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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
02/13/2023 Adoption of Report: Amended and re-referred to the Committee on Agriculture Finance and Policy
02/27/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
03/27/2023 Adoption of Report: Amended and re-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; 17.118,
1.8 subdivision 2; 35.155, subdivisions 1, 4, 10, 11, 12, by adding subdivisions; 35.156,
1.9 subdivision 2, by 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 17.118, subdivision 2, is amended to read:

2.2 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
2.3 subdivision have the meanings given them.

2.4 (b) "Livestock" means beef cattle, dairy cattle, swine, poultry, goats, mules, farmed
2.5 Cervidae, Ratitae, bison, sheep, horses, and llamas.

2.6 (c) "Qualifying expenditures" means the amount spent for:

2.7 (1) the acquisition, construction, or improvement of buildings or facilities for the
2.8 production of livestock or livestock products;

2.9 (2) the development of pasture for use by livestock including, but not limited to, the
2.10 acquisition, development, or improvement of:

2.11 (i) lanes used by livestock that connect pastures to a central location;

2.12 (ii) watering systems for livestock on pasture including water lines, booster pumps, and
2.13 well installations;

2.14 (iii) livestock stream crossing stabilization; and

2.15 (iv) fences; or

2.16 (3) the acquisition of equipment for livestock housing, confinement, feeding, and waste
2.17 management including, but not limited to, the following:

2.18 (i) freestall barns;

2.19 (ii) watering facilities;

2.20 (iii) feed storage and handling equipment;

2.21 (iv) milking parlors;

2.22 (v) robotic equipment;

2.23 (vi) scales;

2.24 (vii) milk storage and cooling facilities;

2.25 (viii) bulk tanks;

2.26 (ix) computer hardware and software and associated equipment used to monitor the
2.27 productivity and feeding of livestock;

2.28 (x) manure pumping and storage facilities;

2.29 (xi) swine farrowing facilities;

- 3.1 (xii) swine and cattle finishing barns;
- 3.2 (xiii) calving facilities;
- 3.3 (xiv) digesters;
- 3.4 (xv) equipment used to produce energy;
- 3.5 (xvi) on-farm processing facilities equipment;
- 3.6 (xvii) fences, including but not limited to farmed Cervidae perimeter fences required
- 3.7 under section 35.155, ~~subdivision 4~~ subdivisions 4 and 4a; and
- 3.8 (xviii) livestock pens and corrals and sorting, restraining, and loading chutes.

3.9 Except for qualifying pasture development expenditures under clause (2), qualifying

3.10 expenditures only include amounts that are allowed to be capitalized and deducted under

3.11 either section 167 or 179 of the Internal Revenue Code in computing federal taxable income.

3.12 Qualifying expenditures do not include an amount paid to refinance existing debt.

3.13 Sec. 3. Minnesota Statutes 2022, section 35.155, subdivision 1, is amended to read:

3.14 Subdivision 1. **Running at large prohibited.** (a) An owner may not allow farmed

3.15 Cervidae to run at large. The owner must make all reasonable efforts to return escaped

3.16 farmed Cervidae to their enclosures as soon as possible. The owner must immediately notify

3.17 the commissioner of natural resources of the escape of farmed Cervidae if the farmed

3.18 Cervidae are not returned or captured by the owner within 24 hours of their escape.

3.19 (b) An owner is liable for expenses of another person in capturing, caring for, and

3.20 returning farmed Cervidae that have left their enclosures if the person capturing the farmed

3.21 Cervidae contacts the owner as soon as possible.

3.22 (c) If an owner is unwilling or unable to capture escaped farmed Cervidae, the

3.23 commissioner of natural resources may destroy the escaped farmed Cervidae. The

3.24 commissioner of natural resources must allow the owner to attempt to capture the escaped

3.25 farmed Cervidae prior to destroying the farmed Cervidae. Farmed Cervidae that are not

3.26 captured by 24 hours after escape may be destroyed.

3.27 (d) A hunter licensed by the commissioner of natural resources under chapter 97A may

3.28 kill and possess escaped farmed Cervidae in a lawful manner and is not liable to the owner

3.29 for the loss of the animal. A licensed hunter who harvests escaped farmed Cervidae under

3.30 this paragraph must immediately notify the commissioner of natural resources.

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

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

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

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

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

4.11 Subd. 4. **Fencing.** Farmed Cervidae must be confined in a manner designed to prevent
4.12 escape. Except as provided in subdivision 4a, all perimeter fences for farmed Cervidae must
4.13 be at least 96 inches in height and be constructed and maintained in a way that prevents the
4.14 escape of farmed Cervidae or entry into the premises by free-roaming Cervidae, and physical
4.15 contact between farmed Cervidae and free-roaming Cervidae. After July 1, 2019, All new
4.16 fencing installed and all fencing used to repair deficiencies must be high tensile. By
4.17 December 1, 2019, All entry areas for farmed Cervidae enclosure areas must have two
4.18 redundant gates, which must be maintained to prevent the escape of animals through an
4.19 open gate. If a fence deficiency allows entry or exit by farmed or wild Cervidae, the owner
4.20 must repair the deficiency within a reasonable time, as determined by the Board of Animal
4.21 Health, not to exceed 45 14 days. If a fence deficiency is detected during an inspection, the
4.22 facility must be reinspected at least once in the subsequent three months. The farmed
4.23 Cervidae owner must pay a reinspection fee equal to one-half the applicable annual inspection
4.24 fee under subdivision 7a for each reinspection related to a fence violation. If the facility
4.25 experiences more than one escape incident in any six-month period or fails to correct a
4.26 deficiency found during an inspection, the board may revoke the facility's registration and
4.27 order the owner to remove or destroy the animals as directed by the board. If the board
4.28 revokes a facility's registration, the commissioner of natural resources may seize and destroy
4.29 animals at the facility.

