

By: Hilderbran

H.B. No. 2901

Substitute the following for H.B. No. 2901:

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C.S.H.B. No. 2901

A BILL TO BE ENTITLED

AN ACT

relating to a deer breeder's permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter L, Chapter 43, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER L. DEER [~~SCIENTIFIC~~] BREEDER'S PERMIT

SECTION 2. Sections 43.351, 43.352, 43.356, 43.357, and 43.359-43.367, Parks and Wildlife Code, are amended to read as follows:

Sec. 43.351. DEFINITIONS. In this subchapter:

(1) "Deer [~~Scientific~~] breeder" means a person holding a valid deer [~~scientific~~] breeder's permit.

(2) "Captivity" means the keeping of a deer [~~an animal~~] in an enclosure suitable for and capable of retaining the deer [~~animal~~] it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another deer [~~animal~~]. The term includes the temporary keeping of a deer in a vehicle or trailer.

(3) "Deer" means a white-tailed deer or mule deer.

(4) "Durable identification tag" means a tag not easily dislodged or removed made of a material that is not likely to disintegrate or decompose. The term includes newly developed technologies, including radio frequency identification tags, implantable transponders, and microchips.

1 (5) "Immediate locality" means land that is contiguous
2 and that is owned by the same person. For purposes of this section,
3 land divided or separated only by a public road or a public waterway
4 is contiguous.

5 (6) "Liberation" means the intentional release of a
6 live deer from a permitted facility, vehicle, or trailer.

7 Sec. 43.352. PERMIT AUTHORIZED. The department shall issue
8 a permit to a qualified person to possess live [~~white-tailed~~] deer
9 in captivity [~~or mule deer for propagation, management, and~~
10 ~~scientific purposes~~].

11 Sec. 43.356. SERIAL NUMBER. (a) The department shall issue
12 a serial number to a permittee when the department issues the
13 permittee a deer breeder's permit [~~the applicant at the time of the~~
14 ~~first issuance of a scientific breeder's permit to the applicant~~].
15 The same serial number shall be assigned to the permittee whenever
16 the department issues the permittee [~~he holds~~] a deer [~~scientific~~]
17 breeder's permit.

18 (b) The deer [~~scientific~~] breeder shall implant in or place
19 on each of the breeder's deer a durable identification [~~suitable~~
20 ~~permanent~~] tag [~~bearing the scientific breeder's serial number on~~
21 ~~the ear of each white-tailed deer or mule deer possessed by the~~
22 ~~scientific breeder and shall place on the white-tailed deer or mule~~
23 ~~deer any other identification marking prescribed by the~~
24 ~~commission~~].

25 Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) The
26 holder of a valid deer [~~scientific~~] breeder's permit may:

27 (1) engage in the business of breeding [~~white-tailed~~]

1 deer in the immediate locality for which the permit [~~license~~] was
2 issued; and

3 (2) sell, transfer to another person, or hold in
4 captivity live [~~white-tailed~~] deer [~~or mule deer~~] for the purpose
5 of propagation, liberation, or sale.

6 (a-1) A deer breeder, deer breeder's authorized agent, or an
7 assistant who is not a permittee under this subchapter but is acting
8 under the direction of a deer breeder or a deer breeder's authorized
9 agent may capture a deer held in a permitted facility for:

10 (1) removal from an enclosure;

11 (2) veterinary treatment;

12 (3) tagging;

13 (4) euthanasia for the purpose of:

14 (A) humane dispatch of the deer; or

15 (B) the conduct of a test for a reportable
16 disease as required by law; or

17 (5) any other purpose required or allowed by law.

18 (b) The commission may make regulations governing:

19 (1) the possession of [~~white-tailed~~] deer held under
20 the authority of this subchapter [~~and mule deer for scientific,~~
21 ~~management, and propagation purposes~~]; [~~and~~]

22 (2) the recapture of lawfully possessed
23 [~~white-tailed~~] deer [~~or mule deer~~] that have escaped from the [~~a~~]
24 facility of a deer [~~scientific~~] breeder;

25 (3) any required unique identification of each deer
26 held, possessed, or liberated under a deer breeder's permit;

27 (4) permit applications and fees;

- 1 (5) reporting requirements;
2 (6) procedures and requirements for the purchase,
3 transfer, sale, or shipment of deer;
4 (7) the endorsement of a breeder facility by a
5 certified wildlife biologist;
6 (8) the number of deer that a deer breeder may possess;
7 and
8 (9) the dates for which a deer breeder permit is valid.

