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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1202

02/02/2023 Authored by Becker-Finn; Hansen, R.; Lee, F.; Hollins; Kraft and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to animal health; declassifying certain data; modifying requirements for
1.3 certain owners of farmed Cervidae; prohibiting certain registrations; establishing
1.4 civil liability; modifying disposition of certain federal funds; requiring live-animal
1.5 testing for chronic wasting disease; transferring certain duties from the Board of
1.6 Animal Health to the commissioner of natural resources; appropriating money;
1.7 amending Minnesota Statutes 2022, sections 13.643, subdivision 6; 35.155,
1.8 subdivisions 1, 4, 6, 10, 11, 12, by adding subdivisions; 35.156, subdivision 2, by
1.9 adding subdivisions.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2022, section 13.643, subdivision 6, is amended to read:

1.12 Subd. 6. Animal premises data. (a) Except for farmed Cervidae premises location data
1.13 collected and maintained under section 35.155, the following data collected and maintained
1.14 by the Board of Animal Health related to registration and identification of premises and
1.15 animals under chapter 35, are classified as private or nonpublic:

- 1.16 (1) the names and addresses;
1.17 (2) the location of the premises where animals are kept; and
1.18 (3) the identification number of the premises or the animal.

1.19 (b) Except as provided in section 347.58, subdivision 5, data collected and maintained
1.20 by the Board of Animal Health under sections 347.57 to 347.64 are classified as private or
1.21 nonpublic.

1.22 (c) The Board of Animal Health may disclose data collected under paragraph (a) or (b)
1.23 to any person, agency, or to the public if the board determines that the access will aid in the
1.24 law enforcement process or the protection of public or animal health or safety.

2.1 Sec. 2. Minnesota Statutes 2022, section 35.155, subdivision 1, is amended to read:

2.2 Subdivision 1. **Running at large prohibited.** (a) An owner may not allow farmed
2.3 Cervidae to run at large. The owner must make all reasonable efforts to return escaped
2.4 farmed Cervidae to their enclosures as soon as possible. The owner must immediately notify
2.5 the commissioner of natural resources of the escape of farmed Cervidae if the farmed
2.6 Cervidae are not returned or captured by the owner within 24 hours of their escape.

2.7 (b) An owner is liable for expenses of another person in capturing, caring for, and
2.8 returning farmed Cervidae that have left their enclosures if the person capturing the farmed
2.9 Cervidae contacts the owner as soon as possible.

2.10 (c) If an owner is unwilling or unable to capture escaped farmed Cervidae, the
2.11 commissioner of natural resources may destroy the escaped farmed Cervidae. The
2.12 commissioner of natural resources must allow the owner to attempt to capture the escaped
2.13 farmed Cervidae prior to destroying the farmed Cervidae. Farmed Cervidae that are not
2.14 captured by 24 hours after escape may be destroyed.

2.15 (d) A hunter licensed by the commissioner of natural resources under chapter 97A may
2.16 kill and possess escaped farmed Cervidae in a lawful manner and is not liable to the owner
2.17 for the loss of the animal.

2.18 (e) Escaped farmed Cervidae killed by a hunter or destroyed by the commissioner of
2.19 natural resources must be tested for chronic wasting disease.

2.20 (f) The owner is responsible for proper disposal, as determined by the board, of farmed
2.21 Cervidae that are killed or destroyed under this subdivision and test positive for chronic
2.22 wasting disease.

2.23 (g) An owner is liable for any additional costs associated with escaped farmed Cervidae
2.24 that are infected with chronic wasting disease. This paragraph may be enforced by the
2.25 attorney general on behalf of any state agency affected.

2.26 **EFFECTIVE DATE.** This section is effective September 1, 2023.

