

By: Senator(s) Posey, Dawkins, Michel

To: Wildlife and Fisheries

SENATE BILL NO. 2682

1 AN ACT TO DECLARE A MORATORIUM ON THE IMPORTATION OF ANY TYPE
2 OF DEER AND OTHER CERVIDS SUSCEPTIBLE TO CHRONIC WASTING DISEASE;
3 TO AUTHORIZE THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS, THE
4 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS, THE COMMISSIONER OF
5 AGRICULTURE, THE BOARD OF ANIMAL HEALTH, AND THE STATE
6 VETERINARIAN TO IMPLEMENT SUCH MORATORIUM; TO REQUIRE SUCH
7 AGENCIES TO COOPERATE AND COORDINATE EFFORTS TO PREVENT THE
8 INTRODUCTION OF CHRONIC WASTING DISEASE INTO THE STATE; TO EMPOWER
9 SUCH AGENCIES TO DISPOSE OF DISEASED ANIMALS; TO PROVIDE A PENALTY
10 FOR VIOLATIONS OF THE MORATORIUM; TO AMEND SECTION 69-15-9,
11 69-15-109 AND 49-1-29, MISSISSIPPI CODE OF 1972, TO CONFORM; AND
12 FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** The Legislature finds Chronic Wasting Disease
15 (CWD) is a transmissible spongiform encephalopathy currently known
16 to infect free ranging deer and elk in Colorado, Wyoming,
17 Nebraska, New Mexico and Wisconsin. The disease has also infected
18 farmed elk herds in South Dakota, Montana, Nebraska, Colorado,
19 Kansas and Oklahoma. With the discovery of CWD in free-ranging
20 deer on the east side of the Mississippi River and the transport
21 of CWD-exposed elk to numerous states, CWD has become a national
22 concern.

23 Little is known about the biology and pathogenesis of CWD,
24 including how the disease agent enters the animal, how it
25 multiplies in the body, how it causes disease and how it is
26 transmitted. These significant research and knowledge gaps
27 regarding the fundamental characteristics of the disease greatly
28 impede plans to control the disease. The only effective control
29 has been the destruction of captive cervids and the depopulation
30 of wild cervids in large geographical areas. Because of the
31 urgency of the situation and the potential devastating effects on
32 the native wildlife and recreational economies of the states, the



33 United States Department of Agriculture had formed a task force to
34 control and eradicate this disease. In addition, many states have
35 imposed emergency statewide moratoriums on the importation of
36 cervids. Because of the potential devastating effect on native
37 wildlife and the recreational economy dependent on wildlife and
38 the urgency of the situation, the Legislature finds that to ensure
39 public health and safety and the health and safety of native
40 wildlife and domestic animals that an emergency moratorium is
41 warranted and in the public interest.

42 **SECTION 2.** (1) There is hereby imposed a moratorium on the
43 importation of elk, red deer, mule deer, reindeer, caribou, other
44 cervids susceptible to chronic wasting disease and crosses of any
45 such animals into the State of Mississippi. Any person who
46 possesses, buys, imports, or transports any cervid that has been
47 imported in the state in violation of the moratorium shall be
48 subject to a Class I penalty under Section 49-7-141. The agency
49 issuing a permit for cervids within an enclosure shall revoke the
50 permit of any person found in violation of the moratorium. If any
51 cervid in an enclosure tests positive for chronic wasting disease
52 or if any cervids within the enclosure have been imported from an
53 area diagnosed with chronic wasting disease, then all cervids in
54 the enclosure shall be deemed a threat to native wildlife and to
55 public health and shall be killed and disposed of by the state.

56 (2) It shall be the duty of the Commissioner of Agriculture
57 and Commerce, the Board of Animal Health, the State Veterinarian,
58 the Commission on Wildlife, Fisheries and Parks, and the
59 Department of Wildlife, Fisheries and Parks to consult and
60 coordinate efforts on matters related to chronic wasting disease,
61 the prevention of the introduction of chronic wasting disease in
62 the state and to ensure the health and safety of the public and
63 wildlife.

64 (3) The Commission on Wildlife, Fisheries and Parks and the
65 Department of Wildlife, Fisheries and Parks shall have plenary



66 authority in determining matters related to the moratorium on the
67 importation of cervids and any other matter related to preventing
68 the introduction of chronic wasting disease into the native
69 wildlife population.

