

1-1 By: Hilderbran (Senate Sponsor - Armbrister) H.B. No. 2901
1-2 (In the Senate - Received from the House May 16, 2005;
1-3 May 17, 2005, read first time and referred to Committee on Natural
1-4 Resources; May 20, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2901 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to a deer breeder's permit; providing a penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. The heading to Subchapter L, Chapter 43, Parks
1-13 and Wildlife Code, is amended to read as follows:

1-14 SUBCHAPTER L. DEER [SCIENTIFIC] BREEDER'S PERMIT

1-15 SECTION 2. Subchapter L, Chapter 43, Parks and Wildlife
1-16 Code, is amended by adding Section 43.3511 to read as follows:

1-17 Sec. 43.3511. NATURE OF DEER. Notwithstanding any other
1-18 law, a deer held in captivity by a deer breeder under the authority
1-19 of this subchapter is the personal property of that deer breeder.

1-20 SECTION 3. Sections 43.351, 43.352, 43.356, 43.357, and
1-21 43.359 through 43.367, Parks and Wildlife Code, are amended to read
1-22 as follows:

1-23 Sec. 43.351. DEFINITIONS. In this subchapter:

1-24 (1) "Deer [Scientific] breeder" means a person holding
1-25 a valid deer [scientific] breeder's permit.

1-26 (2) "Captivity" means the keeping of a deer [an
1-27 animal] in an enclosure suitable for and capable of retaining the
1-28 deer [animal] it is designed to retain at all times under reasonable
1-29 and ordinary circumstances and to prevent entry by another deer
1-30 [animal]. The term includes the temporary keeping of a deer in a
1-31 vehicle or trailer.

1-32 (3) "Deer" means a white-tailed deer or mule deer.

1-33 (4) "Durable identification tag" means a tag not
1-34 easily dislodged or removed made of a material that is not likely to
1-35 disintegrate or decompose. The term includes newly developed
1-36 technologies, including radio frequency identification tags,
1-37 implantable transponders, and microchips.

1-38 (5) "Immediate locality" means land that is contiguous
1-39 and that is owned by the same person. For purposes of this
1-40 subdivision, land divided or separated only by a public road or a
1-41 public waterway is contiguous.

1-42 (6) "Liberation" means the intentional release of a
1-43 live deer from a permitted facility, vehicle, or trailer.

1-44 Sec. 43.352. PERMIT AUTHORIZED. The department shall issue
1-45 a permit to a qualified person to possess live [white-tailed] deer
1-46 in captivity [or mule deer for propagation, management, and
1-47 scientific purposes].

1-48 Sec. 43.356. SERIAL NUMBER. (a) The department shall
1-49 issue a serial number to a permittee when the department issues the
1-50 permittee a deer breeder's permit [the applicant at the time of the
1-51 first issuance of a scientific breeder's permit to the applicant].
1-52 The same serial number shall be assigned to the permittee whenever
1-53 the department issues the permittee [he holds] a deer [scientific]
1-54 breeder's permit.

1-55 (b) The deer [scientific] breeder shall implant in or place
1-56 on each of the breeder's deer a durable identification [suitable
1-57 permanent] tag [bearing the scientific breeder's serial number on
1-58 the ear of each white-tailed deer or mule deer possessed by the
1-59 scientific breeder and shall place on the white-tailed deer or mule
1-60 deer any other identification marking prescribed by the
1-61 commission].

1-62 Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) The
1-63 holder of a valid deer [scientific] breeder's permit may:

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

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

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

- (1) removal from an enclosure;
- (2) veterinary treatment;
- (3) tagging;
- (4) euthanasia for the purpose of:
 - (A) humane dispatch of the deer; or
 - (B) the conduct of a test for a reportable disease as required by law; or
- (5) any other purpose required or allowed by law.

(b) The commission may make regulations governing:

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

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

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

(4) permit applications and fees;

(5) reporting requirements;

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

(7) the endorsement of a breeder facility by a certified wildlife biologist;

(8) the number of deer that a deer breeder may possess;

and

(9) the dates for which a deer breeder's permit is valid.

Sec. 43.359. REPORTS; AVAILABILITY OF INFORMATION. (a) A deer ~~[scientific]~~ breeder shall maintain an accurate and legible record of all ~~[white-tailed]~~ deer ~~[and mule 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 ~~[scientific]~~ breeders. ~~[The record shall be maintained on a form provided by the department.]~~

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

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

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

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

~~[(b)]~~ No person, except a deer ~~[scientific]~~ breeder, the deer breeder's ~~[his]~~ 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 ~~[white-tailed]~~ deer ~~[or mule deer]~~ unless the person ~~[he]~~ obtains a transport permit ~~[for shipment or transportation]~~ from the

3-1 department.

3-2 Sec. 43.362. TRANSFER, PURCHASE, OR [AND] SALE OF LIVE
 3-3 [WHITE-TAILED] DEER [AND MULE DEER]. (a) Only [white-tailed] deer
 3-4 [and mule deer] that are in a healthy condition may be sold,
 3-5 bartered, transferred or exchanged, or offered for sale, barter, or
 3-6 exchange, by a deer [scientific] breeder.

