

DEER AND ELK FEEDING ORDERS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5380 (Proposed Substitute H-4)

Sponsor: Rep. Michael Lahti

First Committee: Appropriations

Second Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 12-3-09

A SUMMARY OF HOUSE BILL 5380 (Proposed Substitute H-4)

Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act requires the Natural Resources Commission (NRC) to issue an order regulating deer and elk feeding and establishes requirements for the order. The provision that requires the order (Section 40111a) will expire on January 1, 2010.

The proposed H-4 Substitute version of the bill would extend the sunset provision until January 1, 2016, but allow, rather than require, the NRC to issue an order concerning deer or elk feeding. The H-4 Substitute bill would restrict any prohibition on deer or elk feeding contained in an NRC order as follows:

- The prohibition would only apply to a county in which an animal infected with chronic wasting disease or bovine tuberculosis was discovered (or one within six miles of the infected animal's location).
- The prohibition would not apply to an island separated from the location of the infected animal by two or more miles of water.
- The prohibition would "cease" no later than 18 months after the discovery of the infected animal.
- The prohibition would be immediately lifted if the National Veterinary Services Laboratories did not verify that the animal was infected within 60 days from the date of its discovery.

The bill would define "deer or elk feeding" as "the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer or elk." "Deer or elk feeding" would not include (1) feeding wild birds or other wildlife if done so as to exclude wild deer and elk from gaining access to the feed; (2) the scattering of feed solely as a result of normal logging or agricultural practices; (3) the storage or use of feed for agricultural purposes under specified conditions; and (4) baiting to take game as provided by an NRC order.

The storage or use of feed for agricultural purposes would not be considered "deer or elk feeding" if one or more of the following applied: (1) the area was occupied by livestock actively consuming the feed on a daily basis; (2) the feed was covered to deter wild deer or elk from gaining access to the feed; (3) the feed was in a storage facility that was

consistent with normal agricultural practices. (What is and what is not "deer or elk feeding" in the H-4 Substitute appears to be the same as in the bill as introduced.)

The bill would remove certain existing statutory requirements for the NRC's deer and elk feeding order contained in Section 4011a. Provisions to be stricken do the following:

- Require the NRC, after consulting the Agriculture Commission, to issue an order banning most deer or elk feeding in the Lower Peninsula of Michigan, except for feeding done for recreational viewing purposes, in the manner required by law. (See Background Information for information about the legal requirements for issuing an NRC order.)
- Prescribe conditions for feeding done for recreational purposes in the Lower Peninsula (e.g., feed must not be placed more than 100 yards from the person's residence), and authorizes the NRC to adopt additional reasonable conditions.
- Require the order to establish criteria for deer feeding in the Upper Peninsula.
- Allow the NRC, after consulting with the Agriculture Commission, to issue an order that completely prohibits deer or elk feeding in all or part of Michigan if necessary to manage wildlife or to control or eradicate disease.
- Prohibit the NRC order from distinguishing between feed deposited or distributed by hand and feed deposited or distributed by a mechanical device.

BACKGROUND INFORMATION:

Current NRC orders. Current NRC orders concerning deer and elk feeding and baiting are included in Chapter III (Species Regulations) of its Wildlife Conservation Order, Nos. 3.100 and 3.100a, available online at:

http://www.michigan.gov/documents/ChapterIII_128581_7.pdf

Legal requirements for NRC orders. Section 40113a grants the NRC exclusive authority to regulate the taking of game in Michigan using principles of sound scientific management to the extent practicable. NRC orders are issued after a public meeting and an opportunity for public input. At least 30 days before issuing an order, the NRC must provide a copy of the order to members of specified legislative committees.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Viola Bay Wild

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