying that repopulation does not confer eligibility for future indemnity. Under the bill, the Director could require additional biosecurity and wildlife mitigation measures, as determined by the Director in an order, before allowing repopulation of a premises.

### Indemnification for Destruction of Animals

The Act authorizes the Director to allow indemnification for the slaughter, destruction, or other disposition of livestock or domestic animals because of diseases or toxicological contamination. If the Director has signed an order for the slaughter, destruction, or other disposition of livestock or domestic animals, the owner may apply for indemnification. Under the bill, this would apply only if the Director had signed an order for the destruction of livestock. Also, to be eligible for indemnification for destroyed livestock in an area of the State where a reportable animal disease was prevalent and an order was in place, a defined management plan for the area would have to be in place.

The Act requires the Director to appraise and inventory the condemned livestock or domestic animals. The appraisals and inventories must be on forms approved by the Director. The Director must use agricultural pricing information from commercial livestock or domestic animal auction markets and other livestock or domestic animal market information as to determine the value of condemned livestock or domestic animals. Under the bill, for livestock, the Director would have to use agricultural pricing information from commercial livestock auction markets and other livestock market information to determine the value of condemned livestock. For domestic animals, the Director would have to use pricing information from domestic animal auctions and other domestic animal market information to determine the value of condemned domestic animals.

Generally, indemnification for individual livestock or domestic animals must be based upon 100% of the fair market value of that type of livestock or domestic animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal was

intended, not to exceed \$4,000 for each livestock or domestic animal. The Department may provide for indemnity not to exceed \$100,000; an agreement for an indemnity exceeding this amount must include a provision that the indemnification is subject to specific appropriations by the Legislature. The bill would eliminate these provisions.

Under the bill, instead, indemnification for individual or entire herd, flock, of aquaculture lot depopulations of livestock would have to be based upon 100% of the fair market value of that type of animal on the date of the appraisal and marketable for the purpose for which the livestock was intended, not to exceed \$10,000 for each livestock or an average of \$5,000 per animal in the flock, herd, or lot. Indemnification for individual or entire group depopulations of domestic animals would have to be based upon 100% of the fair market value of that type of animal on the date of the appraisal and marketable for the purpose for which the domestic animal was intended, not to exceed \$4,000 for each animal or an average of \$500 per animal in the group.

As is currently the case, the appraisal determination could not delay depopulation, and the indemnification amount would have to include a deduction for compensation received, or to be received, from any source. The bill also retains provisions specifying that acceptance of indemnification constitutes a release of any claims the owner has against the State and its subdivisions, employees, and contractors; that the right to indemnity for destroyed livestock or animals applies only to native livestock and domestic animals; and that the State will not indemnify an owner of livestock or domestic animals for a loss unless the owner executes a subrogation agreement assigning to the State the right to a cause of action to recover damages for the loss up to the amount of the indemnity.

Under the bill, the Director could require additional biosecurity and wildlife risk mitigation measures, as determined by the Director in an order, for future indemnification eligibility.

The bill would eliminate requirements that the Directors of MDARD and the DNR issue reports to the standing Senate and House committees with jurisdiction over agricultural and farming issues on bovine TB eradication efforts.

#### Surveillance Testing; Quarantine

The Act authorizes the Director to order testing for any reportable disease in any geographical area or in any herd to accomplish surveillance necessary for the State to participate in the National Tuberculosis Eradication Program, to complete epidemiologic investigations for any reportable disease, or in any instance where a reportable disease is suspected. The bill would eliminate this language and other language pertaining to bovine TB testing.

Under the bill, the Director could order surveillance testing of animals for a specific reportable animal disease in the State with a defined dimension as determined by the Director. The Director also could order surveillance testing of animals for either of the following purposes:

- To accomplish surveillance necessary for the State to comply with rules and regulations adopted by the United States Secretary of Agriculture under any act of Congress providing for the prevention, control, or eradication of a reportable animal disease.
- To complete epidemiologic investigations for a specific reportable animal disease, or in any instance where a reportable animal disease was suspected.

