

SENATE BILL No. 916

October 20, 2009, Introduced by Senator McMANUS and referred to the Committee on Appropriations.

A bill to amend 2000 PA 190, entitled "Privately owned cervidae producers marketing act," by amending sections 3, 6, 7, and 14 (MCL 287.953, 287.956, 287.957, and 287.964), as amended by 2006 PA 561.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The department shall administer this act. The
2 ~~departments~~ **DEPARTMENT** of agriculture ~~and environmental quality~~
3 shall provide consultation.

4 (2) The department of agriculture may conduct activities
5 designed to develop and assist the cervidae industry in the manner
6 provided for by law.

7 Sec. 6. (1) The initial application to construct a cervidae
8 livestock facility shall be accompanied by the application fee

1 described in section 8. The department shall approve, deny, or
2 propose a modification to the completed application within 60 days.
3 The department shall utilize the standards contained in
4 "Operational Standards for Registered Privately Owned Cervidae
5 Facilities", published by the ~~Michigan~~ department of natural
6 resources, (revised December 2005), adopted by the ~~Michigan~~
7 commission of agriculture on January 9, 2006, and adopted by the
8 natural resources commission on January 12, 2006, and incorporated
9 by reference, to evaluate the issuance, construction, maintenance,
10 administration, and renewal of a registration issued under this
11 act. The department after consultation with the department of
12 agriculture and with concurrence of the commissions of natural
13 resources and agriculture may ~~, by amendment of this act,~~ amend or
14 update the standards adopted in this subsection. Before issuing any
15 registration under this act, the director shall verify, through
16 written confirmation, both of the following:

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

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

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

1 (a) The complete address of the proposed cervidae livestock
2 facility and the size of, the location of, and a legal description
3 of the lands on which the cervidae livestock operation will be
4 conducted.

5 (b) The number of each cervidae species included in the
6 proposed facility.

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

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

12 (e) A record-keeping system in compliance with this act and
13 the operational standards incorporated by reference in subsection
14 (1).

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

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

21 (h) A disease herd plan in compliance with the operational
22 standards incorporated by reference in subsection (1) to be
23 approved by the state veterinarian under the animal industry act,
24 1988 PA 466, MCL 287.701 to 287.745.

25 (i) Any other information considered necessary by the
26 department.

27 (3) Upon receipt of an application, the director shall forward

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

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

14 (a) The cervidae livestock facility has been inspected by the
15 director and he or she has determined that the cervidae livestock
16 facility meets the standards and requirements prescribed by and
17 adopted under this act, complies with the business plan submitted
18 to the department, and determines that there are barriers in place
19 to prevent the escape of cervidae species and prevent the entry of
20 wild cervidae species. A renewal or initial applicant must provide
21 a perimeter fence in compliance with the operational standards
22 incorporated by reference under subsection (1).

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

25 (c) The applicant has all necessary permits that are required
26 under part 31 regarding water resources protection, part 301
27 regarding inland lakes and streams, and part 303 regarding wetland

1 protection of the natural resources and environmental protection
2 act, 1994 PA 451, MCL 324.3101 to 324.3133, 324.30101 to 324.30113,
3 and 324.30301 to 324.30323, and any other permits or authorizations
4 that may be required by law.

5 (5) Beginning ~~the effective date of the amendatory act that~~
6 ~~added this subsection~~ **ON DECEMBER 29, 2006**, the department shall
7 issue an initial registration or modification registration allowing
8 an expansion of an existing facility not later than 120 days after
9 the applicant files a completed application. Renewal applications
10 shall be issued not later than 60 days after the applicant files a
11 completed application. Receipt of the application is considered the
12 date the application is received by the department. If the
13 application is considered incomplete by the department, the
14 department shall notify the applicant in writing, or make the
15 information electronically available, within 30 days after receipt
16 of the incomplete application, describing the deficiency and
17 requesting the additional information. The determination of the
18 completeness of an application does not operate as an approval of
19 the application for the registration and does not confer
20 eligibility upon an applicant determined otherwise ineligible for
21 issuance of a registration. The 120-day period is tolled under any
22 of the following circumstances:

23 (a) Notice sent by the department of a deficiency in the
24 application until the date all of the requested information is
25 received by the department.

26 (b) The time period during which required actions are
27 completed that include, but are not limited to, completion of

1 construction or renovation of the facility; mandated reinspections
2 if by the department; other inspections if required by any state,
3 local, or federal agency; approval by the legislative body of a
4 local unit of government; or other actions mandated by this act or
5 as otherwise mandated by law or local ordinance.

