

By: Hilderbran, Kuempel

H.B. No. 1308

Substitute the following for H.B. No. 1308:

By: Hilderbran

C.S.H.B. No. 1308

A BILL TO BE ENTITLED

AN ACT

relating to deer breeding operations; providing a penalty.

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. Subchapter L, Chapter 43, Parks and Wildlife Code, is amended by amending Sections 43.351, 43.352, 43.356, 43.357, 43.359, 43.360, and 43.362 through 43.367 and adding Section 43.3561 to read as follows:

Sec. 43.351. DEFINITIONS. In this subchapter:

(1) "Breeder deer" means a white-tailed deer or mule deer legally held under a permit authorized by this subchapter.

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

(3) [~~(2)~~] "Captivity" means the keeping of a breeder deer [~~an animal~~] in an enclosure suitable for and capable of retaining the breeder 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 breeder deer in a vehicle or trailer.

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

(5) "Durable identification tag" means a single tag not easily dislodged or removed and made of a material that is not

1 likely to disintegrate or decompose. The term includes, but is not  
2 limited to, newly developed technologies, including radio  
3 frequency identification tags.

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

8 (7) "Transfer" means any movement of breeder deer from  
9 a breeder facility, a nursing facility, or a deer management permit  
10 facility other than to an accredited veterinarian for medical  
11 purposes.

12 Sec. 43.352. PERMIT AUTHORIZED; DURATION OF PERMIT. (a)  
13 The department shall issue a permit to a qualified person to possess  
14 live breeder [white-tailed] deer in captivity [or mule deer for  
15 propagation, management, and scientific purposes].

16 (b) The department may issue a permit under this section  
17 that is valid for longer than one year.

18 Sec. 43.356. SERIAL NUMBER. [(a)] The department shall  
19 issue a serial number to a permittee when the department issues the  
20 permittee a deer breeder's permit [the applicant at the time of the  
21 first issuance of a scientific breeder's permit to the applicant].  
22 The same serial number shall be assigned to the permittee if the  
23 department issues the permittee a subsequent deer [whenever he  
24 holds a scientific] breeder's permit.

25 Sec. 43.3561. IDENTIFICATION OF BREEDER DEER. (a) Not  
26 later than March 31 of the year following the year in which the  
27 breeder deer is born, a breeder deer held in a permitted deer

1 breeding facility must be identified by placing on each breeder  
2 deer possessed by the deer breeder a single, reasonably visible,  
3 durable identification tag bearing an alphanumeric number of not  
4 more than four characters assigned by the department to the  
5 breeding facility in which the breeder deer was born and unique to  
6 that breeder deer. A deer breeder is not required to remove the tag  
7 for any purpose but may remove the tag and replace the tag  
8 immediately to meet the requirements of this section.

9 (b) A person may not remove or knowingly permit the removal  
10 of a breeder deer held in a facility by a permittee under this  
11 subchapter unless the breeder deer has been permanently and legibly  
12 tattooed in one ear with the unique identification number assigned  
13 to the breeder in lawful possession of the breeder deer and specific  
14 to the breeding facility in which the breeder deer was born or  
15 initially introduced if from an out-of-state source.

16 (c) A person may not knowingly accept or permit the  
17 acceptance of a breeder deer into a facility regulated under this  
18 subchapter unless the breeder deer has been permanently and legibly  
19 tattooed in one ear with the unique identification number assigned  
20 to the breeder in lawful possession of the breeder deer and specific  
21 to the facility in which the breeder deer was born or initially  
22 introduced if from an out-of-state source.

23 ~~[(b) The scientific breeder shall place a suitable~~  
24 ~~permanent tag bearing the scientific breeder's serial number on the~~  
25 ~~ear of each white-tailed deer or mule deer possessed by the~~  
26 ~~scientific breeder and shall place on the white-tailed deer or mule~~  
27 ~~deer any other identification marking prescribed by the~~

1 ~~commission.]~~

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

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

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

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

15                   (1) removal from an enclosure;

16                   (2) veterinary treatment;

17                   (3) tagging;

18                   (4) euthanasia for the purpose of:

19                           (A) humane dispatch of the breeder deer; or

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

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

23           (b) The commission may make regulations governing:

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

27           (2) the recapture of lawfully possessed breeder

1 ~~[white-tailed]~~ deer ~~[or mule deer]~~ that have escaped from the [a]  
2 facility of a deer [scientific] breeder;

3 (3) permit applications and fees;

4 (4) reporting requirements;

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

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

9 (7) the number of breeder deer that a deer breeder may  
10 possess; and

11 (8) the dates for which a deer breeder permit is valid.

12 (c) A person who holds a permit under this subchapter or a  
13 person who receives a breeder deer under this subchapter is not  
14 required to have the release site inspected or approved before the  
15 release of a breeder deer from a breeding facility. This section  
16 does not preclude the department from making a habitat inspection  
17 but does direct the department to refrain from implementing habitat  
18 inspection rules or procedures that could unreasonably impede the  
19 broader deer breeding industry.

20 (d) Subsection (c) does not exempt a person from the  
21 requirements under the following permits issued by the department:

22 (1) managed land deer permit regulated under Chapter  
23 65, Title 31, Texas Administrative Code, Sections 65.26 and 65.34;

24 (2) deer management permit under Section 43.601;

25 (3) trap, transport, and transplant permit under  
26 Sections 43.061 and 43.0611;

27 (4) trap, transport, and process permit under Section

1 43.0612; and

2 (5) antlerless deer control permit regulated under 31  
3 T.A.C. Sections 65.25 and 65.27.

