

103^D CONGRESS
1ST SESSION

H. R. 3417

To provide for a voluntary national insurance program to protect the owners of domesticated cervidae against losses incurred as result of destroying animals or herds infected with, or exposed to, tuberculosis.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1993

Mr. ALLARD introduced the following bill; which was referred to the
Committee on Agriculture

A BILL

To provide for a voluntary national insurance program to protect the owners of domesticated cervidae against losses incurred as result of destroying animals or herds infected with, or exposed to, tuberculosis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Emergency Cervidae Tuberculosis Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Purpose and finding.
- Sec. 3. Definitions.

- Sec. 4. Administration of act.
- Sec. 5. Emergency cervidae tuberculosis protection.—
- Sec. 6. Insurance premiums.
- Sec. 7. Deposit and investment of premiums received.
- Sec. 8. Enforcement.
- Sec. 9. Regulations.
- Sec. 10. Authority to borrow funds from the Commodity Credit Corporation.
- Sec. 11. Emergency limitations on the movement of cervidae in interstate commerce.
- Sec. 12. Separability of provisions.
- Sec. 13. Termination.

1 **SEC. 2. PURPOSE AND FINDING.**

2 It is the purpose of this Act to provide for a voluntary
 3 national cervidae tuberculosis insurance program. Con-
 4 gress hereby finds that the commercial raising of cervidae
 5 in the United States either involves interstate commerce
 6 or affects interstate commerce.

7 **SEC. 3. DEFINITIONS.**

8 For purposes of this Act:

9 (1) CERVIDAE.—The term “cervidae” means
 10 any member of the family of animals possessing ant-
 11 lers that are shed annually, such as an elk, a deer,
 12 and a reindeer, except that such term shall include
 13 the antlerless water deer.

14 (2) COMMERCE.—The term “commerce” means
 15 transport—

16 (A) between any State, Territory, or pos-
 17 session, or the District of Columbia, and any
 18 place outside thereof;

19 (B) between points within the same State,
 20 Territory, or possession, or the District of Co-

1 lumbia, but through any place outside thereof;
2 or

3 (C) within any Territory, possession, or the
4 District of Columbia.

5 (3) DESTRUCTION.—The term “destruction”
6 means the slaughter of cervidae by a method ap-
7 proved by the Secretary.

8 (4) EXPOSED.—The term “exposed”, with re-
9 spect to tuberculosis, means any cervidae that is
10 found, in such manner as the Secretary may pre-
11 scribe—

12 (A) to be part of a herd containing one or
13 more infected cervidae;

14 (B) to have moved from such a herd before
15 the infection in the herd is disclosed, but after
16 the herd became infected; or

17 (C) to have been exposed to tuberculosis by
18 virtue of being nursed by a tuberculosis infected
19 dam.

20 (5) HERD.—The term “herd” means—

21 (A) any group of cervidae maintained in a
22 common area for any purpose; or

23 (B) two or more groups of cervidae under
24 common ownership that are geographically sep-

1 arated but that have an interchange or move-
2 ment of cervidae.

3 (6) INFECTED.—The term “infected”, with re-
4 spect to tuberculosis, means any cervidae in which
5 tuberculosis has been determined to exist pursuant
6 to regulations established by the Secretary.

7 (7) INSURANCE PROGRAM.—The term “insur-
8 ance program” means the program of insurance es-
9 tablished by the Secretary under section 5.

10 (8) OWNER.—The term “owner” means any
11 person who has a legal or rightful title to cervidae
12 and is engaged in the business of buying, raising, or
13 selling cervidae in interstate commerce in the United
14 States.

15 (9) PERSON.—The term “person” includes indi-
16 viduals, partnerships, corporations, and other legal
17 entities.

18 (10) SECRETARY.—The term “Secretary”
19 means the Secretary of Agriculture.

20 (11) STATE.—The term “State” means each of
21 the several States, the District of Columbia, the
22 Commonwealth of Puerto Rico, Guam, the Virgin Is-
23 lands of the United States, American Samoa, and
24 any other territory or possession of the United
25 States.

1 (12) TUBERCULOSIS.—The term “tuberculosis”
2 means the contagious, infectious, and communicable
3 disease caused by *Mycobacterium bovis*.

4 **SEC. 4. ADMINISTRATION OF ACT.**

5 (a) DELEGATION.—The Secretary of Agriculture
6 shall administer this Act through the Animal and Plant
7 Health Inspection Service of the Department of Agri-
8 culture.