9 Sec. 43.359. REPORTS; AVAILABILITY OF INFORMATION. (a) A
10 deer [~~scientific~~] breeder shall maintain an accurate and legible
11 record of all [~~white-tailed~~] deer [~~and mule deer~~] acquired,
12 purchased, propagated, sold, transferred, liberated, or disposed
13 of and any other information required by the department that
14 reasonably relates to the regulation of deer [~~scientific~~] breeders.
15 [~~The record shall be maintained on a form provided by the~~
16 ~~department.~~]

17 (b) A deer [~~scientific~~] breeder shall report the
18 information maintained under Subsection (a) to the department as
19 the [~~in the time and manner required by~~] commission by rule may
20 require [~~proclamation~~].

21 (c) On the request of a game warden acting within the scope
22 of the game warden's official duties, a deer breeder shall make
23 available to the game warden or other department employee any
24 information the deer breeder is required to maintain under this
25 subchapter or a rule adopted by the commission.

26 Sec. 43.360. ENCLOSURE SIZE. A single enclosure for
27 [~~white-tailed deer or mule~~] deer may not contain more than 100 [~~320~~]

1 acres.

2 Sec. 43.361. SHIPMENT OF [~~WHITE-TAILED~~] DEER. [~~(a)~~—A
3 ~~common carrier may not accept a live white-tailed deer or mule deer~~
4 ~~unless the shipment is made by a holder of a scientific breeder's~~
5 ~~permit or by a person holding a permit under Subchapter C of Chapter~~
6 ~~43 of this code.~~

7 [~~(b)~~] No person, except a deer [~~scientific~~] breeder, the
8 deer breeder's [~~his~~] authorized agent, a deer breeder assisting
9 another deer breeder, or a person holding a permit under Subchapter
10 C [~~of Chapter 43 of this code~~], may transport or ship a live
11 [~~white-tailed~~] deer [~~or mule deer~~] unless the person [~~he~~] obtains a
12 transport permit [~~for shipment or transportation~~] from the
13 department.

14 Sec. 43.362. TRANSFER, PURCHASE, OR [~~AND~~] SALE OF LIVE
15 [~~WHITE-TAILED~~] DEER [~~AND MULE DEER~~]. (a) Only [~~white-tailed~~] deer
16 [~~and mule deer~~] that are in a healthy condition may be sold,
17 bartered, transferred or exchanged, or offered for sale, barter, or
18 exchange, by a deer [~~scientific~~] breeder.

19 (b) Except as provided by Subchapter C or by a rule adopted
20 by the commission under this subchapter, [~~Chapter 43,~~] no person
21 may purchase, obtain, sell, transfer, or accept in this state a live
22 [~~white-tailed~~] deer [~~or mule deer~~] unless the person obtains a
23 purchase permit [~~for purchasing~~] from the department and[+]

24 [~~(1)~~] the [~~white-tailed~~] deer [~~or mule deer~~] is
25 properly marked as required by this subchapter or a rule adopted by
26 the commission under this subchapter [~~Section 43.356(b) of this~~
27 ~~code, or~~

1 ~~[(2) the white-tailed deer or mule deer is delivered~~
2 ~~by a common carrier from outside this state].~~

3 ~~[(c) No person may release into the wild a white-tailed deer~~
4 ~~or mule deer unless all visible markings required by Section~~
5 ~~43.356(b) have been removed.]~~

