

1-1 By: Hilderbran, Kuempel (Senate Sponsor - Brimer) H.B. No. 1308  
1-2 (In the Senate - Received from the House April 16, 2007;  
1-3 April 17, 2007, read first time and referred to Committee on  
1-4 Natural Resources; April 19, 2007, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; April 19, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to deer breeding operations; providing a penalty.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. The heading to Subchapter L, Chapter 43, Parks  
1-11 and Wildlife Code, is amended to read as follows:

1-12 SUBCHAPTER L. DEER [SCIENTIFIC] BREEDER'S PERMIT

1-13 SECTION 2. Subchapter L, Chapter 43, Parks and Wildlife  
1-14 Code, is amended by amending Sections 43.351, 43.352, 43.356,  
1-15 43.357, 43.359, 43.360, and 43.362 through 43.367 and adding  
1-16 Section 43.3561 to read as follows:

1-17 Sec. 43.351. DEFINITIONS. In this subchapter:

1-18 (1) "Breeder deer" means a white-tailed deer or mule  
1-19 deer legally held under a permit authorized by this subchapter.

1-20 (2) ~~[(1)]~~ "Deer [Scientific] breeder" means a person  
1-21 holding a valid deer [scientific] breeder's permit.

1-22 (3) ~~[(2)]~~ "Captivity" means the keeping of a breeder  
1-23 deer [an animal] in an enclosure suitable for and capable of  
1-24 retaining the breeder deer [animal] it is designed to retain at all  
1-25 times under reasonable and ordinary circumstances and to prevent  
1-26 entry by another deer [animal]. The term includes the temporary  
1-27 keeping of a breeder deer in a vehicle or trailer.

1-28 (4) "Deer" means a white-tailed deer or mule deer.

1-29 (5) "Durable identification tag" means a single tag  
1-30 not easily dislodged or removed and made of a material that is not  
1-31 likely to disintegrate or decompose. The term includes, but is not  
1-32 limited to, newly developed technologies, including radio  
1-33 frequency identification tags.

1-34 (6) "Immediate locality" means land that is contiguous  
1-35 and that is owned by the same person. For purposes of this  
1-36 subdivision, land divided or separated only by a public road or a  
1-37 public waterway is contiguous.

1-38 (7) "Transfer" means any movement of breeder deer from  
1-39 a breeder facility, a nursing facility, or a deer management permit  
1-40 facility other than to an accredited veterinarian for medical  
1-41 purposes.

1-42 Sec. 43.352. PERMIT AUTHORIZED; DURATION OF PERMIT. (a)  
1-43 The department shall issue a permit to a qualified person to possess  
1-44 live breeder [white-tailed] deer in captivity [or mule deer for  
1-45 propagation, management, and scientific purposes].

1-46 (b) The department may issue a permit under this section  
1-47 that is valid for longer than one year.

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 if the  
1-53 department issues the permittee a subsequent deer [whenever he  
1-54 holds a scientific] breeder's permit.

1-55 Sec. 43.3561. IDENTIFICATION OF BREEDER DEER. (a) Not  
1-56 later than March 31 of the year following the year in which the  
1-57 breeder deer is born, a breeder deer held in a permitted deer  
1-58 breeding facility must be identified by placing on each breeder  
1-59 deer possessed by the deer breeder a single, reasonably visible,  
1-60 durable identification tag bearing an alphanumeric number of not  
1-61 more than four characters assigned by the department to the  
1-62 breeding facility in which the breeder deer was born and unique to  
1-63 that breeder deer. A deer breeder is not required to remove the tag  
1-64 for any purpose but may remove the tag and replace the tag

2-1 immediately to meet the requirements of this section.

2-2 (b) A person may not remove or knowingly permit the removal  
 2-3 of a breeder deer held in a facility by a permittee under this  
 2-4 subchapter unless the breeder deer has been permanently and legibly  
 2-5 tattooed in one ear with the unique identification number assigned  
 2-6 to the breeder in lawful possession of the breeder deer and specific  
 2-7 to the breeding facility in which the breeder deer was born or  
 2-8 initially introduced if from an out-of-state source.

2-9 (c) A person may not knowingly accept or permit the  
 2-10 acceptance of a breeder deer into a facility regulated under this  
 2-11 subchapter unless the breeder deer has been permanently and legibly  
 2-12 tattooed in one ear with the unique identification number assigned  
 2-13 to the breeder in lawful possession of the breeder deer and specific  
 2-14 to the facility in which the breeder deer was born or initially  
 2-15 introduced if from an out-of-state source.