70 **SECTION 3.** Section 69-15-9, Mississippi Code of 1972, is
71 amended as follows:

72 69-15-9. The Board of Animal Health shall have plenary power
73 to deal with all contagious and infectious diseases of animals as
74 in the opinion of the board may be prevented, controlled or
75 eradicated, and with full power to make, promulgate and enforce
76 such rules and regulations as in the judgment of the board may be
77 necessary to control, eradicate and prevent the introduction and
78 spread of anthrax, tuberculosis, hog cholera, Texas and splenic
79 fever and the fever-carrying tick (*Dermacentor annulatus*), cattle
80 brucellosis, anaplasmosis, infectious bovine rhinotracheitis,
81 muscosal disease, cattle viral diarrhea, cattle scabies, sheep
82 scabies, hog cholera, swine erysipelas, swine brucellosis, equine
83 encephalomyelitis, rabies, vesicular diseases, salmonella group,
84 newcastle disease, infectious laryngotracheitis,
85 ornithosis-psittacosis, mycoplasma group and any suspected new
86 and/or foreign diseases of livestock and poultry and all other
87 diseases of animals in this state, and the board is hereby vested
88 with full authority to establish and maintain quarantine lines and
89 to quarantine by county, supervisors district, parcel of land or
90 herd. The State Veterinarian shall appoint as many inspectors and
91 range riders as may be deemed necessary, and the funds at his
92 disposal will permit, and shall delegate authority to said
93 inspectors and range riders, to enter premises to inspect and
94 disinfect livestock and premises, and enforce quarantine including
95 counties, farms, pens, stables and other premises.

96 The Board of Animal Health shall have all the powers
97 enumerated in this section, after consultation with the Department
98 of Wildlife, Fisheries and Parks to prevent, control or eradicate



chronic wasting disease in any cervids within an enclosure as
provided in Section 2 of Senate Bill No.2682, 2003 Regular
Session.

No officer or agent of the State Veterinarian may enter the
actual enclosures of any person except (1) with the consent of the
person lawfully in possession thereof or (2) in the absence of
such consent, with a proper writ obtained as in other cases of
searches and seizures under constitutional law. An officer or
agent of the State Veterinarian may enter any enclosure containing
cervids that may be susceptible to chronic wasting disease or who
may have been imported from an area with chronic wasting disease
without the consent of the owner. When such officers and agents
are lawfully on the premises, either by permission or writ, they
shall be authorized to inspect the premises and the livestock and
animals found thereon by entering the enclosures and buildings and
they are authorized to check livestock and poultry found therein
for any contagious diseases and take proper action to control or
eradicate any such diseases that may be found. While such
officers and agents are performing their duties hereunder, they
shall not be personally liable except for gross negligence. The
refusal without lawful reason of any person to give the consent
aforesaid shall be deemed a misdemeanor and shall be punishable as
for violations of Article 5 of this chapter as provided for in
Section 69-15-115.

The Board of Animal Health shall administer the special fund
created in Section 69-15-19.

SECTION 4. Section 69-15-109, Mississippi Code of 1972, is
amended as follows:

69-15-109. (1) The Governor of the State of Mississippi,
when advised by the Board of Animal Health that an emergency
exists due to the presence of foot and mouth disease, rinderpest,
contagious pleuropneumonia, or other contagious or infectious
diseases of animals, or European fowl pest and similar diseases



among poultry, in this state, or chronic wasting disease in any cervids, is hereby authorized to declare a state of emergency and to order all animals or poultry quarantined or slaughtered that may be affected with, or possible carriers of such diseases.

(2) The Governor is hereby authorized and empowered to cooperate with any department of the federal government engaged in the combating and control of any such disease mentioned in subsection (1) and to this end the Governor is authorized and empowered to do any and all things in cooperation with the federal government necessary to the control and extermination of any such diseases mentioned in subsection (1) among animals or poultry that may be affected therewith.

(3) For the purposes of this section, the Governor shall have full and complete police power, and shall exercise same anywhere in the State of Mississippi, and if an emergency should exist to such an extent that such becomes necessary the Governor may employ such personnel to enforce such police powers and quarantine that may be necessary to control and prevent the spreading of any such diseases mentioned in subsection (1) among animals or poultry in this state. Such personnel when appointed by the Governor shall work under the direction of the Mississippi Board of Animal Health, or its representative, and shall be paid such compensation as the Governor may determine out of any money made available for the enforcement of this section.