2.27 Sec. 3. Minnesota Statutes 2022, section 35.155, subdivision 4, is amended to read:

2.28 Subd. 4. **Fencing.** Farmed Cervidae must be confined in a manner designed to prevent
2.29 escape. Except as provided in subdivision 4a, all perimeter fences for farmed Cervidae must
2.30 be at least 96 inches in height and be constructed and maintained in a way that prevents the
2.31 escape of farmed Cervidae ~~or~~, entry into the premises by free-roaming Cervidae, and physical
2.32 contact between farmed Cervidae and free-roaming Cervidae. ~~After July 1, 2019,~~ All new

3.1 fencing installed and all fencing used to repair deficiencies must be high tensile. ~~By~~
 3.2 ~~December 1, 2019,~~ All entry areas for farmed Cervidae enclosure areas must have two
 3.3 redundant gates, which must be maintained to prevent the escape of animals through an
 3.4 open gate. If a fence deficiency allows entry or exit by farmed or wild Cervidae, the owner
 3.5 must repair the deficiency within ~~a reasonable time, as determined by the Board of Animal~~
 3.6 ~~Health, not to exceed 45~~ 14 days. If a fence deficiency is detected during an inspection, the
 3.7 facility must be reinspected at least once in the subsequent three months. The farmed
 3.8 Cervidae owner must pay a reinspection fee equal to one-half the applicable annual inspection
 3.9 fee under subdivision 7a for each reinspection related to a fence violation. If the facility
 3.10 experiences more than one escape incident in any six-month period or fails to correct a
 3.11 deficiency found during an inspection, the board may revoke the facility's registration and
 3.12 order the owner to remove or destroy the animals as directed by the board. If the board
 3.13 revokes a facility's registration, the commissioner of natural resources may seize and destroy
 3.14 animals at the facility.

3.15 **EFFECTIVE DATE.** This section is effective September 1, 2024.

3.16 Sec. 4. Minnesota Statutes 2022, section 35.155, is amended by adding a subdivision to
 3.17 read:

3.18 Subd. 4a. **Fencing; commercial herds.** In addition to the requirements in subdivision
 3.19 4, commercially farmed white-tailed deer must be confined by two or more perimeter fences,
 3.20 with each perimeter fence at least 120 inches in height.

3.21 **EFFECTIVE DATE.** This section is effective September 1, 2024.

3.22 Sec. 5. Minnesota Statutes 2022, section 35.155, subdivision 6, is amended to read:

3.23 Subd. 6. **Identification.** (a) Farmed Cervidae must be identified by means approved by
 3.24 the Board of Animal Health. The identification must include a distinct number that has not
 3.25 been used during the previous three years and must be visible to the naked eye during
 3.26 daylight under normal conditions at a distance of 50 yards. Within 14 days of birth,
 3.27 white-tailed deer must be identified before October 31 of the year in which the animal is
 3.28 born, at the time of weaning, or before movement from the premises, whichever occurs first
 3.29 with an ear tag that adheres to the National Uniform Ear-Tagging System (NUES) or the
 3.30 Animal Identification Number (AIN) system. Elk and other cervids must be identified by
 3.31 December 31 of the year in which the animal is born or before movement from the premises,
 3.32 whichever occurs first. As coordinated by the board, the commissioner of natural resources
 3.33 may destroy any animal that is not identified as required under this subdivision.

4.1 (b) The Board of Animal Health shall register farmed Cervidae. The owner must submit
4.2 the registration request on forms provided by the board. The forms must include sales
4.3 receipts or other documentation of the origin of the Cervidae. The board must provide copies
4.4 of the registration information to the commissioner of natural resources upon request. The
4.5 owner must keep written records of the acquisition and disposition of registered farmed
4.6 Cervidae.

4.7 **EFFECTIVE DATE.** This section is effective September 1, 2024.

4.8 Sec. 6. Minnesota Statutes 2022, section 35.155, subdivision 10, is amended to read:

4.9 Subd. 10. **Mandatory registration.** (a) A person may not possess live Cervidae in
4.10 Minnesota unless the person is registered with the Board of Animal Health and meets all
4.11 the requirements for farmed Cervidae under this section. Cervidae possessed in violation
4.12 of this subdivision may be seized and destroyed by the commissioner of natural resources.

4.13 (b) A person whose registration is revoked by the board is ineligible for future registration
4.14 under this section unless the board determines that the person has undertaken measures that
4.15 make future escapes extremely unlikely.

4.16 (c) The board must not allow new registrations under this section for possessing
4.17 white-tailed deer. This paragraph does not prohibit a person holding a valid registration
4.18 under this subdivision from selling or transferring the person's registration to a family
4.19 member who resides in this state and is related to the person within the third degree of
4.20 kindred according to the rules of civil law. A valid registration may be sold or transferred
4.21 only once under this paragraph. Before the board approves a sale or transfer under this
4.22 paragraph, the board must verify that the herd is free from chronic wasting disease and the
4.23 person or eligible family member must pay a onetime transfer fee of \$500 to the board.