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

18 (7) Upon receipt of a denial under this section and without
19 filing a second application, the applicant may request in writing
20 and, if requested, the department shall provide an informal review
21 of the application. The review shall include the applicant, the
22 department, and the ~~departments~~**DEPARTMENT** of agriculture, ~~and~~
23 ~~environmental quality,~~ if applicable. After the informal review, if
24 the director determines that the proposed cervidae livestock
25 facility or cervidae livestock operation complies with the
26 requirements of this act, the director shall issue a registration
27 within 30 days after the applicant notifies the department of

1 completion of the facility. After the informal review, if the
2 director determines that the proposed cervidae livestock facility
3 or cervidae livestock operation does not comply with the
4 requirements of this act, the director shall affirm the denial of
5 the application in writing and specify the deficiencies needed to
6 be addressed or corrected in order for a registration to be issued.
7 The applicant may waive the informal review of the application.

8 (8) As used in this ~~subsection~~**SECTION**, "completed
9 application" means an application complete on its face and
10 submitted with any applicable registration fees as well as any
11 other information, records, approval, security, or similar item
12 required by law or rule from a local unit of government, a federal
13 agency, or a private entity but not from another department or
14 agency of the state of Michigan.

15 Sec. 7. (1) At the time the construction of the cervidae
16 livestock facility is completed, the applicant shall notify the
17 department in writing. That written notice shall certify that, to
18 the best of the applicant's knowledge, the cervidae livestock
19 facility has been constructed in compliance with the requirements
20 of this act and in compliance with the standards for cervidae
21 livestock facilities. Within 30 days after notification of the
22 completion of the cervidae livestock facility, the director shall
23 inspect the cervidae livestock facility. If the director determines
24 that the proposed cervidae livestock facility conforms to standards
25 prescribed by ~~and adopted under~~ this act, the director shall issue
26 a registration within 30 days after completion of an inspection
27 finding that the cervidae livestock facility conforms to this act.

1 The time periods described in this subsection may be extended by
2 the department only if the department is unable to verify the
3 removal of wild cervidae species, for an act of God, or in
4 accordance with section 6(5)(a) or (b).

5 (2) If the director determines that a proposed cervidae
6 livestock facility does not comply with the requirements of this
7 act, the director shall deny the application for registration. The
8 department shall notify in writing an applicant of the reasons for
9 a registration denial within 60 days after receipt of the completed
10 application. The notice shall specify in writing the deficiencies
11 to be corrected in order for a registration to be issued.

12 (3) Without filing a second application under this section, an
13 applicant may request a second inspection after the specified
14 deficiencies have been corrected. The department is not required to
15 make more than 2 preregistration inspections of the same proposed
16 cervidae livestock facility per application.

17 (4) Upon receipt of a second denial under this section and
18 without filing a second application, the applicant may request in
19 writing and, if requested, the department shall provide an informal
20 review of the application. The review shall include the applicant,
21 the department, and the ~~departments~~ **DEPARTMENT** of agriculture, ~~and~~
22 ~~environmental quality~~, if applicable. After the informal review, if
23 the director determines that the proposed cervidae livestock
24 facility complies with the requirements of this act, the director
25 shall issue a registration within 30 days after the informal
26 review. After the informal review, if the director determines that
27 the proposed facility does not comply with the requirements of this

1 act, the director shall affirm the denial of the application in
2 writing and specify the deficiencies needed to be addressed or
3 corrected in order for a registration to be issued. The applicant
4 may waive the informal review of the application.

5 (5) The applicant may request a hearing pursuant to the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
7 24.328, on a denial of a registration or upon any limitations
8 placed upon the issuance of a registration.

9 (6) The department shall not return a registration fee or a
10 portion of a registration fee to an applicant if a registration is
11 denied.

12 Sec. 14. (1) After an opportunity for an administrative
13 hearing, the department may deny, suspend, revoke, or limit a
14 registration if the applicant or registrant fails to comply with
15 this act ~~, standards adopted or established under this act, or~~
16 orders issued by the director as a result of an administrative
17 action or informal departmental review conducted under this act.

18 (2) In addition to the provisions contained in subsection (1),
19 the department may deny the issuance of a registration,
20 modification, or an application for ~~decommission~~ **DECOMMISSIONING** or
21 may suspend or revoke a registration if the department, in
22 consultation with the department of agriculture, ~~or the department~~
23 ~~of environmental quality, or both,~~ determines that based upon
24 substantial scientific evidence, the issuance of a registration or
25 approval of ~~decommission~~ **DECOMMISSIONING** will cause, or is likely
26 to cause, an unreasonable or adverse effect upon the environment or
27 upon wildlife which cannot be remedied by, or is not addressed by,

1 the existing standards under this act.

2 (3) Except in the case of an informal departmental review, the
3 department shall conduct an administrative proceeding under this
4 act pursuant to the administrative procedures act of 1969, 1969 PA
5 306, MCL 24.201 to 24.328.

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No. 807

8 of the 95th Legislature is enacted into law.