

BILL ANALYSIS

C.S.H.B. 2901
By: Hilderbran
Culture, Recreation, & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas law does not use terminology that is relevant to current practices in breeding deer. Currently, there are almost 1,000 scientific breeders in the state holding permits issued by the Texas Parks and Wildlife Department (department). The department regulates the breeding of privately-owned scientific breeder white-tailed and mule deer in captivity on private lands. Along with this annual permit, there are rules and regulations that permit holders are required to follow.

As proposed, C.S.H.B. 2901 renames the deer permit and defines the practice in modern terms. It clarifies the role of the deer breeder and the department's law enforcement. C.S.H.B. 2901 also provides that the penalty for killing a deer in a breeder facility is enhanced to a Class A Parks and Wildlife Code misdemeanor.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 1 of this bill.

ANALYSIS

SECTION 1. Amends Subchapter L, Chapter 43, Parks and Wildlife Code, as follows:

SUBCHAPTER L. New heading: DEER BREEDER'S PERMIT

Sec. 43.351. DEFINITIONS. Defines "captivity," "deer," "deer breeder," "durable identification tag," "immediate locality," and "liberation." Redefines "deer breeder" and "captivity."

Sec. 43.352. PERMIT AUTHORIZED. Requires the Texas Parks and Wildlife Department (department) to issue a permit to a qualified person to possess live deer in captivity.

Sec. 43.354. APPLICATION. Deletes existing text of this section.

Sec. 43.355. CONDITIONS OF PERMIT; EXPIRATION; FEES. Deletes existing text of this section.

Sec. 43.356. SERIAL NUMBER. (a) Requires the department to issue a serial number to the applicant at the time of the first issuance of a deer, rather than a scientific, breeder's permit to the applicant. Requires the same serial number to be assigned to the permittee whenever he or she holds a deer, rather than a scientific, breeder's permit.

(b) Requires the deer breeder to place a durable identification tag on or implanted in each deer possessed by the deer breeder. Makes conforming changes.

Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) Authorizes the holder of a valid deer breeder's permit to engage in the business of breeding deer in the immediate locality for which the license was issued or sell or transfer to another person or hold in captivity live deer for the purpose of liberation, propagation or sale. Authorizes a deer breeder, deer breeder's authorized agent, or unpermitted assistant acting under the

direction of the deer breeder or authorized agent to capture a deer held in a permitted facility for specific purposes. Makes conforming changes.

(b) Authorizes the Texas Parks and Wildlife Commission (commission) to make regulations governing specific issues concerning the possession and liberation of deer, the recapture of lawfully possessed deer, unique identifications, permit applications and fees, reporting requirements, procedures and requirements for purchase, transfer, sale, or shipment of deer, breeder facility endorsement requirements, the total number of deer authorized to be possessed by a deer breeder, and the validity dates of a permit. Makes conforming changes.

Sec. 43.359. REPORTS. (a) Requires a deer breeder to maintain an accurate and legible record of all deer acquired, purchased, propagated, sold, transferred, liberated, or disposed of and any other information required by the department that reasonably relates to the regulation of deer breeders. Deletes existing text relating to records maintained by the department. Makes conforming changes.

(b) Requires a deer breeder to report the information maintained under Subsection (a) to the department as may be required by rule of the commission, rather than in the time and manner required by commission proclamation. Makes conforming changes.

(c) Requires the deer breeder, upon the request of a game warden acting within the scope of official duties, to make available to the employee any information required to be maintained by this subchapter or by a rule of the commission.

Sec. 43.360. ENCLOSURE SIZE. Prohibits a single enclosure for white-tailed deer or mule deer from containing more than 100, rather than 320, acres.

Sec. 43.361. SHIPMENT OF WHITE TAILED DEER. Deletes existing text of Subsection (a) relating to prohibiting a common carrier from accepting specific deer unless the shipment is made by a holder of a scientific breeder's permit. Provides that no person, except a deer breeder, the deer breeder's authorized agent, a deer breeder assisting another deer breeder, or a person holding a permit under Subchapter C of Chapter 43 of this code, may transport or ship a live deer unless the person obtains a transport permit, rather than a permit for shipment or transportation, from the department. Makes conforming changes.

Deletes subdivision designations.

Sec. 43.362. New heading: PURCHASE, SALE OR TRANSFER OF LIVE DEER. Provides that only deer that are in a healthy condition are authorized to be sold, bartered, exchanged, or transferred or offered for sale, barter, or exchange, by a deer breeder. Prohibits a person, except as provided by Subchapter C, Chapter 43, or by commission rule under this subchapter, from purchasing, obtaining, receiving, selling, transferring, or accepting a live deer in this state, unless the person obtains a purchase permit from the department and the deer is property marked as required by this subchapter or rule of the commission. Makes conforming changes.

Sec. 43.363. New heading: TRANSFER DURING OPEN SEASON. Prohibits any person in this state, during an open hunting season for deer or during the 10-day period immediately preceding an open hunting season, from liberating, selling, transferring, shipping, or transporting a deer for the purpose of liberation unless the person has followed specific procedures. Deletes existing text requiring the commission to make regulations governing notice and approval of the sale or shipment of specific deer. Makes conforming changes.

Sec. 43.364. New heading: USE OF DEER. Authorizes a deer to be purchased, sold, transferred, or received in this state only for the purpose of liberation or propagation. Provides that all deer and increase from deer are under the full force of the laws of this state pertaining to deer, and those deer to be held in captivity for propagation in this state

only after a deer breeder's permit is issued by the department under this subchapter.
Makes conforming changes.

Sec. 43.365. PROHIBITED ACTS. Provides that it is an offense if a deer breeder or other person commits specific acts relating to taking, trapping, or capturing or attempting to take, trap, or capture a deer from the wild, allowing the hunting or killing of a deer held in captivity, selling, purchasing, or receiving a live deer in violation of this code or a rule of the commission adopted by this subchapter. Provides that it is an offense if a deer breeder fails to furnish certain records to a game warden commissioned by the department. Makes conforming changes.

Sec. 43.366. APPLICATION OF GENERAL LAWS. Makes conforming changes.

Sec. 43.367. PENALTY. Provides that a person who violates a provision of this subchapter, the conditions of a permit, or a regulation of the commission issued under this subchapter or who fails to file a full and complete report as required by Section 43.359 of this code, except as provided in Subsection (b) of this section, commits an offense that is a Class C Parks and Wildlife Code misdemeanor. Provides that a person in violation of Section 43.365(a)(2) of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 2. Effective date: September 1, 2005.

EFFECTIVE DATE

Effective date: September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute redefined immediate locality. Section 43.57 (b) (1) of the substitute removes liberation from the authority of the commission. Section 43.359 (b) (1) of the substitute requires that the deer breeder shall make available any required information to the game warden or any department employee. Section 43.362 (b) of the substitute removes receiving as a prohibited act.