

CHAPTER 62

(SB 81)

AN ACT relating to captive cervids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *There shall be a ban on the importation of live members of the animal family Cervidae into the Commonwealth that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:*
 - (a) *The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and*
 - (b) *Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.*
- (2) *The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:*
 - (a) *The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and*
 - (b) *Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.*
- (3) *Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:*
 - (a) *Has been certified by the exporting state's state veterinarian or agency having jurisdiction over that state's surveillance and identification program;*
 - (b) *Has been approved by the Kentucky state veterinarian as meeting or exceeding the standards imposed under the Kentucky CCWDSI Program; and*
 - (c) *Meets, at a minimum, the following requirements:*
 1. *The program shall require cervid owners to obtain identification and laboratory diagnosis from brain tissue as directed by the exporting state's state veterinarian or agency with jurisdiction for cervids twelve (12) months of age or greater that:*
 - a. *Display clinical signs of CWD;*
 - b. *Die, including deaths by slaughter or by hunting, including hunting on hunting preserves; or*
 - c. *Are ill or injured, regardless of whether the illness or injury results in death; and*
 2. *The program shall require cervid owners to obtain cervids from herds that have been monitored for at least five (5) years and that have complied with the standards contained in the Kentucky CCWDSI Program.*
- (4) *Cervids originating from a state that has reported a confirmed case of CWD in wild or captive cervids shall not be imported into Kentucky until the United States Department of Agriculture approves:*
 - (a) *Regulations that allow importation from states with confirmed cases of CWD; and*
 - (b) *A live test for CWD that is available for live testing of cervids.*
- (5) *Importation of members of the animal family Cervidae into the Commonwealth shall be consistent with this section and with administrative regulations promulgated by the Kentucky Department of Agriculture in cooperation with the Kentucky Department of Fish and Wildlife Resources.*

➔Section 2. KRS 150.720 is amended to read as follows:

- (1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife *Resources* shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, *importation* and *unique individual* identification, *including visual identification tags*, of privately owned and farm raised cervids maintained for the production of meat and other products. *Nothing in this section shall limit the authority of the Department of Fish and Wildlife Resources to regulate the unique individual identification, including visual identification, of captive cervids that are not privately owned and farm-raised cervids maintained for the production of meat and other products.* The Department of Fish and Wildlife *Resources* in cooperation with the Department of Agriculture, shall promulgate administrative regulations pertaining to the ~~importation and~~ holding of cervids.
- (2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife *Resources* for all costs incurred in the investigation, response, and eradication of that disease.

➔Section 3. KRS 150.725 is amended to read as follows:

As used in KRS 150.725 to 150.735:

- (1) "Permit" means a permit to hold captive cervids;
- (2) "Applicant" means a person or entity who has applied to the department for a permit to hold captive cervids; ~~and~~
- (3) "Application" means an application to obtain a permit to hold captive cervids; *and*
- (4) *"Hold" means to confine to a facility regulated under KRS 150.725 to 150.735.*

➔Section 4. KRS 150.735 is amended to read as follows:

- (1) An applicant may place his or her primary containment fence on the property line. The department shall not require applicants to set primary containment fences any distance away from the property line.
- (2) Any person who operates a captive cervid facility in accordance with this chapter may petition the department at any time to expand his or her captive cervid facility, provided the expansion is adjacent and connected to his or her existing facility and continues to comply with all applicable statutes and regulations.
- (3) A lawful permit for an existing captive cervid facility may be transferred, along with any related benefits, rights, responsibilities, and liabilities, to any person who purchases or otherwise takes ownership of the land area on which the captive cervid facility exists. Within thirty (30) days of the date of any transfer of permits, the party transferring the permit shall notify the department of the following:
 - (a) Name and address of the party to which the permit is to be transferred;
 - (b) Permit number;
 - (c) Deed indicating change of land ownership; and
 - (d) Any additional information the department deems necessary.
- (4) If any person holding captive cervids is determined in violation of Kentucky statute or administrative regulation pertaining to the holding of those cervids, then that person shall have sixty (60) days from when the violation was identified to come into compliance. *The permit holder has the following rights and potential penalties during the sixty (60) day period:*
 - (a) *During the sixty (60) day period, the permit holder may continue to harvest, sell or slaughter cervids unless the permit has been suspended in accordance with administrative regulations promulgated by the department;*
 - (b) Failure to come into compliance *within sixty (60) days of the notice of violation* may result in a citation and cause the captive cervids to be immediately seized by the department *or the permit to be suspended; and*~~;~~
 - (c) The individual whose cervids were seized *or whose permit was suspended under paragraph (a) or (b) of this section* may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the *issuance of a citation or suspension of the permit*~~department's seizure~~ and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final

outcome from all appeals, the seized cervids may be disposed of by the department without compensation to the owner.