(4) When any animals or poultry or materials are ordered to be destroyed, under the provisions of this section, the owner of same shall be paid for each such animal or poultry or materials destroyed an amount not exceeding the amount authorized to be paid by the federal government in matching funds expended for the destruction of each such animal or poultry or materials infected with any such diseases mentioned in subsection (1).

(5) In the event of the happening of an outbreak of any such diseases mentioned in subsection (1) in Mississippi, the Governor



is hereby authorized to borrow not to exceed two hundred thousand dollars (\$200,000.00) to carry out the terms and provisions of this section.

SECTION 5. Section 49-1-29, Mississippi Code of 1972, is amended as follows:

49-1-29. The commission may promulgate rules and regulations, inaugurate studies and surveys, and establish any services it deems necessary to carry out wildlife laws. A violation of any rules or regulations promulgated by the commission shall constitute a misdemeanor and shall be punished as provided in Section 49-7-101.

The executive director shall have authority with commission approval:

(a) To close or shorten the open season as prescribed by law in cases of urgent emergency on any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians, in any locality, when it finds after investigation and public review that the action is reasonably necessary to secure the perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply in the affected area. The statutes shall continue in full force and effect, except as restricted and limited by the rules and regulations promulgated by the commission.

(b) To designate wildlife refuges, with the consent of the property owner or owners, in any localities it finds necessary to secure perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply for the purpose of providing a safe retreat where the animals may rest and replenish adjacent hunting, trapping or fishing grounds or waters.

(c) To acquire and hold for the state by purchase, condemnation, lease, or agreement as authorized from time to time by the Legislature, and to receive by gifts or devise, lands or



198 water suitable for fish habitats, game and bird habitats, state
199 parks, access sites, wildlife refuges, or for public shooting,
200 trapping or fishing grounds or waters, to provide areas on which
201 any citizen may hunt, trap or fish under any special regulations
202 as the commission may prescribe.

203 (d) To extend and consolidate lands or waters suitable
204 for the above purposes by exchange of lands or waters under its
205 jurisdiction.

206 (e) To capture, propagate, transport, sell or exchange
207 any species of game birds, game or fur-bearing animals, reptiles,
208 fish or amphibians needed for stocking or restocking any lands or
209 waters of the state.

210 (f) To enter into cooperative agreements with persons,
211 firms, corporations or governmental agencies for purposes
212 consistent with this chapter.

213 (g) To regulate the burning of rubbish, slashings and
214 marshes or other areas it may find reasonably necessary to reduce
215 the danger of destructive fires.

216 (h) To conduct research in improved wildlife and
217 fisheries conservation methods and to disseminate information to
218 the residents of the state through the schools, public media and
219 other publications.

220 (i) To have exclusive charge and control of the
221 propagation and distribution of wild birds, animals, reptiles,
222 fish and amphibians, the conduct and control of hatcheries,
223 biological stations and game and fur farms owned or acquired by
224 the state; to expend for the protection, propagation or
225 preservation of game birds, game or fur-bearing animals, reptiles,
226 fish and amphibians all funds of the state acquired for this
227 purpose arising from licenses, gifts or otherwise; and shall have
228 charge of the enforcement of all wildlife laws.

229 (j) To grant permits and provide regulations for field
230 trials and dog trainers.



(k) To prohibit and to regulate the taking of nongame gross fish, except minnows.

(l) To enter into agreements with landowners to trap and purchase quail on the premises of the landowner and to provide for the distribution of quail.

(m) To operate or lease to third persons concessions or other rights or privileges on lakes owned or leased by the department. Owners of land adjoining land owned or leased by the department shall have priority to the concessions or rights or privileges, if the owners meet the qualifications established by the commission.

(n) To implement a beaver control program and to charge fees, upon the recommendation of the Beaver Control Advisory Board, to landowners participating in the beaver control program described in Section 49-7-201.

(o) To apply for, receive and expend any federal, state or local funds, contributions or funds from any other source for the purpose of beaver control or eradication.

(p) To require the department to divide the districts into zones if necessary, and periodically survey the districts or zones to obtain information that is necessary to properly determine the population and allowable harvest limits of wildlife within the district or zone.

(q) To require Chronic Wasting Disease (CWD) testing of all white-tailed deer within any enclosure; to grant wildlife personnel authority to access the property and depopulate white-tailed deer within an enclosure where CWD has been diagnosed; and to grant wildlife personnel authority to access the property and utilize lethal collection methods to obtain tissue samples for testing where CWD has been diagnosed within five (5) miles of the enclosure.

SECTION 6. This act shall take effect and be in force from and after its passage.

