

No. 2006-51

AN ACT

HB 1580

Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, further providing for the regulation of Cervidae livestock operations.

The General Assembly finds and declares as follows:

A Cervidae livestock operation is a normal agricultural operation of this Commonwealth. Cervidae livestock facilities and their equipment are considered to be agricultural facilities and equipment. Uses related to the farming and harvesting of cervids are to be considered agricultural uses regulated by the department.

The Secretary of Agriculture shall assure that Cervidae livestock operations are afforded all rights, privileges, opportunities and responsibilities of normal agricultural operations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "Cervidae livestock operation" in section 2303 of Title 3 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

["Cervidae livestock operation." A farm operation which:

(1) contains behind fences privately owned members of the genus and species cervus elaphus involved in the production, growing, breeding, using, harvesting, transporting, exporting, importing or marketing of Cervidae species or Cervidae products; and

(2) does not allow captive bred or captive held Cervidae species to be harvested through hunting anywhere on the farm operation.]

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Section 2. The definition of "license" in section 2380.1 of Title 3 is amended and the section is amended by adding definitions to read:

§ 2380.1. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Cervid." Any member of the Cervidae family and any hybrid.

“Cervidae livestock family.” *Members of the Cervidae family including deer, elk, moose, reindeer, caribou and hybrids of these animals owned and maintained by a licensee under this subchapter. The term also includes the germ plasm, embryos and fertile ova of these animals.*

“Cervidae livestock operation.” *A normal agricultural operation which contains behind fences privately owned members of the Cervidae livestock family involved in the production, growing, breeding, using, harvesting, transporting, exporting, importing or marketing of Cervidae species or Cervidae products. The term does not include an animal slaughter facility regulated under Subchapter F (relating to slaughter and processing of domestic animals) or a menagerie permitted under 34 Pa.C.S. § 2964 (relating to menagerie permits).*

“Harvesting.” *Any lethal or nonlethal means of collecting cervids or products from cervids on Cervidae livestock operations.*

“License.” *A license issued by the Department of Agriculture to operate a Cervidae livestock operation.*

* * *

“Normal agricultural operation.” *As defined under section 2 of the act of June 10, 1982 (P.L.454, No.133), entitled “An Act protecting agricultural operations from nuisance suits and ordinances under certain circumstances.”*

Section 3. Sections 2380.4, 2380.5, 2380.6(a), (c) and (d) and 2380.9 of Title 3 are amended to read:

§ 2380.4. Issuance.

[The] (a) **Inspection.**—*The department shall inspect the premises of and investigate each applicant. An inspection under this subsection may be made by the department or an agent of the department, including a licensed doctor of veterinary medicine accredited by the department.*

(b) **Issuance.**—*Subject to subsection (c)(3), the department shall issue a license if it determines, after inspection of the premises and investigation of the applicant, all of the following:*

(1) *The premises, including fences, buildings, equipment and sanitary conditions, comply with this subchapter and regulations of the department under this subchapter.*

(2) *The applicant [can] is able to conduct a Cervidae livestock operation in compliance with this subchapter and regulations of the department under this subchapter.*

(c) **Provisional license.**—

(1) *A Cervidae livestock operation which is in operation on the effective date of this subsection but which was not, prior to the effective date of this subsection, subject to licensure shall be granted a provisional license.*

(2) *Within one year of the effective date of this subsection, the department shall, for each provisional licensee:*

(i) *perform the investigation and inspection under this section; and*

(ii) *either issue a license or deny the application.*

(3) *If the department does not comply with the time requirement under paragraph (2) for a license application by a provisional licensee, a license shall be deemed to be issued.*

§ 2380.5. [Renewal] *Term; renewal.*

(a) *Term.*—A license is valid for a period of [one year.] *two years from the date of:*

(1) *issuance under section 2380.4(b) (relating to issuance);*

(2) *deemed issuance under section 2380.4(c)(3); or*

(3) *renewal under subsection (b).*

(b) *Renewal.*—A license [may] *shall* be renewed upon application if the department determines all of the following:

(1) The licensee has not been cited for a violation of this subchapter or a regulation of the department under this subchapter.

(2) There is no reason to believe that the licensee [cannot] *is unable* to conduct a Cervidae livestock operation in compliance with this subchapter and regulations of the department under this subchapter.

§ 2380.6. Keeping and handling of cervids.

(a) Pens[, shelters] and enclosures.—The department shall adopt regulations concerning the type [and size] of pens[, shelters] and enclosures used for Cervidae livestock operations. Regulations shall ensure that [pens, shelters or enclosures used to hold cervids are no less] *all of the following apply:*

(1) *The fenced enclosure surrounds the outside perimeter of the operation and is designed to protect the public and confine the privately owned cervids. Regulations under this paragraph may require a fence height of not greater than ten feet from the ground to the top[.].*

(2) *The premises is adequate to provide for the health and comfort of the cervids [and be designed to protect the public, confine the cervids and exclude the entity of wild cervids].*

* * *

(c) Live Cervidae.—*Cervids may be brought onto the premises through interstate or intrastate commerce and may be removed from the premises or relocated to another premises in a manner consistent with this chapter and regulations promulgated by the department.* On delivery of a live cervid, the Cervidae livestock operation shall prepare and deliver to the shipper, purchaser or consignee a receipt, detailed invoice or consignment document including the date, name and address of purchaser or person to whom sold or consigned, the quantity, sex and species of the cervid and the name and address of the Cervidae livestock operation.

(d) Dead Cervidae.—*Cervids and cervid products may be removed from the premises or relocated to another premises in a manner consistent with this chapter and regulations promulgated by the department.* Prior to

delivery and removal from the Cervidae livestock operation premises, the Cervidae livestock operation shall place the dead cervid or part of a cervid in a package or container or shall attach a label to it. The package, container or label shall have printed upon it the name, address and telephone number of the Cervidae livestock operation who produced the cervid. The Cervidae livestock operation shall also issue a receipt, detailed invoice or consignment document including the date of shipment or sale, the name of the shipper, purchaser or consignee, the quantity and sex and species of the cervid so shipped or sold and the name and address and [permit] license number of the Cervidae livestock operation shipping, consigning or selling cervids. A dead cervid produced under the authority of the Cervidae livestock operation may not be removed from its package or container or have removed from it the label provided for in this subsection until final consumption or disposal.

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§ 2380.9. Game and Wildlife Code *and regulations*.

[This subchapter supersedes any contrary provision in 34 Pa.C.S. (relating to game).] (a) Code.—The provisions of 34 Pa.C.S. (relating to game) are repealed insofar as they are inconsistent with this subchapter.

(b) Regulations.—

(1) The provisions of 58 Pa. Code Pt. III (relating to Game Commission) are abrogated insofar as they are inconsistent with this subchapter.

(2) Notwithstanding any other provision of law, the Pennsylvania Game Commission has no authority to promulgate regulations on Cervidae livestock operations.

Section 4. This act shall take effect in 60 days.

APPROVED—The 29th day of June, A.D. 2006.

EDWARD G. RENDELL