The bill would authorize the Director to establish a surveillance testing program for the intrastate movement of animals. The Director could designate the status of certain herds, flocks, or aquaculture lots as certified, accredited, validated, qualified, monitored, clean, or

free of a specific disease when the herd, flock, or lot had met the Director's requirements for that status.

The bill specifies that if a person did not cause an animal or a herd, flock, or aquaculture lot to be tested under the Act, the Director would have to notify the person responsible for management of the animal or herd of the necessity of the testing and deadline for testing. The Director would have to quarantine any animal or herd that had not been tested until it could be completed by State or Federal regulatory veterinarians or accredited veterinarians, at the owner's expense.

#### Privately Owned Cervid Operation

Section 30d of the Act prescribes requirements for testing and inspecting privately owned cervid farms and ranches for TB. As noted above, the bill would repeal Section 30d. Instead, the bill would require the owner of any newly established privately owned cervid operation to initiate testing for TB within 18 months following assembly of the herd. The testing would have to be conducted by an accredited veterinarian. This provision would not apply to an owner who follows a bovine TB accreditation program or an owner who acquired the cervids from a herd that was subject to bovine TB accreditation program requirements.

A privately owned cervid premises would have to meet minimum requirements for CWD testing as required by the Director. The owner of a privately owned cervid operation would have to submit samples to an approved laboratory.

"Approved laboratory" means a State, Federal, or private veterinary diagnostic laboratory approved by the USDA Animal and Plant Health Inspection Service, Veterinary Services, to conduct approved official laboratory tests for equine infectious anemia. Under the bill, instead of "equine infectious anemia", the bill would refer to "a specific reportable animal disease".

A privately owned cervid premises that was licensed as a full facility under the Privately Owned Cervidae Producers Marketing Act would have to participate in the CWD herd certification program.

#### Animal Importation Requirements

Livestock imported into the State must meet all requirements under appropriate provisions of the Act and must be accompanied by one of the following:

- An official interstate health certificate.
- An official interstate certificate of veterinary inspection.
- An owner-shipper statement or sales invoice if consigned directly to slaughter, or if nonnative neutered cattle imported directly to a cattle importation lot.
- A "report of sales of hatching eggs, chicks, and poults" (vs form 9-3) for participants in the National Poultry Improvement Plan.
- A "permit for movement of restricted animals" (vs form 1-27), if prior approval is granted by the Director.
- A fish disease inspection report for aquaculture only.
- Permission from the Director.

Where the Act refers to "livestock", the bill would refer to "animals". Also, an animal imported into the State would have to be accompanied by an owner-shipper statement or sales invoice if it were imported and consigned directly to slaughter or through a livestock auction market and then directly to slaughter.

Livestock imported into the State would have to meet Federal regulations for official identification under 9 CFR Part 86 (which pertains to animal disease traceability), unless otherwise authorized by the Director.

A person may not import or move intrastate livestock known to be affected with or exposed to CWD, TB, or brucellosis, as determined by an official test, without the Director's permission. Under the bill, a person also could not import or move intrastate livestock known to be affected with or exposed to any other disease identified by the Director without his or her permission.

#### Eliminate References to Movement Intrastate

An official interstate or intrastate health certificate or official interstate or intrastate certificate of veterinary inspection must be prepared and signed by an accredited veterinarian in the state of origin for animals requiring a certificate and being imported into the State or being moved from one premises to another premises within the State. An official interstate or intrastate health certificate or official interstate or intrastate certificate of veterinary inspection for animals being imported to or exported from the State or being moved from one premises to another premises within the State when required must include all of the following:

- The complete names and addresses of the consignor and consignee and the destination address if different from the consignee address.
- A description of the animals by breed, sex, and age, and a signed certification by the consignor that the animals in the shipment are those described on the certificate.
- The date of examination of the animals by the accredited veterinarian preparing the certificate.
- The intended use of the livestock, including use for dairy, breeding, feeding or grazing, or immediate slaughter.
- The health status of the animals by recording the results of the required tests, required vaccinations, and any other data concerning the health of the animals including herd or State disease-free status.
- The prior entry permit issued by the Director, if a prior entry permit is required.