9 (b) ADVISORY BOARD.—

10 (1) PURPOSE OF BOARD.—The Secretary shall
11 consult with the advisory board appointed pursuant
12 to paragraph (2) whenever the Secretary is estab-
13 lishing policy for the insurance program or otherwise
14 administering the insurance program.

15 (2) COMPOSITION OF BOARD.—The advisory
16 board shall consist of five members selected by the
17 Secretary. Three members (including at least one elk
18 producer and one deer producer) shall be selected by
19 the Secretary from a list of nine candidates pre-
20 sented to the Secretary by domestic cervidae produc-
21 ers who participate in the insurance program. These
22 candidates must also be cervidae producers who par-
23 ticipate in the insurance program. One member shall
24 be selected by the Secretary from among employees
25 of the Department of Agriculture. One member shall

1 be selected by the Secretary in such manner as the
2 Secretary may determine.

3 (3) TERMS.—The members of the advisory
4 board shall serve two-year terms; except that the
5 Secretary may appoint two of the members initially
6 appointed to the advisory board to serve a one-year
7 term.

8 (4) CHAIRPERSON.—

9 (A) IN GENERAL.—At the last meeting of
10 the advisory board for each year, the members
11 of the advisory board shall select one member
12 to serve as the chairperson of the advisory
13 board for the next year. The chairperson shall
14 serve a one year term and shall be responsible
15 for the establishment of procedures for the op-
16 eration of the advisory board.

17 (B) SPECIAL RULE.—For the year in
18 which the advisory board is first established,
19 the members of the advisory board shall select
20 a chairperson at the first meeting of the advi-
21 sory board. The chairperson selected pursuant
22 to this subparagraph shall serve as chairperson
23 for the remainder of that year.

1 (5) TERMINATION.—The advisory board shall
2 terminate at the end of the 10-year period specified
3 in section 13.

4 **SEC. 5. EMERGENCY CERVIDAE TUBERCULOSIS PROTEC-**
5 **TION.—**

6 (a) INSURANCE PROGRAM AUTHORIZED.—If the Sec-
7 retary determines that sufficient actuarial data are avail-
8 able and that establishment of an insurance program is
9 warranted, the Secretary may establish a voluntary na-
10 tional insurance program to compensate participating
11 owners for the destruction of any cervidae found to be in-
12 fected with or exposed to tuberculosis, as provided in this
13 Act.

14 (b) PARTICIPATION REQUIRED FOR INDEMNITY PAY-
15 MENTS.—Indemnity payments shall not be provided under
16 this Act to any owner who does not participate in the in-
17 surance program. In order to participate, the owner must
18 agree to insure the entire herd of the owner. A herd shall
19 not be eligible for coverage under the insurance program
20 if the herd is under active investigation regarding infection
21 with or exposure to tuberculosis, including traceback or
22 quarantine for tuberculosis.

23 (c) EFFECTIVE DATE OF COVERAGE.—Coverage
24 under the insurance program shall become effective upon
25 the payment by the owner of—

1 (1) the premium established by the Secretary
2 for participation in section 6; or

3 (2) such portion of the premium as the Sec-
4 retary may require to initiate coverage.

5 (d) COMPENSATION FOR DESTRUCTION OF INSURED
6 CERVIDAE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), indemnity payments for the destruction of
9 insured cervidae shall be paid at rates established by
10 the Secretary for the insurance program, but not
11 greater than 80 percent of the declared market value
12 of healthy cervidae at the time of the destruction of
13 the cervidae. The amount of compensation shall be
14 reduced by the salvage value and any other moneys
15 received by an owner for the destroyed cervidae.

16 (2) LIMITATION.—The amount of compensation
17 provided for the destruction of insured cervidae may
18 not exceed the actual fair market value of healthy
19 cervidae, as determined by the Secretary, at the time
20 of the destruction of the cervidae. Coverage shall not
21 be retroactive.

22 **SEC. 6. INSURANCE PREMIUMS.**

23 (a) RATES.—Subject to subsection (b), the Secretary
24 shall establish premiums for insurance coverage under this
25 Act at such rates as the Secretary determines to be actu-

1 arially sufficient to cover claims under the insurance pro-
2 gram and to establish a reasonable reserve against unfore-
3 seen losses in order to guarantee that the insurance pro-
4 gram will be self-funding before the end of—

5 (1) the 10-year period beginning on the date of
6 the enactment of this Act; or

7 (2) such earlier termination date as the Sec-
8 retary may establish for the insurance program.

9 (b) MAXIMUM PREMIUM.—The Secretary may not es-
10 tablish a premium under this Act for an owner in excess
11 of two percent annually of the declared market value of
12 the insured herd, as declared by the owner.