2-16 ~~[(b) The scientific breeder shall place a suitable~~  
 2-17 ~~permanent tag bearing the scientific breeder's serial number on the~~  
 2-18 ~~ear of each white-tailed deer or mule deer possessed by the~~  
 2-19 ~~scientific breeder and shall place on the white-tailed deer or mule~~  
 2-20 ~~deer any other identification marking prescribed by the~~  
 2-21 ~~commission.]~~

2-22 Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) The  
 2-23 holder of a valid deer ~~[scientific]~~ breeder's permit may:

2-24 (1) engage in the business of breeding breeder  
 2-25 ~~[white-tailed]~~ deer in the immediate locality for which the permit  
 2-26 ~~[license]~~ was issued; and

2-27 (2) sell, transfer to another person, or hold in  
 2-28 captivity live breeder ~~[white-tailed]~~ deer ~~[or mule deer]~~ for the  
 2-29 purpose of propagation or sale.

2-30 (a-1) A deer breeder, a deer breeder's authorized agent, or  
 2-31 an assistant who is not a permittee under this subchapter but is  
 2-32 acting under the direction of a deer breeder or a deer breeder's  
 2-33 authorized agent may capture a breeder deer held in a permitted  
 2-34 facility for:

2-35 (1) removal from an enclosure;

2-36 (2) veterinary treatment;

2-37 (3) tagging;

2-38 (4) euthanasia for the purpose of:

2-39 (A) humane dispatch of the breeder deer; or

2-40 (B) the conduct of a test for a reportable  
 2-41 disease as required by law; or

2-42 (5) any other purpose required or allowed by law.

2-43 (b) The commission may make regulations governing:

2-44 (1) the possession of breeder ~~[white-tailed]~~ deer held  
 2-45 under the authority of this subchapter ~~[and mule deer for~~  
 2-46 ~~scientific, management, and propagation purposes]; [and]~~

2-47 (2) the recapture of lawfully possessed breeder  
 2-48 ~~[white-tailed]~~ deer ~~[or mule deer]~~ that have escaped from the [a]  
 2-49 facility of a deer ~~[scientific]~~ breeder;

2-50 (3) permit applications and fees;

2-51 (4) reporting requirements;

2-52 (5) procedures and requirements for the purchase,  
 2-53 transfer, sale, or shipment of breeder deer;

2-54 (6) the endorsement of a deer breeder facility by a  
 2-55 certified wildlife biologist;

2-56 (7) the number of breeder deer that a deer breeder may  
 2-57 possess; and

2-58 (8) the dates for which a deer breeder permit is valid.

2-59 (c) A person who holds a permit under this subchapter or a  
 2-60 person who receives a breeder deer under this subchapter is not  
 2-61 required to have the release site inspected or approved before the  
 2-62 release of a breeder deer from a breeding facility. This section  
 2-63 does not preclude the department from making a habitat inspection  
 2-64 but does direct the department to refrain from implementing habitat  
 2-65 inspection rules or procedures that could unreasonably impede the  
 2-66 broader deer breeding industry.

2-67 (d) Subsection (c) does not exempt a person from the  
 2-68 requirements under the following permits issued by the department:

2-69 (1) managed land deer permit regulated under 31 T.A.C.  
 2-70 Sections 65.26 and 65.34;

3-1                   (2) deer management permit under Section 43.601;  
 3-2                   (3) trap, transport, and transplant permit under  
 3-3 Sections 43.061 and 43.0611;  
 3-4                   (4) trap, transport, and process permit under Section  
 3-5 43.0612; and  
 3-6                   (5) antlerless deer control permit regulated under 31  
 3-7 T.A.C. Sections 65.25 and 65.27.

3-8                   Sec. 43.359. RECORDS AND REPORTS. (a) A deer [scientific]  
 3-9 breeder shall maintain an accurate and legible record of all  
 3-10 breeder [white-tailed] deer [and mule deer] acquired, purchased,  
 3-11 propagated, sold, transferred, or disposed of and any other  
 3-12 information required by the department that reasonably relates to  
 3-13 the regulation of deer [scientific] breeders. [The record shall be  
 3-14 maintained on a form provided by the department.]

3-15                   (b) A deer [scientific] breeder shall report the  
 3-16 information maintained under Subsection (a) to the department as  
 3-17 the [in the time and manner required by] commission by rule may  
 3-18 require [proclamation].