The bill would eliminate references to "intrastate" and "or being moved from one premises to another premises within this state". An official interstate health certificate or official interstate certificate of veterinary inspection for animals being imported to or exported from the State when required would have to include all of the following:

- The complete names, telephone numbers, and physical addresses of the consignor and consignee, the address of the premises of the animals to be moved, and the physical destination address if different from the consignee address.
- A description of the animals by breed, sex, age, and individual official identification number, as determined by the Director.
- The date of examination of the animals by the accredited veterinarian preparing the certificate, and the date the certificate was issued.
- The intended use of the animal, including use for sale, dairy, breeding, feeding or grazing, exhibition, immediate slaughter, or other.
- The health status of the animals by recording the results of the required tests, required vaccinations, and any other data concerning the health of the animals including herd or State disease-free status.
- The prior entry permit number issued by the Director, if a prior entry permit were required.

### Animal Imported without Required Identification

The Act specifies that if an animal is imported into the State without the required official tests or documents, the Director may do any or all of the following:

- Quarantine the animal.
- Require that the required tests or documents be performed or obtained at the owner's expense.
- Require the animal be returned to the state of origin within 10 days after the notification.
- Order the slaughter, destruction, or other disposition of the livestock, if the Director determines that the control or eradication of a disease or condition of the livestock is warranted.
- Allow a direct movement of the animal or animals to slaughter by permit.
- Allow legal importation into another state.

Under the bill, if an animal were imported into the State without the required official tests, vaccination, official identification, or documents, the Director could do one or more of the following:

- Quarantine the animal or the premises, or both.
- Require that the required tests, official identification, or documents be performed or obtained at the owner's expense.
- Require the animal be returned to the state of origin after notification that the animal was imported into the State without the required official tests, vaccination, official identification, or documents.
- Order the slaughter, destruction, or other disposition of the animal, if the Director determined that the control or eradication of a disease or condition of the animal was warranted.
- Allow a direct movement of the animal, if applicable, to slaughter by permit.
- Allow legal importation into another state.

If the official test result or proof of shipment of the animal back to the state of origin has not been received within 15 days after notification, the Director may order that the required tests be performed by a department veterinarian, at the owner's or importer's expense. Under the bill, this also would apply for proof of vaccination or proof of identification.

### Species Not to be Imported

Under the bill, the Director could create an order as provided in Section 31.

Under Section 31, any species having the potential to spread serious diseases or parasites, to cause serious physical harm, or to otherwise endanger native wildlife, human life, livestock, domestic animals, or property, as determined by the Director, may not be imported into the State. Where the Act refers to "wildlife", the bill would refer to "wild animal". Under the bill, the above prohibition would apply except as determined by the Director of the DNR.

An order of the Director applies to a genetically engineered variant of the species identified in the order, unless the order expressly provides otherwise. An order of the Director may be limited to a genetically engineered organism. The bill would eliminate the latter provision, and would specify that an order of the Director would apply to the species identified in the order, unless it provided otherwise.

The Director may require compliance with any or all of the following before the importation of a wild animal or an exotic animal species not regulated by the Fish and Wildlife Service of the United States Department of Interior or the DNR:

- Physical examination by an accredited veterinarian be conducted after importation to determine the health status, proper housing, husbandry, and confinement of any animal permitted to enter the State.
- Negative test results to specific official tests required by the Director within a time frame before importation into the State as determined by the Director.
- Identification prior to importation in a manner approved by the Director.

Under the bill, the Director also could require compliance with a prior entry permit.

The bill would eliminate provisions specifying that an order of the Director would apply to a genetically engineered variant of the species identified in the order, unless it expressly provided otherwise, and requiring certain documents to accompany wild or exotic animals imported into Michigan.