4.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.25 Sec. 7. Minnesota Statutes 2022, section 35.155, subdivision 11, is amended to read:

4.26 Subd. 11. **Mandatory surveillance for chronic wasting disease; depopulation.** (a)
4.27 An inventory for each farmed Cervidae herd must be verified by an accredited veterinarian
4.28 and filed with the Board of Animal Health every 12 months.

4.29 (b) Movement of farmed Cervidae from any premises to another location must be reported
4.30 to the Board of Animal Health within 14 days of the movement on forms approved by the
4.31 Board of Animal Health. A person must not move farmed white-tailed deer from a herd that
4.32 tests positive for chronic wasting disease from any premises to another location.

5.1 (c) All animals from farmed Cervidae herds that are over ~~12~~ six months of age that die
5.2 or are slaughtered must be tested for chronic wasting disease.

5.3 (d) The owner of a premises where chronic wasting disease is detected must:

5.4 (1) allow and cooperate with inspections of the premises as determined by the Board of
5.5 Animal Health and Department of Natural Resources conservation officers and wildlife
5.6 managers;

5.7 ~~(1) (2)~~ depopulate the premises of Cervidae after the federal indemnification process
5.8 has been completed or, if an indemnification application is not submitted, within a ~~reasonable~~
5.9 ~~time determined by the board in consultation with the commissioner of natural resources~~
5.10 30 days;

5.11 ~~(2) (3)~~ maintain the fencing required under ~~subdivision~~ subdivisions 4 and 4a on the
5.12 premises for ~~five~~ ten years after the date of detection; ~~and~~

5.13 ~~(3) (4)~~ post the fencing on the premises with biohazard signs as directed by the board;

5.14 (5) not raise farmed Cervidae on the premises for at least ten years;

5.15 (6) before signing an agreement to sell or transfer the property, disclose in writing to
5.16 the buyer or transferee the date of depopulation and the requirements incumbent upon the
5.17 premises and the buyer or transferee under this paragraph; and

5.18 (7) record with the county recorder or registrar of titles a notice, in the form required by
5.19 the board, that includes the location and legal description of the premises, the date of
5.20 detection, the date of depopulation, the landowner requirements under this paragraph, and
5.21 any other information required by the board.

5.22 (e) An owner of farmed Cervidae that test positive for chronic wasting disease is
5.23 responsible for proper disposal of the animals, as determined by the board.

5.24 Sec. 8. Minnesota Statutes 2022, section 35.155, is amended by adding a subdivision to
5.25 read:

5.26 Subd. 11a. **Liability.** (a) A herd owner is liable in a civil action to a person injured by
5.27 the owner's sale or unlawful disposal of farmed Cervidae infected with or exposed to chronic
5.28 wasting disease. Action may be brought in a county where the farmed Cervidae are sold,
5.29 delivered, or unlawfully disposed.

5.30 (b) A herd owner is liable to the state for costs associated with the owner's unlawful
5.31 disposal of farmed Cervidae infected with or exposed to chronic wasting disease. This
5.32 paragraph may be enforced by the attorney general on behalf of any state agency affected.

6.1 Sec. 9. Minnesota Statutes 2022, section 35.155, subdivision 12, is amended to read:

6.2 Subd. 12. **Importation.** (a) A person must not import live Cervidae or Cervidae semen
6.3 into the state from a herd that is:

6.4 (1) infected with or has been exposed to chronic wasting disease; or

6.5 (2) from a ~~known~~ state or province where chronic wasting disease endemic area, as
6.6 ~~determined by the board~~ is present in farmed or wild Cervidae populations.

6.7 (b) A person may import live Cervidae or Cervidae semen into the state only from a
6.8 herd that:

6.9 (1) ~~is not in a known~~ located in a state or province where chronic wasting disease endemic
6.10 ~~area, as determined by the board,~~ is present in farmed or wild Cervidae populations; and
6.11 ~~the herd~~

6.12 (2) has been subject to a ~~state or provincial approved~~ state- or provincial-approved
6.13 chronic wasting disease monitoring program for at least three years.

6.14 (c) Cervidae or Cervidae semen imported in violation of this section may be seized and
6.15 destroyed by the commissioner of natural resources.

