

## **BILL ANALYSIS**

C.S.H.B. 1308  
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Culture, Recreation, & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The deer-breeding industry is relatively new to Texas, but preliminary data indicates it may already have a \$600 million annual economic impact in Texas. The industry's economic contributions, especially to rural areas, tourism and real estate, are beginning to be noticed, not only in Texas, but in states across the nation. A particular contribution is that it provides a viable alternative to land use of smaller acreage as large ranches are being fragmented and traditional livestock operations have become less profitable. Initial statutory efforts were made to encompass the needs and demands of the deer breeder industry, but additional clarification is needed to provide deer breeders with the tools and parameters they need. In addition, the growth of the deer breeder industry is confirmation it has become a viable economic generator for Texas. This bill also provides penalties for hunting or killing of a deer in a permitted facility other than exceptions such as human dispatch or testing and provides penalties for illegal purchase and selling practices of permitted deer. This legislation proposes to revise the scientific deer breeder statute to assure the language is more in line with current best practices.

### **RULEMAKING AUTHORITY**

This bill gives the Parks and Wildlife Commission rulemaking authority in Section 2 of CSHB1308.

### **ANALYSIS**

CSHB1308 amends Subchapter L, Chapter 43, of the Parks and Wildlife Code by changing "scientific breeder" to "deer breeder" and specifically indicates where appropriate that the statute refers to "breeder deer" and specifying the "animal" to be a "deer" or "breeder deer."

SECTION 1. Amends the heading to Subchapter L, Chapter 43, of the Parks and Wildlife Code.

SECTION 2. This section defines "breeder deer," "deer," "durable identification tag," "immediate locality," and "transfer." It also modifies the definition of the word "captive."

Modifies Section 43.352 to specify that the department may issue permits to persons for the possession of live breeder deer in captivity and may issue a permit for a period of longer than one year upon renewal of the permit.

Modifies Section 43.356 to state that the department shall issue a serial number to a permittee when it issues the deer breeder's permit and the serial number is the same for all subsequent deer.

Adds Section 43.3561 regarding identification of a breeder deer. It includes language requiring the deer breeder, by March 31 of the year after the deer is born, to tag each deer with an alphanumeric number assigned by the department. The tag may be removed and replaced immediately. Further, CSHB1308 removes language regarding the scientific breeder's serial number tag and allows removal from or acceptance of a deer into a facility only when it is permanently and legibly tattooed with the number assigned to the breeder and specific to the breeding facility.

Modifies Section 43.357 makes minor changes to specify that the bill applies to deer breeders, changes "license" to "permit," and allows for the sale, transfer or holding of live breeder deer. Language is also added to this section that allows a deer breeder, his agent or assistant, to capture deer in a facility for specified reasons. It also allows the commission to make regulations governing possession, recapture, permits and reporting. The commission may further make regulations governing the purchase, transfer, sale or shipment of deer, endorsement of a breeder facility by a certified wildlife biologist, the number of deer a breeder may possess, and the dates a permit is valid. Inspections or approval of the release site before release of deer is not required. However, the Department is not precluded from habitat inspection but must refrain

from implementing habitat inspection rules or procedure that unreasonably impede the broader deer breeding industry. This does not exempt a person from permit requirements issued by the Department under Section 65.25, 65.26, 65.27, and 65.34 of the Texas Administrative Code, and Sections 43.601, 43.061, 43.0611, and 43.0612 of Parks and Wildlife code.

Modifies Section 43.359 to include a requirement for a deer breeder to maintain a legible record of all breeder deer, including transferred breeder deer. It further requires that the information be maintained as the commission, by rule, requires, and shall be made available to a game warden acting within the scope of authority or another authorized department employee by the game warden.

Modifies Section 43.360 to remove the specification of while-tailed or mule deer to be consistent with the definition of deer and limits the enclosure size to 100 acres.

Modifies Section 43.362 to include transfer permits and removes specification of white-tailed and mule deer to now refer to breeder deer. It further states that no person may purchase, obtain, sell, transfer or accept deer without a transfer permit, or by other rule adopted by the commission. Additional marking, delivery and release requirements of the department stated in Subsections (b)(1), (b)(2), and (c) are removed.