The bill generally would prohibit a person from importing a large carnivore or a wolf-dog cross, (unless otherwise allowed under the Large Carnivore Act and the Wolf-Dog Cross Act, respectively) as those terms are defined in those respective Acts. ("Large carnivore" would mean any of the listed cats of the Felidae family, whether wild or captive bred, including a hybrid cross with such a cat, or a bear of a species that is native or nonnative to Michigan, whether wild or captive bred. "Wolf-dog cross" would mean a canid resulting from the breeding of any of the following: i) a wolf with a dog, ii) a wolf-dog cross with a wolf, iii) a wolf-dog cross with a dog, or iv) a wolf-dog cross with a wolf-dog cross.)

#### Requirements for Exhibition Facilities

The Act specifies that, unless otherwise approved or waived by the Director, a facility for exhibition of livestock must be built to allow sufficient separation of each exhibitor's livestock and to allow for sufficient separation of species. The bill would refer to "animals" instead of "livestock".

The Act requires an exhibition building or yarding facility to be cleaned and disinfected with USDA-approved disinfectant used in accordance with label instructions before livestock are admitted by removing from the premises all manure, litter, hay, straw, and forage from pens, runways, and show rings, and thoroughly disinfecting walls, partitions, floors, mangers, yarding facilities, and runways before each use in a manner approved by the Director. Under the bill, an exhibition facility and associated buildings would have to be cleaned and disinfected with a State Veterinarian-approved disinfectant used in accordance with label instructions before animals are admitted.

The bill also specifies that all of the following would apply to exhibition facilities:

- Animal housing would have to be constructed and placed to provide adequate light and ventilation appropriate for the animals being housed.
- Access to hand-cleansing facilities or hand-sanitizing methods would have to be available in close proximity to each building that housed animals.
- Bedding used by livestock, feed waste, shipping containers, and other animal-associated waste would have to be removed from the animal area and disposed of in a timely and responsible manner.
- An animal could not be used as a prize at a carnival or midway activity unless approved by the Director.

"Carnival" would mean a traveling circus, charity fund-raiser, amusement arcade, amusement park, or a State or county fair or similar event. "Midway activity" would mean any game of chance, game of skill, or any game for amusement or entertainment at a carnival.

#### Veterinarian; Exhibition or Exposition

The Act requires a fair to have an accredited veterinarian on call whenever there are animals on the premises during the fair. Under the bill, this also would apply to an exhibition or exposition.

In addition, the Act requires livestock with clinical signs of infectious, contagious, or toxicological disease to be removed from the fair, exhibition, or exposition or, by permission of the Director, to be isolated on the premises. Under the bill, animals with clinical signs of infectious or toxicological disease observed at check-in or during the event would have to be removed or isolated. The bill would allow an accredited veterinarian's knowledge and advice to be sought by an exhibitor or exhibition staff to assess for clinical signs of infectious, contagious, or toxicological disease.

The Act specifies that it is the exhibitor's responsibility to ensure that all requirements for testing, identification, and official interstate health certificate or official interstate certificate of veterinary inspection are fulfilled before importation and that proof of fulfilling these requirements is provided to the Director, fair, exhibition, exposition, or show authority upon request. Under the bill, it would be the exhibitor's responsibility to ensure that all reports, test charts, official identification, and official interstate health certificate or official interstate certificate of veterinary inspection required by the Act accompany the animals and that proof of fulfilling these requirements was provided to the entities specified above.

The bill would eliminate requirements pertaining to swine exhibition.

#### Exhibition & Exposition of Poultry

The Act specifies the exhibition of poultry is subject to certain testing requirements for salmonella pullorum-typhoid, and prohibits a shipping crate used for the shipment of birds by a common carrier from being used as an exhibition coop. The bill would retain these provisions.

The Act also prescribes requirements for the construction and cleaning of exhibition coops, and the use of feed and water containers in exhibition coops. The bill would eliminate these provisions. Under the bill, exhibitors would have to provide adequate feed and water to exhibited animals, and would have to clean and replace bedding material as often as necessary to maintain health.