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

5.1 Sec. 5. Minnesota Statutes 2022, section 35.155, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 4a. **Fencing; commercial herds.** In addition to the requirements in subdivision
5.4 4, commercially farmed white-tailed deer must be confined by two or more perimeter fences,
5.5 with each perimeter fence at least 120 inches in height.

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

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

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

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

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

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

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

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

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

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

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

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

6.7 ~~(1)~~ (2) depopulate the premises of Cervidae after the federal indemnification process
6.8 has been completed or, if an indemnification application is not submitted, within a ~~reasonable~~
6.9 ~~time determined by the board in consultation with the commissioner of natural resources~~
6.10 30 days;

6.11 ~~(2)~~ (3) maintain the fencing required under ~~subdivision~~ subdivisions 4 and 4a on the
6.12 premises for ~~five~~ ten years after the date of detection; ~~and~~

6.13 ~~(3)~~ (4) post the fencing on the premises with biohazard signs as directed by the board;

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

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

6.18 (7) record with the county recorder or registrar of titles as appropriate, in the county
6.19 where the premises is located, a notice, in the form required by the board, that meets the
6.20 recording requirements of sections 507.093 and 507.24 and includes the nearest address
6.21 and the legal description of the premises, the date of detection, the date of depopulation,
6.22 the landowner requirements under this paragraph, and any other information required by
6.23 the board. The legal description must be the legal description of record with the county
6.24 recorder or registrar of titles and must not otherwise be the real estate tax statement legal
6.25 description of the premises. The notice expires and has no effect ten years after the date of
6.26 detection stated in the notice. The registrar of titles must omit an expired notice from future
6.27 certificates of title.

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

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

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

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

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

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

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

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

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

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

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

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

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

7.26 Subd. 2. **Federal fund account.** (a) Money granted to the state by the federal government
7.27 for purposes of chronic wasting disease must be credited to a separate account in the federal
7.28 fund and, except as provided in paragraph (b), is annually appropriated to the commissioner
7.29 of agriculture for the purposes for which the federal grant was made according to section
7.30 17.03.

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

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

8.7 Subd. 3. **Consultation required.** The Board of Animal Health and the commissioner
8.8 of natural resources must consult the Minnesota Center for Prion Research and Outreach
8.9 at the University of Minnesota and incorporate peer-reviewed scientific information when
8.10 administering and enforcing section 35.155 and associated rules pertaining to chronic wasting
8.11 disease and farmed Cervidae.

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

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

8.17 Sec. 13. Minnesota Statutes 2022, section 35.156, is amended by adding a subdivision to
8.18 read:

8.19 Subd. 5. **Annual testing required.** (a) Annually beginning July 1, 2023, the Board of
8.20 Animal Health must have each farmed white-tailed deer possessed by a person registered
8.21 under section 35.155 tested for chronic wasting disease using a real-time quaking-induced
8.22 conversion (RT-QuIC) test offered by a public or private diagnostic laboratory. Live-animal
8.23 testing must consist of an ear biopsy, the collection of which must be managed by the Board
8.24 of Animal Health, with each laboratory reporting RT-QuIC results to both the commissioner
8.25 of natural resources and the Board of Animal Health in the form required by both agencies.
8.26 If a white-tailed deer tests positive, the owner must have the animal tested a second time
8.27 using an RT-QuIC test performed on both a second ear biopsy and a tonsil or rectal biopsy.

8.28 (b) If a farmed white-tailed deer tests positive using an RT-QuIC test performed on both
8.29 a second ear biopsy and a tonsil or rectal biopsy, the owner must have the animal destroyed
8.30 and tested for chronic wasting disease using a postmortem test approved by the Board of
8.31 Animal Health.

9.1 (c) If a farmed white-tailed deer tests positive for chronic wasting disease under paragraph
9.2 (b), the owner must depopulate the premises of farmed Cervidae as required under section
9.3 35.155, subdivision 11.

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

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

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

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

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

9.13 (c) Notwithstanding Minnesota Statutes, section 15.039, subdivision 7, the transfer of
9.14 personnel will not take place.

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

9.16 Sec. 15. **APPROPRIATION; CHRONIC WASTING DISEASE TRANSMISSION**
9.17 **CONTINGENCY PLANNING.**

9.18 \$1,632,612 in fiscal year 2024 and \$1,845,700 in fiscal year 2025 are appropriated from
9.19 the general fund to the Board of Regents of the University of Minnesota for chronic wasting
9.20 disease contingency plans developed by the Center for Infectious Disease Research and
9.21 Policy. The center must develop, refine, and share with relevant experts and stakeholders
9.22 contingency plans regarding the potential transmission of chronic wasting disease from
9.23 Cervidae to humans, livestock, and other species. The contingency plans must provide a
9.24 blueprint for preparedness and response planning documents including authoritative risk
9.25 communication, education, and outreach materials. The base for this appropriation is
9.26 \$1,603,000 in fiscal year 2026, \$1,603,000 in fiscal year 2027, and \$0 in fiscal year 2028
9.27 and beyond.

9.28 Sec. 16. **REVISOR INSTRUCTION.**

9.29 The revisor of statutes must recodify the relevant sections in Minnesota Statutes, chapter
9.30 35, and Minnesota Rules, chapter 1721, as necessary to conform with section 14. The revisor

- 10.1 must also change the responsible agency, remove obsolete language, and make necessary
- 10.2 cross-reference changes consistent with section 14 and the renumbering.