6.16 Sec. 10. Minnesota Statutes 2022, section 35.156, subdivision 2, is amended to read:

6.17 Subd. 2. **Federal fund account.** (a) Money granted to the state by the federal government
6.18 for purposes of chronic wasting disease must be credited to a separate account in the federal
6.19 fund and, except as provided in paragraph (b), is annually appropriated to the commissioner
6.20 of agriculture for the purposes for which the federal grant was made according to section
6.21 17.03.

6.22 (b) Money granted to the state by the federal government for response to, and remediation
6.23 of, farmed or wild white-tailed deer infected with chronic wasting disease is annually
6.24 appropriated to the commissioner of natural resources according to section 84.085,
6.25 subdivision 1.

6.26 Sec. 11. Minnesota Statutes 2022, section 35.156, is amended by adding a subdivision to
6.27 read:

6.28 Subd. 3. **Consultation required.** The Board of Animal Health and the commissioner
6.29 of natural resources must consult the Minnesota Center for Prion Research and Outreach
6.30 at the University of Minnesota and incorporate peer-reviewed scientific information when

7.1 administering and enforcing section 35.155 and associated rules pertaining to chronic wasting
 7.2 disease and farmed Cervidae.

7.3 Sec. 12. Minnesota Statutes 2022, section 35.156, is amended by adding a subdivision to
 7.4 read:

7.5 Subd. 4. **Notice required.** The Board of Animal Health must promptly notify affected
 7.6 local units of government and Tribal governments when an animal in a farmed Cervidae
 7.7 herd tests positive for chronic wasting disease.

7.8 Sec. 13. **WHITE-TAILED DEER TESTING REQUIRED; CHRONIC WASTING**
 7.9 **DISEASE.**

7.10 Subdivision 1. **Live-animal testing.** No later than December 31, 2023, an owner of
 7.11 farmed white-tailed deer registered with the Board of Animal Health under Minnesota
 7.12 Statutes, section 35.155, must have each farmed white-tailed deer tested for chronic wasting
 7.13 disease using a real-time quaking-induced conversion (RT-QuIC) test and report the results
 7.14 to the Board of Animal Health in the form required by the board. If a white-tailed deer tests
 7.15 positive, the owner must have the animal tested a second time using an RT-QuIC test.

7.16 Subd. 2. **Postmortem testing.** If a farmed white-tailed deer tests positive twice under
 7.17 subdivision 1, the owner must have the animal destroyed and tested for chronic wasting
 7.18 disease using a postmortem test approved by the Board of Animal Health.

7.19 Subd. 3. **Herd depopulation.** If a farmed white-tailed deer tests positive for chronic
 7.20 wasting disease under subdivision 2, the owner must depopulate the premises of farmed
 7.21 Cervidae as required under Minnesota Statutes, section 35.155.

7.22 Sec. 14. **TRANSFER OF DUTIES; FARMED WHITE-TAILED DEER.**

7.23 (a) Responsibility for administering and enforcing the statutes and rules listed in clauses
 7.24 (1) and (2) for farmed white-tailed deer are, except as provided in paragraph (c), transferred
 7.25 pursuant to Minnesota Statutes, section 15.039, from the Board of Animal Health to the
 7.26 commissioner of natural resources:

7.27 (1) Minnesota Statutes, sections 35.153 to 35.156; and

7.28 (2) Minnesota Rules, parts 1721.0370 to 1721.0420.

7.29 (b) The Board of Animal Health retains responsibility for administering and enforcing
 7.30 the statutes and rules listed in paragraph (a), clauses (1) and (2), for all other farmed Cervidae.

8.1 (c) Notwithstanding Minnesota Statutes, section 15.039, subdivision 7, the transfer of
8.2 personnel will not take place. The commissioner of natural resources may contract with the
8.3 Board of Animal Health for any veterinary services required to administer this program.

8.4 **EFFECTIVE DATE.** This section is effective July 1, 2025.

8.5 Sec. 15. **REVISOR INSTRUCTION.**

8.6 The revisor of statutes must recodify the relevant sections in Minnesota Statutes, chapter
8.7 35, and Minnesota Rules, chapter 1721, as necessary to conform with section 14. The revisor
8.8 must also change the responsible agency, remove obsolete language, and make necessary
8.9 cross-reference changes consistent with section 14 and the renumbering.