#### Live Bird Market

Under the bill, a transporter bringing poultry to a live bird market would have to comply with the Act and Public Act 284 of 1937. "Live bird market" would mean a facility that sells live poultry for slaughter and that is licensed by the Department under the Food Law.

A person operating a live bird market would have to do all of the following:

- House live poultry in rooms that could be cleaned and disinfected.
- House waterfowl and game birds separately from chickens.
- Remove poultry from transport crates no later than eight hours after arrival at the facility.

- Store transport crates in a separate area, and clean and disinfect transport crates before reuse.
- When poultry are housed in cages: a) use cages constructed of material that can be cleaned and disinfected; b) provide birds with room to stand up, lie down, turn around, and groom without touching other birds or a surface of the cage; c) refrain from stacking cages, unless there were provisions to allow manure to be removed and to prevent manure, feed, and water from soiling other cages or birds.
- Provide water to birds up to the time of slaughter.
- Provide nutritionally adequate food to birds up to at least 12 hours before slaughter.
- Ensure that there was at least one 24-hour period each week during which there were no birds in the facility and areas where birds were housed and any cages or pens were cleaned and disinfected.

The bill also would require a person operating a live bird market to ensure that slaughter was performed using one of the following methods:

- A method in which the bird was rendered insensible to pain by mechanical, electrical, chemical, or other means that was rapid and effective before the bird was shackled, hoisted, thrown, cast, or cut.
- A method in accordance with the ritual requirements of a religious faith in which the bird suffered loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

#### Baby Poultry

The bill would require a person housing baby poultry for sale to individuals for the primary purpose of maintaining, for personal use, an individual bird or a flock and was not part of the National Poultry Improvement Program to do all of the following:

- Keep hand-cleansing stations or facilities available in close proximity to the area where baby poultry were housed.
- Construct a baby poultry housing area and enclosures containing baby poultry with a material that could be adequately cleaned and disinfected.
- Provide adequate space and ventilation in enclosures where baby poultry were housed.
- Clean and disinfect the baby poultry area and enclosures at least once daily with USDA-approved disinfectant used in accordance with label instructions.
- Remove bedding used by baby poultry, feed waste, shipping containers, and other animal-associated waste from the baby poultry area and dispose of it in an area not accessible to the public.
- Provide water and nutritionally adequate food to baby poultry up to the time of sale.
- Maintain and keep records of purchase and sale of baby poultry for a period of two years after the date of purchase or sale, including the name and address of the person purchasing the poultry and the date of the transaction.

"Baby poultry" would mean poultry under the age of three weeks.

#### Tethering, Confining an Animal

Section 46 of the Act generally prohibits a farm owner or operator from tethering or confining any covered animal on a farm for all or most any day, in a manner that prevents it from lying down, standing up, fully extending its limbs, or turning around freely. ("Covered animal" means a gestating sow, calf raised for veal, or egg-laying hen that is kept on a farm. "Egg-laying hen" means a female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production. "Turning around freely" means turning in a complete circle



without any impediment, including a tether, and without touching the side of an enclosure or another animal.)

This prohibition does not apply to a covered animal during any of the following:

- Scientific or agricultural research.
- An examination, testing, individual treatment, or operation for veterinary purposes, by a veterinarian.
- Transportation.
- Rodeo exhibitions, State or county fair exhibitions, 4-H programs, and similar exhibitions.
- Slaughter of the covered animal.
- In the case of a gestating sow, the period beginning seven days before the gestating sow's expected date of giving birth.

The bill also would prohibit a farm owner or operator from tethering or confining an egg-laying hen on a farm in either of the following manners: a) in an enclosure other than a cage-free housing system; or b) with less than the amount of usable floor space per hen as provided in the housing guidelines for cage-free egg production contained in "Animal Husbandry Guidelines for U.S. Egg-Laying Flocks", 2017 edition, published by United Egg Producers.

