

AERIAL SPRAYING OF A PESTICIDE

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House Bill 4497 (H-1) as reported from committee

Sponsor: Rep. Brad Paquette

Committee: Health Policy

Complete to 5-4-21

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

SUMMARY:

House Bill 4497 would amend Part 22 (State Department of Public Health) of the Public Health Code to allow aerial spraying of a pesticide, with notice to the public, if that action is necessary to prevent and control a disease or environmental health hazard.

Section 2221 of the code charges the Michigan Department of Health and Human Services (MDHHS) with continually and diligently endeavoring to prevent disease, prolong life, and promote the public health through organized programs. It requires that MDHHS implement and enforce health-related laws and investigate the causes of disease and epidemics, among other tasks.

Under the bill, if, after conducting such an investigation or inquiry, MDHHS determined that aerial spraying of a pesticide were necessary to prevent and control a disease or environmental health hazard, it would have to notify the public and local health departments and provide opt-out information if that option was available. This notice would have to be provided at least three days before the scheduled aerial spraying and would have to include the date and approximate time of the aerial spraying. If DHHS canceled the aerial spraying, it would have to notify the public and local health department of each area affected by the cancellation.

MCL 333.2221

BACKGROUND:

This bill is understood to address a recent uptick in cases of Eastern equine encephalitis (EEE) and the aerial spraying conducted in the fall of 2019 and 2020 to combat the spread. EEE is one of the most dangerous mosquito-borne diseases in the United States, with a 33% fatality rate in people who become ill. Children and people over age 60 are more susceptible to contracting the more severe form of EEE. In an outbreak summary last updated April 13, 2021, MDHHS reported that 19 Michigan counties had reported EEE activity, 41 animals had tested positive, and there had been four human cases of EEE, including two deaths.¹

According to guidance from state government from September 2020, “Due to the serious nature of the disease and the risk to human health, the Michigan Department of Agriculture

¹ https://www.michigan.gov/documents/emergingdiseases/Weekly_Arbovirus_Summary_698895_7.pdf

and Rural Development, in consultation with MDHHS, found it necessary and appropriate to temporarily amend the rule on notification and participation for community pesticide applications for mosquito control.”² This emergency rule was filed with the Michigan Secretary of State on September 14, 2020, and stated that it would remain in effect for six months.³

BRIEF DISCUSSION:

In testimony submitted to the committee, some expressed concern that the provisions contemplated in the bill—specifically a wait of three days between the determination of a threat to public health and the aerial spraying to address that threat—would increase the likelihood of human illness from EEE. Because EEE is one of the most dangerous mosquito-borne diseases, as described above, and because the disease transmission can increase dramatically in just a few days, they opposed the three-day advance notice required by the bill. Additionally, aerial spraying is only allowed under specific meteorological conditions and, if determined to be necessary, should be made as soon as those conditions exist.

FISCAL IMPACT:

Although House Bill 4497 would have modest fiscal implications for MDHHS, costs for any increase in notifications should be able to be absorbed within the existing funding for the department’s public outreach and communications or other notification system.

POSITIONS:

The Supervisor of Orion Township indicated support for the bill. (4-15-21)

The following entities indicated opposition to the bill (4-22-21):

Michigan Department of Health and Human Services
Responsible Industry for a Sound Environment

Legislative Analyst: Jenny McInerney

Fiscal Analyst: Susan Frey

■ 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.

² https://www.michigan.gov/documents/emergingdiseases/EEE_Response_FAQs_2020_Final_702159_7.pdf

³ https://www.michigan.gov/documents/lara/2020-209_Pesticides_Eastern_Equine_Encephalitis_702050_7.pdf