

By: Hilderbran

H.B. No. 2901

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the possession of white-tailed deer or mule deer for the
3 purpose of sale, purchase, transfer, propagation or liberation
4 under terms of a permit; providing a penalty.

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

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

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

9 Sec. 43.351. DEFINITIONS. In this subchapter:

10 (1) "Captivity" means the keeping of a deer in an
11 enclosure suitable for and capable of retaining the deer it is
12 designed to retain at all times under reasonable and ordinary
13 circumstances and to prevent entry by another deer. Captivity
14 includes temporary possession in a vehicle or trailer.

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

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

18 [~~(2) "Captivity" means the keeping of an animal in an~~
19 ~~enclosure suitable for and capable of retaining the animal it is~~
20 ~~designed to retain at all times under reasonable and ordinary~~
21 ~~circumstances and to prevent entry by another animal.]~~

22 (4) "Durable identification tag" means a tag made of a
23 material that is not likely to disintegrate, decompose, be
24 dislodged or removed and may include newly developed technology,

1 RFIDs (Radio Frequency Identification) tags, implantable
2 transponders, or microchips.

3 (5) "Immediate locality" means land that is contiguous
4 and that is owned by an individual person, partnership, firm or
5 corporation. A tract of land is considered contiguous if separated
6 by public road or waterway.

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

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

13 [~~Sec. 43.354. APPLICATION. The application for a~~
14 ~~scientific breeder's permit must be made under oath and must state~~
15 ~~the purpose of possession or transportation of white-tailed deer or~~
16 ~~mule deer.~~

17 [~~Sec. 43.355. CONDITIONS OF PERMIT, EXPIRATION,~~
18 ~~FEES. (a) The department shall issue the scientific breeder's~~
19 ~~permit under conditions determined by the commission, including~~
20 ~~specifying the number of white-tailed deer or mule deer that may be~~
21 ~~possessed and providing for an endorsement by a certified wildlife~~
22 ~~biologist.~~

23 [~~(b) A scientific breeder's permit is valid only during the~~
24 ~~yearly period for which the permit is issued without regard to the~~
25 ~~date on which the permit is acquired. Each yearly period begins on~~
26 ~~September 1 or on another date set by the commission and extends~~
27 ~~through August 31 of the next year or another date set by the~~

1 ~~commission.~~

2 ~~[(c) The fee for a scientific breeder's permit is \$50 or an~~
3 ~~amount set by the commission, whichever amount is more.]~~

4 Sec. 43.356. SERIAL NUMBER. (a) The department shall
5 issue a serial number to the applicant at the time of the first
6 issuance of a deer ~~[scientific]~~ breeder's permit to the applicant.
7 The same serial number shall be assigned to the permittee whenever
8 he or she holds a deer ~~[scientific]~~ breeder's permit.

9 (b) The deer ~~[scientific]~~ breeder shall place a durable
10 ~~[suitable permanent]~~ identification tag~~[bearing the scientific~~
11 ~~breeder's serial number]~~ on or implanted in ~~[the ear of]~~ each
12 ~~[white-tailed deer or mule]~~ deer possessed by the deer ~~[scientific]~~
13 breeder ~~[and shall place on the white-tailed deer or mule deer any~~
14 ~~other identification marking prescribed by the commission].~~

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

17 (1) engage in the business of breeding ~~[white-tailed]~~
18 deer in the immediate locality for which the license was issued; and

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

22 (3) A deer breeder, deer breeder's authorized agent or
23 un-permitted assistant acting under the direction of the deer
24 breeder or authorized agent may capture a deer held in a permitted
25 facility for:

26 (A) removal from the enclosure;

27 (B) veterinary treatment;

1 (C) tagging;

2 (D) euthanasia for purposes of humane dispatch or
3 to conduct testing for reportable diseases as required by law; or

4 (E) any other purpose required or allowed by law.

5 (b) The commission may make regulations governing:

6 (1) the possession and liberation of [~~white-tailed~~
7 ~~deer and mule~~] deer held under the authority of this subchapter [~~for~~
8 ~~scientific, management, and propagation purposes; and~~]

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

12 (3) the unique identification of each deer held,
13 possessed or liberated under a deer breeder's permit;

14 (4) permit applications and fees;

15 (5) reporting requirements;

16 (6) procedures and requirements for the purchase,
17 transfer, sale, or shipment of deer;

18 (7) breeder facility endorsement requirements for
19 certified wildlife biologist;

20 (8) the number of deer that may be possessed by a deer
21 breeder; and

22 (9) the validity dates of a permit.

23 Sec. 43.359. REPORTS. (a) A deer [~~scientific~~] breeder
24 shall maintain an accurate and legible record of [~~white-tailed deer~~
25 ~~and mule~~] all deer acquired, purchased, propagated, sold,
26 transferred, liberated or disposed of and any other information
27 required by the department that reasonably relates to the

1 regulation of deer [~~scientific~~] breeders. [~~The record shall be~~
2 ~~maintained on a form provided by the department.~~]

3 (b) A deer [~~scientific~~] breeder shall report the
4 information maintained under Subsection (a) to the department as
5 may be required [~~in the time and manner required~~] by rule of the
6 commission [~~proclamation~~].