"Cage free" would mean an indoor or outdoor controlled environment for egg-laying hens to which all of the following apply: a) for an indoor environment, the hens are free to roam unrestricted except as specified; b) the hens are provided enrichments that allow the hens to exhibit natural behaviors; c) for an indoor environment, a farm employee is able to provide care to the hens while standing within the hens' usable floor space; and d) the environment does not include any cage systems commonly described as battery cages, colony cages, enriched cages, or enriched colony cages, or any cage system similar to those systems.

"Usable floor space" would mean the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to hens in an enclosure by the number of hens in that enclosure. Usable floor space would include ground space or elevated level flat platforms upon which hens were able to roost, but would not include perches or ramps.

#### Sale of Eggs from Improperly Confined Hen

The bill would prohibit a business owner or operator from knowingly engaging in the sale of any shell egg in Michigan if the business owner knew or should have known was the product of an egg-laying hen that was confined in a manner that was inconsistent with the proposed hen confinement requirements. This prohibition would not apply to the sale of shell eggs that were the product of a farm with less than 3,000 laying hens. "Shell egg" would mean a whole egg of an egg-laying hen in its shell form that is intended for use as human food.

It would be a defense to an action to enforce the prohibition that a business owner relied in good faith on a written certification or guarantee by the supplier of a shell egg that the egg was not a product of an egg-laying hen that was confined in a manner that was inconsistent with the hen confinement requirements.

Section 46 does not apply to egg-laying hens and gestating sows until April 1, 2020. Under the bill, Section 46 would not apply to egg-laying hens until December 31, 2025; the date for gestating sows would remain the same.

MCL 287.701 et al. (S.B. 174)  
290.652 (S.B. 179)

Legislative Analyst: Jeff Mann

777.12m (S.B. 180)  
750.50 & 750.50b (S.B. 181)  
285.362 & 285.363 (S.B. 182)  
287.1002 (S.B. 183)  
28.462 (S.B. 361)

## **FISCAL IMPACT**

### **Senate Bill 174 (S-2)**

The bill would have a minor fiscal impact on State and local government. The bill mostly would provide for reorganization and updates for the MDARD's authority and responsibilities under the Animal Industry Act, operationalized under MDARD's Animal Industry Division, funded under Public Act 65 of 2019 (budget bill appropriations for MDARD) at a gross amount of \$9.8 million for fiscal year (FY) 2019-20, which includes a General Fund amount of \$9.0 million (approximately \$4.8 million of which is appropriated for activities related to the control and response to bovine TB).

The cervid program currently is funded via the General Fund, noted above, and costs are approximately \$300,000, which covers 2.0 FTEs in the office plus 0.6 FTE in the field, as well as supplies and testing. The changes to the program proposed under the bill would involve all breeding herds joining the herd certification program, which would result in additional annual herd inventory reconciliations, all cervid movements requiring a permit, and all herds completing a TB test at least once every ten years. Currently, there are 90 herds in the certification program; that number expected to increase to 135. Department staff currently process 500 intrastate movement permits per year, with this volume expected to grow to 2,500. According to the Department, the increase in work responsibilities proposed under the bill cannot be absorbed with existing staff, and would require an additional 1.0 office FTE at an annual cost of approximately \$80,000 in salary, wages, and benefits. Field work requirements are not anticipated to increase appreciably. Other fiscal impacts related to livestock animal welfare are anticipated to be managed within current appropriations.

The bill also would amend Section 14(5) of the Act, which pertains to appropriations for indemnification for animals ordered slaughtered, destroyed, or disposed of as a result of livestock disease or toxicological contamination. That section currently authorizes MDARD to provide for indemnification, not to exceed \$100,000 per order, from any line item in the Department's budget. Indemnification that exceeds \$100,000 per order requires a specific appropriation by the Legislature. The bill would eliminate this requirement and would not require a specific appropriation for indemnification, regardless of the amount of the indemnification. This would depend, of course, on the existence of sufficient spending authority within appropriation line items.

### **Senate Bill 179-183, 361**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker  
Joe Carrasco

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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.