6 Sec. 43.363. TRANSFER ~~[SALE]~~ DURING OPEN SEASON. (a)
7 During an open hunting season for ~~[taking the white-tailed]~~ deer or
8 ~~[mule deer or]~~ during the 10-day ~~[a]~~ period immediately preceding
9 ~~[of 10 days before]~~ an open hunting season, ~~[no scientific breeder~~
10 ~~may release into the wild or sell or ship to a person other than a~~
11 ~~person holding a scientific breeder's permit, a white-tailed deer~~
12 ~~or mule deer and]~~ no person in this state ~~[, other than a scientific~~
13 ~~breeder,~~ may liberate ~~[purchase from]~~ a deer ~~[scientific breeder~~
14 ~~in this state]~~ or sell, transfer, ship, or transport a
15 ~~[white-tailed]~~ deer for the purpose of liberation ~~[or mule deer]~~
16 unless the person ~~[scientific breeder]~~:

17 (1) has removed ~~[immediately above the pedicel]~~ the
18 antlers of the ~~[a male white-tailed]~~ deer ~~[or mule deer]~~ between the
19 G-3 tine, as defined by the Boone and Crockett Club, and the pedicel
20 on each antler main beam ~~[to be sold or shipped]; and~~

21 (2) has followed any procedure prescribed by rule of
22 the commission for the lawful conduct of activities under this
23 subchapter ~~[given written notice of the sale to the department].~~

24 (b) The commission shall adopt rules ~~[make regulations]~~
25 governing a transfer permit ~~[notice and approval of the sale or~~
26 ~~shipment of white-tailed deer and mule deer]~~ under this section.

27 Sec. 43.364. USE OF ~~[PURCHASED WHITE-TAILED]~~ DEER ~~[AND MULE~~

1 ~~DEER~~. Deer [~~white-tailed deer and mule deer~~] may be purchased,
2 sold, transferred, or received in this state only for the purpose of
3 liberation [~~for stocking purposes~~] or [~~holding for~~] propagation
4 [~~purposes~~]. All [~~white-tailed~~] deer [~~or mule deer~~] and increase
5 from [~~the white-tailed~~] deer [~~or mule deer~~] are under the full force
6 of the laws of this state pertaining to [~~white-tailed~~] deer [~~and~~
7 ~~mule deer~~], and those deer may be held in captivity for propagation
8 in this state only after a deer [~~scientific~~] breeder's permit is
9 issued by the department under this subchapter.

10 Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a
11 deer [~~scientific~~] breeder or another person:

12 (1) takes, traps, or captures or attempts to take,
13 trap, or capture [~~white-tailed~~] deer [~~or mule deer~~] from the wild;

14 (2) allows the hunting or killing of a [~~white-tailed~~]
15 deer [~~or mule deer~~] held in captivity under the provisions of this
16 subchapter, except as provided by this subchapter or a rule adopted
17 by the commission under this subchapter; or

18 (3) sells, arranges the sale of, purchases, receives,
19 or attempts to sell, arrange the sale of, purchase, or receive a
20 live deer in violation of this subchapter or a rule adopted by the
21 commission under this subchapter.

22 (b) It is an offense if a deer breeder fails to furnish to a
23 game warden commissioned by the department records required to be
24 maintained under Section 43.359(a).

25 Sec. 43.366. APPLICATION OF GENERAL LAWS. In order that
26 native species may be preserved, [~~white-tailed~~] deer [~~and mule~~
27 ~~deer~~] held under a deer [~~scientific~~] breeder's permit are subject

1 to all laws and regulations of this state pertaining to
2 [~~white-tailed deer or mule~~] deer except as specifically provided in
3 this subchapter. However, it is specifically provided that this
4 subchapter may not be construed to restrict or prohibit the use of
5 high fences.

6 Sec. 43.367. PENALTY. (a) Except as provided by Subsection
7 (b), a [A] person who violates a provision of this subchapter[~~, the~~
8 ~~conditions of a permit,~~ or a regulation of the commission issued
9 under this subchapter or who fails to file a full and complete
10 report as required by Section 43.359 [~~of this code~~] commits an
11 offense that is a Class C Parks and Wildlife Code misdemeanor.

12 (b) A person who violates Section 43.365(a)(2) commits an
13 offense that is a Class A Parks and Wildlife Code misdemeanor.

14 SECTION 3. Sections 43.354 and 43.355, Parks and Wildlife
15 Code, are repealed.

16 SECTION 4. This Act takes effect September 1, 2005.