13 (c) TIME FOR PAYMENT.—Premiums shall be paid at
14 such time or times as the Secretary shall require.

15 (d) DENIAL OR REDUCTION OF CLAIMS.—

16 (1) LIMITATION.—If the Secretary denies or re-
17 duces an insurance claim under the insurance pro-
18 gram, the Secretary shall mail a notice of the denial
19 or reduction to the claimant.

20 (2) APPEAL.—Not later than six months after
21 the date the notice is mailed, the claimant may bring
22 an administrative appeal before the Secretary to re-
23 view the denial or reduction of the claim.

1 (3) HEARING.—If a claimant files an appeal,
2 the Secretary shall conduct a hearing on the record
3 on the denial or reduction of the claim.

4 (4) FINAL ORDER.—The denial or reduction of
5 the claim shall be treated as a final order that is
6 reviewable under chapter 158 of title 28, United
7 States Code.

8 **SEC. 7. DEPOSIT AND INVESTMENT OF PREMIUMS RE-**
9 **CEIVED.**

10 (a) IN GENERAL.—Premiums received under the in-
11 surance program that are not immediately required to be
12 expended may be—

13 (1) deposited in the Treasury of the United
14 States or in any bank approved by the Secretary of
15 the Treasury, subject to withdrawal by the Secretary
16 of Agriculture at any time; or

17 (2) with approval of the Secretary of the Treas-
18 ury, invested in obligations of the United States or
19 in obligations guaranteed as to principal and interest
20 by the United States.

21 (b) FEDERAL RESERVE BANKS.—Subject to the ap-
22 proval of the Secretary of the Treasury, the Federal Re-
23 serve Banks shall act as depositories, custodians, and fis-
24 cal agents of the Secretary of Agriculture in the perform-

1 ance of the powers of the Secretary of Agriculture under
2 this Act.

3 (c) REPAYMENT OF BORROWED FUNDS.—At the end
4 of the 10-year period specified in section 13, the Secretary
5 shall repay, out of funds remaining for the insurance pro-
6 gram, the Commodity Credit Corporation for all funds
7 borrowed under section 10.

8 (d) REBATE OF UNUSED FUNDS.—Any funds re-
9 maining after making the repayment required under sub-
10 section (c) shall be rebated to policy holders on a pro rated
11 basis according to the premium paid.

12 **SEC. 8. ENFORCEMENT.**

13 In order to ensure the efficient execution of this Act,
14 the provisions (including penalties) of sections 6, 8, 9, and
15 10 of the Federal Trade Commission Act (15 U.S.C. 46,
16 48, 49, and 50, respectively), shall apply to the jurisdic-
17 tion, powers, and duties of the Secretary in enforcing this
18 Act and to any person subject to Act, whether or not a
19 corporation.

20 **SEC. 9. REGULATIONS.**

21 The Secretary is authorized to issue such regulations
22 as may be necessary to carry out the provisions of this
23 Act.

1 **SEC. 10. AUTHORITY TO BORROW FUNDS FROM THE COM-**
2 **MODITY CREDIT CORPORATION.**

3 During the 10-year period specified in section 13, the
4 Secretary may borrow, under such terms as determined
5 by the Secretary, funds available to the Commodity Credit
6 Corporation in an amount not to exceed \$7,000,000 to
7 carry out the insurance program.

8 **SEC. 11. EMERGENCY LIMITATIONS ON THE MOVEMENT OF**
9 **CERVIDAE IN INTERSTATE COMMERCE.**

10 Because of the risk of spreading tuberculosis among
11 cervidae and other uninfected livestock, the movement or
12 sale of cervidae in interstate commerce shall be contingent
13 upon proof of insurance obtained under this Act or a waiv-
14 er signed by the owner releasing the Federal Government
15 from liability for indemnity for the destruction of cervidae
16 exposed to or infected with tuberculosis.

17 **SEC. 12. SEPARABILITY OF PROVISIONS.**

18 The sections of this Act and subdivisions of sections
19 are declared to be separable, and in the event any one
20 or more of the sections or parts of the same of this Act
21 be held to be unconstitutional, the same shall not affect
22 the validity of other sections or parts of sections of this
23 Act.

24 **SEC. 13. TERMINATION.**

25 The insurance program authorized by this section
26 shall terminate at the end of the 10-year period beginning

1 on the date the Secretary first offers insurance under the
2 program. Any insurance policy provided under the pro-
3 gram that is still in effect upon the termination of the
4 program shall remain in effect for the remainder of the
5 term of the policy, except that no policy may be renewed
6 after the termination date of the program.

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