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BILL ANALYSIS

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House Bill 5380 (Substitute H-3 as passed by the House)
Sponsor: Representative Michael Lahti
First House Committee: Appropriations
Second House Committee: Tourism, Outdoor Recreation and Natural Resources
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 12-8-09

CONTENT

The bill would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to do the following:

- **Delay until January 1, 2016, the sunset on a requirement that the Natural Resources Commission (NRC) issue an order concerning deer and elk feeding.**
- **Delete provisions specifying the content of the order.**
- **Define "deer and elk feeding".**

Section 40111a of the Act required the NRC, after consultation with the Agriculture Commission, to issue an order concerning deer and elk feeding to take effect on October 1, 1999. (The order is described below, under **BACKGROUND**.)

The order is required to do all of the following in the Lower Peninsula:

- Prohibit a person from engaging in deer or elk feeding unless it is for recreational viewing purposes.
- Require that the feed be deposited or distributed within 100 yards of the residence of the person engaging in the feeding for recreational viewing purposes on land he or she possesses.
- Establish any other reasonable conditions for deer and elk feeding for recreational viewing purposes that are consistent with the requirements of Section 40111a.

The order also must establish criteria for deer feeding in the Upper Peninsula.

Notwithstanding those requirements, the NRC, after consultation with the Agriculture Commission, may issue an order that prohibits all deer and elk feeding in all or part of the State if the NRC considers it necessary to manage wildlife populations properly or to control or eradicate disease.

An order under Section 40111a concerning baiting to take deer and elk or concerning feeding may not make a distinction between depositing or distributing feed by hand and depositing or distributing feed by a mechanical device, whether operated by human power or otherwise.

The bill would delete these provisions. The bill instead would require the NRC, after consultation with the Agriculture Commission, to issue an order concerning deer and elk feeding in Michigan. "Deer and elk feeding" would mean the depositing, distributing, or tending of feed in an area frequented by wild, free-ranging white-tailed deer and elk to prevent them from starving or for recreational viewing. The term would not include any of the following:

- Baiting to take game as provided by an NRC order under Section 40113a (which gives the NRC the exclusive authority to regulate the taking of game in Michigan).
- The scattering of feed solely as the result of normal logging practices or normal agricultural practices.
- Feeding wild birds or other wildlife if done in such a manner as to exclude wild, free-ranging white-tailed deer and elk from gaining access to the feed.

In addition, the term would exclude the storage or use of feed for agricultural purposes if at least one of the following applied:

- The area was occupied by livestock actively consuming the feed on a daily basis.
- The feed was covered to deter wild, free-ranging white-tailed deer and elk from gaining access to the feed or was being used on a daily basis.
- The feed was in a storage facility or was stored in a manner that was consistent with normal agricultural practices.

Section 40111a is to be repealed on January 1, 2010. The bill would delay the date to January 1, 2016.

MCL 324.40111a

BACKGROUND

The initial order required under Section 40111a took effect on October 1, 1999, and has been amended several times since then. The current language took effect on October 1, 2008. It prohibits a person from engaging in deer and elk feeding in the Lower Peninsula.

The order prohibits a person from engaging in deer and elk feeding in the Upper Peninsula except for recreational viewing and authorized supplemental feeding. In the event that chronic wasting disease is documented in the Upper Peninsula or within 50 miles of its border with another state or Canadian province, the Director of the Department of Natural Resources (DNR) must issue an interim order banning the use of bait and the feeding of deer and elk within the Upper Peninsula.

In the Upper Peninsula, a person may engage in deer and elk feeding for recreational viewing only if certain conditions are met. A person may engage in supplemental feeding of deer in Ontonagon, Houghton, Keweenaw, Baraga, Alger, and Luce Counties, and portions of Marquette and Chippewa Counties if he or she first acquires permission of the respective public land administrator and private property owner and a supplemental deer feeding permit issued by a DNR wildlife biologist. The feeding must be conducted in compliance with certain requirements, unless otherwise specified in the permit.

A person issued a supplemental deer feeding permit must agree to assist the DNR in the collection of deer tissue samples for disease surveillance, and must report the quantity and type of feed used, dates and duration of feeding, and other information as specified in the permit. The DNR must report to the NRC the number of permits issued, quantity of feed used, and other relevant supplemental deer feeding information.

(The full regulations are found in Section 3.100a of the DNR's Wildlife Conservation Order. Both the deer and elk feeding regulations and the baiting regulations, in Section 3.100, may be viewed at http://www.michigan.gov/documents/ChapterIII_128581_7.pdf.)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton

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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.