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

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

14 Sec. 43.361. SHIPMENT OF WHITE-TAILED DEER. [~~(a) A~~
15 ~~common carrier may not accept a live white-tailed deer or mule deer~~
16 ~~unless the shipment is made by a holder of a scientific breeder's~~
17 ~~permit or by a person holding a permit under Subchapter C of Chapter~~
18 ~~43 of this code.~~]

19 [(~~b~~)] No person, except a deer [~~scientific~~] breeder, the
20 deer breeder's [~~his~~] authorized agent, a deer breeder assisting
21 another deer breeder, or a person holding a permit under Subchapter
22 C of Chapter 43 of this code, may transport or ship a live
23 [~~white-tailed deer or mule~~] deer unless the person [~~he~~] obtains a
24 transport permit [~~for shipment or transportation~~] from the
25 department.

26 Sec. 43.362. PURCHASE [~~AND~~] SALE OR TRANSFER OF LIVE
27 [~~WHITE-TAILED DEER AND MULE~~] DEER. (a) Only [~~white-tailed deer~~

1 ~~and mule~~] deer that are in a healthy condition may be sold,
2 bartered, [~~or~~] exchanged or transferred or offered for sale,
3 barter, or exchange, by a deer [~~scientific~~] breeder.

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

9 [(1)] the [~~white-tailed deer or mule~~] deer is properly
10 marked as required by this subchapter or rule of the commission
11 [~~Section 43.356(b) of this code; or~~

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

14 [(c)] ~~No person may release into the wild a white-tailed deer~~
15 ~~or mule deer unless all visible markings required by Section~~
16 ~~43.356(b) have been removed.]~~

17 Sec. 43.363. TRANSFER [~~SALE~~] DURING OPEN
18 SEASON. [(a)] During an open hunting season for [~~taking the~~
19 ~~white-tailed deer or mule~~] deer or during the 10-day period
20 immediately preceding [~~a period of 10 days before~~] an open hunting
21 season, no person in this state may liberate a deer or sell,
22 transfer, ship, or transport a deer for the purpose of liberation
23 [~~scientific breeder may release into the wild or sell or ship to a~~
24 ~~person other than a person holding a scientific breeder's permit, a~~
25 ~~white-tailed deer or mule deer and no person in this state, other~~
26 ~~than a scientific breeder, may purchase from a scientific breeder~~
27 ~~in this state a white-tailed deer or mule deer]~~ unless the person

1 ~~[scientific breeder]:~~

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

6 (2) has followed any procedures prescribed by rule of
7 the commission for the lawful conduct of activities under this
8 subchapter ~~[given written notice of the sale to the department]~~.

9 ~~[(b) The commission shall make regulations governing notice~~
10 ~~and approval of the sale or shipment of white-tailed deer and mule~~
11 ~~deer under this section.]~~

12 Sec. 43.364. USE OF ~~[PURCHASED WHITE-TAILED DEER AND MULE]~~
13 DEER. Deer ~~[white-tailed deer and mule deer]~~ may be purchased,
14 sold, transferred, or received in this state only for the purpose of
15 liberation or ~~[for stocking purposes or holding for]~~ propagation
16 ~~[purposes]~~. All ~~[white-tailed deer or mule]~~ deer and increase from
17 ~~[the white-tailed deer or mule]~~ deer are under the full force of the
18 laws of this state pertaining to ~~[white-tailed deer and mule]~~ deer,
19 and those deer may be held in captivity for propagation in this
20 state only after a deer ~~[scientific]~~ breeder's permit is issued by
21 the department under this subchapter.

22 Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a
23 deer ~~[scientific]~~ breeder or other person:

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

26 (2) allows the hunting or killing of a ~~[white-tailed~~
27 ~~deer or mule]~~ deer held in captivity under the provisions of this

1 subchapter, except as provided by this subchapter or rule of the
2 commission; or

3 (3) sells, arranges the sale, purchases, or receives
4 or attempts to sell or arrange the sale, purchases or receives a
5 live deer in violation of this code or a rule of the commission
6 adopted under this subchapter.

7 (b) [~~3~~] It is an offense if a deer breeder fails to
8 furnish to a game warden commissioned by the department records
9 required to be maintained under Section 43.359(a).

10 Sec. 43.366. APPLICATION OF GENERAL LAWS. In order that
11 native species may be preserved, [~~white-tailed deer and mule~~] deer
12 held under a deer [~~scientific~~] breeder's permit are subject to all
13 laws and regulations of this state pertaining to [~~white-tailed deer~~
14 ~~or mule~~] deer except as specifically provided in this subchapter.
15 However, it is specifically provided that this subchapter may not
16 be construed to restrict or prohibit the use of high fences.

17 Sec. 43.367. PENALTY. (a) Except as provided in
18 Subsection (b) of this section, a [A] person who violates a
19 provision of this subchapter, the conditions of a permit, or a
20 regulation of the commission issued under this subchapter or who
21 fails to file a full and complete report as required by Section
22 43.359 of this code commits an offense that is a Class C Parks and
23 Wildlife Code misdemeanor.

24 (b) A person who violates Section 43.365(a)(2) of this code
25 commits an offense that is a Class A Parks and Wildlife Code
26 misdemeanor.

27 SECTION 2. This Act takes effect September 1, 2005.

1 SECTION 3. The importance of this legislation and the
2 crowded condition of the calendars in both houses creates an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to read on three several days
5 in each house be suspended, and this rule is hereby suspended.