4 Sec. 43.359. RECORDS AND REPORTS. (a) A deer [~~scientific~~]  
5 breeder shall maintain an accurate and legible record of all  
6 breeder [~~white-tailed~~] deer [~~and mule deer~~] acquired, purchased,  
7 propagated, sold, transferred, or disposed of and any other  
8 information required by the department that reasonably relates to  
9 the regulation of deer [~~scientific~~] breeders. [~~The record shall be~~  
10 ~~maintained on a form provided by the department.~~]

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

15 (c) On the request of a game warden acting within the scope  
16 of the game warden's authority, a deer breeder shall make any  
17 information required under this subchapter for the previous two  
18 reporting years available to:

19 (1) the game warden; or

20 (2) another authorized department employee.

21 Sec. 43.360. ENCLOSURE SIZE. A single enclosure for  
22 breeder [~~white-tailed deer or mule~~] deer may not contain more than  
23 100 [~~320~~] acres.

24 Sec. 43.362. TRANSFER, PURCHASE, OR [~~AND~~] SALE OF LIVE  
25 BREEDER [~~WHITE-TAILED~~] DEER [~~AND MULE DEER~~]. (a) Only breeder  
26 [~~white-tailed deer and mule~~] deer that are in a healthy condition  
27 may be sold, transferred, bartered, or exchanged, or offered for

1 sale, transfer, barter, or exchange, by a deer [~~scientific~~]  
2 breeder.

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

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

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

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

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

26 (1) has removed [~~immediately above the pedicel~~] the  
27 antlers of the breeder [~~a male white-tailed~~] deer between the G-3

1 tine, as defined by the Boone and Crockett Club, and the pedicel on  
2 each antler main beam [~~or mule deer to be sold or shipped~~]; and

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

6 (b) Subsection (a) does not apply to a sale, transfer,  
7 shipment, or transport:

8 (1) to another deer breeder's facility; or

9 (2) to an enclosure authorized under a deer management  
10 permit.

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

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

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



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

3           ~~[(2)]~~ allows the hunting or killing of a breeder  
4 ~~[white-tailed]~~ deer or any other deer ~~[or mule deer]~~ held in  
5 captivity in a facility permitted under ~~[the provisions of]~~ this  
6 subchapter, except as provided by this subchapter or a rule adopted  
7 by the commission under this subchapter; or

8           (2) knowingly sells, arranges the sale of, purchases,  
9 transfers, receives, or attempts to sell, arrange the sale of,  
10 purchase, transfer, or receive a live breeder deer in violation of  
11 this subchapter or a rule adopted by the commission under this  
12 subchapter.

13           (b) It is an offense if a deer breeder ~~[(3)]~~ fails to furnish  
14 to a game warden commissioned by the department or other authorized  
15 department employee records for the previous two reporting years  
16 required to be maintained under Section 43.359(a).

17           Sec. 43.366. APPLICATION OF OTHER ~~[GENERAL]~~ LAWS. (a) In  
18 order that native species may be preserved, breeder ~~[white-tailed]~~  
19 deer ~~[and mule deer]~~ held under a deer ~~[scientific]~~ breeder's  
20 permit are subject to all laws and regulations of this state  
21 pertaining to ~~[white-tailed deer or mule]~~ deer except as  
22 specifically provided in this subchapter.

23           (b) This ~~[However, it is specifically provided that this]~~  
24 subchapter may not be construed to restrict or prohibit the use of  
25 high fences.

26           Sec. 43.367. PENALTY. (a) Except as provided by Subsection  
27 (b), a ~~[A]~~ person who violates a provision of this subchapter~~[, the~~

1 ~~conditions of a permit,~~] or a regulation of the commission issued  
2 under this subchapter or who fails to file a full and complete  
3 report as required by Section 43.359 [~~of this code~~] commits an  
4 offense that is a Class C Parks and Wildlife Code misdemeanor.

5 (b) A person who violates Section 43.365(a)(1) commits an  
6 offense that is a Class A Parks and Wildlife Code misdemeanor.

7 SECTION 3. Sections 43.354, 43.355, and 43.361, Parks and  
8 Wildlife Code, are repealed.

9 SECTION 4. (a) Section 43.3561, Parks and Wildlife Code, as  
10 added by this Act, takes effect January 1, 2008, and applies only to  
11 deer born at a deer breeder facility or acquired by a deer breeder  
12 after December 31, 2007.

13 (b) Except as provided by Subsection (c) of this section, a  
14 breeder deer born or acquired on or before December 31, 2007, that  
15 is not removed from a permitted facility after December 31, 2007, is  
16 covered by the law in effect when the deer is born or acquired, and  
17 the former law is continued in effect for that purpose.

18 (c) The former requirement under Section 43.362(c), Parks  
19 and Wildlife Code, before amendment by this Act, to remove all  
20 markings required under Section 43.356(b) of that code, as it  
21 existed before amendment by this Act, before releasing the marked  
22 deer into the wild may not be enforced by the department after the  
23 effective date of this Act.

24 SECTION 5. This Act takes effect September 1, 2007.