Modifies Section 43.363 to substitute "Transfer" for "Sale" and specify that no person may sell, transfer, ship, or transport a deer during open hunting season or the 10-day period preceding open hunting season, unless the person removes the antlers of the deer between the G-3 tine, as defined by the Boone and Crockett Club, and the pedicel on each antler main beam, and has followed any procedure prescribed by rule of the commission. It further specifies that subsection (a) does not apply to sale, transfer, shipment, or transport to another deer breeder's facility or to an enclosure authorized under a deer management permit, and allows the commission to adopt ruled governing a transfer permit.

Modifies the subject of Section 43.364 to "Use of Breeder Deer" and removes the specification for white-tailed and mule deer, and scientific breeders. It further states that deer may be purchased, sold, transferred, or received for the purposes of liberation or holding for propagation.

Modifies Section 43.365 to state that it is an offense if a deer breeder or another person: allows the hunting or killing of deer in a permitted facility, except as provided by the subchapter or rule adopted by the commission; or violates this subchapter or rule adopted by the commission. This section further states that it is in offense if a deer breeder fails to furnish reporting records to a game warden or other department employee specified by the game warden for the previous two reporting year.

Modifies Section 43.366 by substituting "Other" for "General," removing the white-tailed mule deer specifications, changing scientific breeder to deer breeder, and modifying the sentence structure of subsection (b).

Modifies Section 43.367 by specifying that a person who violates the subchapter or regulations of the commission not inconsistent with subchapter, or fails to correctly file a report as required by Section 43.359, commits a Class C Parks and Wildlife Code misdemeanor. Violation of Section 43.365(a)(1) results in a Class A Parks and Wildlife Code misdemeanor.

SECTION 3. Repeals Sections 43.354, 43.355, and 43.361 of the Parks and Wildlife Code.

SECTION 4. Sets forth the timeline application for the bill. Section 43.3561 shall take effect on January 1, 2008 and applies only to deer born to or acquired by a deer breeder after December 31, 2007. A deer born or acquired on or before December 31, 2007, that is not removed from a permitted facility after December 31, 2007, is covered by the law in effect when the deer is born or acquired, and the former law is continued in effect for that purpose. The former requirement to remove all marking under Section 43.356(b), as it existed before amendment by this Act, before releasing the deer to the wild may not be enforced by the department after the effective date.

SECTION 5. Effective Date.

#### **EFFECTIVE DATE**

This Act takes effect September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSHB1308 amends Sections 43.360 and 43.362 through 43.366, and adds Section 43.3561. It includes the definition of a "breeder deer" and "transfer," and specifies that the breeder deer must be identified not later than March 31 of the year following the year in which the breeder deer is

born. CSHB1308 further modifies language regarding tag number assignment and requirements for replacement on the deer. CSHB1308 removes language stating that rules and regulations adopted by the commission must be consistent with the subchapter. CSHB 1308 repeals Section 43.361 of the Parks and Wildlife Code and clarifies inspection requirements pertaining to habitat and permit requirements issued by the department. The information required to be furnished must now be for the previous two reporting years and shall be furnished to a game warden or another authorized department employee instead of another employee specified by the game warden. CSHB 1308 no longer removes the language in Subsection (a) regarding transfer, purchase, or sale of deer and includes the word "transferred." The substitute modifies the terms in Section 43.363 to pertain to a facility or enclosure instead of a person. CSHB 1308 removes and replaces the language set forth Subsection (a)(1) of Section 43.365, and states that an offense against this section is now a Class A Parks and Wildlife Code misdemeanor. Section 4 of the bill is modified by changing the section references pursuant to changes in the bill, by including language a breeder deer not removed from a permitted facility after December 31, 2007 is covered by law in effect at that time, and by specifying that Section 43.362(c) is considered as it existed before amendment by this bill. Finally, Language regarding the deer breeder advisory group is also removed and clarification is added in appropriate places to specify that the deer referred to are breeder deer.