3-7 (b) Except as provided by Subchapter C or by a rule adopted
 3-8 by the commission under this subchapter, [Chapter 43,] no person
 3-9 may purchase, obtain, sell, transfer, or accept in this state a live
 3-10 [white-tailed] deer [or mule deer] unless the person obtains a
 3-11 purchase permit [for purchasing] from the department and[+
 3-12 [(-)] the [white-tailed] deer [or mule deer] is
 3-13 properly marked as required by this subchapter or a rule adopted by
 3-14 the commission under this subchapter [Section 43.356(b) of this
 3-15 code; or

3-16 [-(2) the white-tailed deer or mule deer is delivered
 3-17 by a common carrier from outside this state].

3-18 [-(c) No person may release into the wild a white-tailed deer
 3-19 or mule deer unless all visible markings required by Section
 3-20 43.356(b) have been removed.]

3-21 Sec. 43.363. TRANSFER [SALE] DURING OPEN SEASON.

3-22 (a) During an open hunting season for [taking the white-tailed]
 3-23 deer or [mule deer or] during the 10-day [a] period immediately
 3-24 preceding [of 10 days before] an open hunting season, [no
 3-25 scientific breeder may release into the wild or sell or ship to a
 3-26 person other than a person holding a scientific breeder's permit, a
 3-27 white-tailed deer or mule deer and] no person in this state [, other
 3-28 than a scientific breeder,] may liberate [purchase from] a deer or
 3-29 sell, transfer, ship, or transport [scientific breeder in this
 3-30 state] a [white-tailed] deer for the purpose of liberation [or mule
 3-31 deer] unless the person [scientific breeder]:

3-32 (1) has removed [immediately above the pedicel] the
 3-33 antlers of the [a male white-tailed] deer between the G-3 tine, as
 3-34 defined by the Boone and Crockett Club, and the pedicel on each
 3-35 antler main beam [or mule deer to be sold or shipped]; and

3-36 (2) has followed any procedure prescribed by rule of
 3-37 the commission for the lawful conduct of activities under this
 3-38 subchapter [given written notice of the sale to the department].

3-39 (b) The commission shall adopt rules [make regulations]
 3-40 governing a transfer permit [notice and approval of the sale or
 3-41 shipment of white-tailed deer and mule deer] under this section.

3-42 Sec. 43.364. USE OF [PURCHASED WHITE-TAILED] DEER [AND MULE
 3-43 DEER]. Deer [white-tailed deer and mule deer] may be purchased,
 3-44 sold, transferred, or received in this state only for the purpose of
 3-45 liberation [for stocking purposes] or [holding for] propagation
 3-46 [purposes]. All [white-tailed] deer [or mule deer] and increase
 3-47 from [the white-tailed] deer [or mule deer] are under the full force
 3-48 of the laws of this state pertaining to [white-tailed] deer [and
 3-49 mule deer], and those deer may be held in captivity for propagation
 3-50 in this state only after a deer [scientific] breeder's permit is
 3-51 issued by the department under this subchapter.

3-52 Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a
 3-53 deer [scientific] breeder or another person:

3-54 (1) takes, traps, or captures or attempts to take,
 3-55 trap, or capture [white-tailed] deer [or mule deer] from the wild;

3-56 (2) allows the hunting or killing of a [white-tailed]
 3-57 deer [or mule deer] held in captivity under the provisions of this
 3-58 subchapter, except as provided by this subchapter or a rule adopted
 3-59 by the commission under this subchapter; or

3-60 (3) knowingly sells, arranges the sale of, purchases,
 3-61 transfers, receives, or attempts to sell, arrange the sale of,
 3-62 purchase, transfer, or receive a live deer in violation of this
 3-63 subchapter or a rule adopted by the commission under this
 3-64 subchapter.

3-65 (b) It is an offense if a deer breeder fails to furnish to a
 3-66 game warden commissioned by the department records required to be
 3-67 maintained under Section 43.359(a).

3-68 Sec. 43.366. APPLICATION OF GENERAL LAWS. In order that
 3-69 native species may be preserved, [white-tailed] deer [and mule

4-1 ~~deer~~ held under a deer [~~scientific~~] breeder's permit are subject
4-2 to all laws and regulations of this state pertaining to
4-3 [~~white-tailed deer or mule~~] deer except as specifically provided in
4-4 this subchapter. However, it is specifically provided that this
4-5 subchapter may not be construed to restrict or prohibit the use of
4-6 high fences.

4-7 Sec. 43.367. PENALTY. (a) Except as provided by
4-8 Subsection (b), a [A] person who violates a provision of this
4-9 subchapter[~~, the conditions of a permit,~~] or a regulation of the
4-10 commission issued under this subchapter or who fails to file a full
4-11 and complete report as required by Section 43.359 [~~of this code~~]
4-12 commits an offense that is a Class C Parks and Wildlife Code
4-13 misdemeanor.

4-14 (b) A person who violates Section 43.365(a)(2) commits an
4-15 offense that is a Class A Parks and Wildlife Code misdemeanor.

4-16 SECTION 4. Sections 43.354 and 43.355, Parks and Wildlife
4-17 Code, are repealed.

4-18 SECTION 5. This Act takes effect September 1, 2005.

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