➔Section 5. KRS 150.740 is amended to read as follows:

- (1) There shall be a ban on the importation of ~~live~~ members of the animal family Cervidae into the Commonwealth *that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:*
 - (a) *The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and*
 - (b) *Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.*
- (2) *The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:*
 - (a) *The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and*
 - (b) *Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.*
- (3) *Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:*
 - (a) *Has been certified by the exporting state's state veterinarian or agency having jurisdiction over that state's surveillance and identification program;*
 - (b) *Has been approved by the Kentucky state veterinarian as meeting or exceeding the standards imposed under the Kentucky CCWDSI Program; and*
 - (c) *Meets, at minimum, the following requirements:*
 1. *The program shall require cervid owners to obtain identification and laboratory diagnosis from brain tissue as directed by the exporting state's state veterinarian or agency with jurisdiction for cervids twelve (12) months of age or greater that:*
 - a. *Display clinical signs of CWD;*
 - b. *Die, including deaths by slaughter or by hunting, including hunting on hunting preserves; or*
 - c. *Are ill or injured regardless of whether the illness or injury results in death; and*
 2. *The program shall require cervid owners to obtain cervids from herds that have been monitored for at least five (5) years and that have complied with the standards contained in the Kentucky CCWDSI Program.*
- (4) *Cervids originating from a state that has reported a confirmed case of CWD in wild or captive cervids shall not be imported into Kentucky until The United States Department of Agriculture approves:*
 - (a) *Regulations that allow importation from those states; and*
 - (b) *A live test for CWD that is available for live testing of cervids.*
- (5) *Importation of members of the animal family Cervidae into the Commonwealth shall be consistent with this section and with administrative regulations promulgated by the Kentucky Department of Agriculture in cooperation with the Kentucky Department of Fish and Wildlife Resources.*
- (6) A person shall be guilty of a Class D felony upon conviction for violating this ~~section~~ subsection. Upon conviction of a second violation of this ~~section~~ subsection and in addition to all other penalties, a person shall be permanently ineligible for renewal of a captive cervid permit. On or before November 1 of each year, the Department of Fish and Wildlife Resources and the Department of Agriculture, Office of the State

Veterinarian, respectively shall issue reports to the Interim Joint Committee on Agriculture and Natural Resources on the status of chronic wasting disease, and the reports may include the status of other animal or wildlife diseases in Kentucky and the United States. The reports shall be used for the purpose of determining the ~~continuing~~ need for **modifications to the** ~~the~~ statutory ban on the importation of cervids into the Commonwealth ~~or a need for lifting the ban~~.

(7)~~(2)~~ The Department of Fish and Wildlife Resources shall have the authority to immediately, and without compensation to the owner, seize captive cervids that have been imported into the Commonwealth contrary to this section. The individual whose cervids were seized may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the department's seizure and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome of all appeals, the seized cervids may be disposed of by the department without compensation to the owner.

(8)~~(3)~~ The department shall have the authority to immediately, and without compensation to the owner, seize and destroy captive cervids that are in the process of being imported into the Commonwealth contrary to this section.

➔Section 6. KRS 246.295 is amended to read as follows:

(1) The Department of Agriculture, in cooperation with the Department of Fish and Wildlife **Resources**, shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, **importation**, and **unique individual** identification, **including visual identification tags**, of privately owned and farm raised cervids maintained for the production of meat and other products. **Nothing in this section shall limit the authority of the Department of Fish and Wildlife Resources to regulate the unique individual identification, including visual identification, of captive cervids that are not privately owned and farm-raised cervids maintained for the production of meat and other products.** The Department of Fish and Wildlife **Resources** in cooperation with the Department of Agriculture, shall promulgate administrative regulations pertaining to the ~~importation and~~ holding of cervids.

(2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife for all costs incurred in the investigation, response, and eradication of that disease.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

If any person holding captive cervids regulated under KRS 150.725 to 150.735 is determined in violation of a Kentucky statute or administrative regulation pertaining to the health requirements, eradication of diseases, importation, and identification of those cervids, then that person shall have sixty (60) days from when the violation was identified to come into compliance. During the sixty (60) day period, the cervids shall be subject to quarantine by the Kentucky Department of Agriculture. The permit holder may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the notice of violation and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. If a final determination upholds the Kentucky Department of Agriculture, the permit holder's cervids may be disposed of by the department without compensation to the owner.

Signed by the Governor March 20, 2009.