3-19                   (c) On the request of a game warden acting within the scope  
 3-20 of the game warden's authority, a deer breeder shall make any  
 3-21 information required under this subchapter for the previous two  
 3-22 reporting years available to:

3-23                   (1) the game warden; or

3-24                   (2) another authorized department employee.

3-25                   Sec. 43.360. ENCLOSURE SIZE. A single enclosure for  
 3-26 breeder [white-tailed deer or mule] deer may not contain more than  
 3-27 100 [320] acres.

3-28                   Sec. 43.362. TRANSFER, PURCHASE, OR [AND] SALE OF LIVE  
 3-29 BREEDER [WHITE-TAILED] DEER [AND MULE DEER]. (a) Only breeder  
 3-30 [white-tailed deer and mule] deer that are in a healthy condition  
 3-31 may be sold, transferred, bartered, or exchanged, or offered for  
 3-32 sale, transfer, barter, or exchange, by a deer [scientific]  
 3-33 breeder.

3-34                   (b) Except as provided by Subchapter C or by a rule adopted  
 3-35 by the commission under this subchapter, [Chapter 43,] no person  
 3-36 may purchase, obtain, sell, transfer, or accept in this state a live  
 3-37 breeder [white-tailed] deer [or mule deer] unless the person  
 3-38 obtains a transfer permit [for purchasing] from the department  
 3-39 [and:

3-40                   [(1) the white-tailed deer or mule deer is properly  
 3-41 marked as required by Section 43.356(b) of this code; or

3-42                   [(2) the white-tailed deer or mule deer is delivered  
 3-43 by a common carrier from outside this state].

3-44                   [(c) No person may release into the wild a white-tailed deer  
 3-45 or mule deer unless all visible markings required by Section  
 3-46 43.356(b) have been removed.]

3-47                   Sec. 43.363. TRANSFER [SALE] DURING OPEN SEASON. (a)  
 3-48 During an open hunting season for [taking the white-tailed] deer or  
 3-49 [mule deer or] during the 10-day [a] period immediately preceding  
 3-50 [of 10 days before] an open hunting season, [no scientific breeder  
 3-51 may release into the wild or sell or ship to a person other than a  
 3-52 person holding a scientific breeder's permit, a white-tailed deer  
 3-53 or mule deer and] no person in this state [, other than a scientific  
 3-54 breeder,] may sell, transfer, ship, or transport a breeder  
 3-55 [purchase from a scientific breeder in this state a white-tailed]  
 3-56 deer [or mule deer] unless the person [scientific breeder]:

3-57                   (1) has removed [immediately above the pedicel] the  
 3-58 antlers of the breeder [a male white-tailed] deer between the G-3  
 3-59 tine, as defined by the Boone and Crockett Club, and the pedicel on  
 3-60 each antler main beam [or mule deer to be sold or shipped]; and

3-61                   (2) has followed any procedure prescribed by rule of  
 3-62 the commission for the lawful conduct of activities under this  
 3-63 subchapter [given written notice of the sale to the department].

3-64                   (b) Subsection (a) does not apply to a sale, transfer,  
 3-65 shipment, or transport:

3-66                   (1) to another deer breeder's facility; or

3-67                   (2) to an enclosure authorized under a deer management  
 3-68 permit.

3-69                   (c) [(b)] The commission shall adopt rules [make  
 3-70 regulations] governing a transfer permit [notice and approval of

4-1 ~~the sale or shipment of white-tailed deer and mule deer]~~ under this  
4-2 section.

4-3 Sec. 43.364. USE OF BREEDER [~~PURCHASED WHITE-TAILED~~] DEER  
4-4 [~~AND MULE DEER~~]. Breeder deer [~~white-tailed deer and mule deer~~] may  
4-5 be purchased, sold, transferred, or received in this state only for  
4-6 the purposes [~~purpose~~] of liberation [~~for stocking purposes~~] or  
4-7 holding for propagation [~~purposes~~]. All breeder [~~white-tailed~~]  
4-8 deer [~~or mule deer~~] and increase from breeder [~~the white-tailed~~]  
4-9 deer [~~or mule deer~~] are under the full force of the laws of this  
4-10 state pertaining to [~~white-tailed~~] deer [~~and mule deer~~], and those  
4-11 breeder deer may be held in captivity for propagation in this state  
4-12 only after a deer [~~scientific~~] breeder's permit is issued by the  
4-13 department under this subchapter.

4-14 Sec. 43.365. PROHIBITED ACTS. (a) It is an offense if a  
4-15 deer [~~scientific~~] breeder or another person:

4-16 (1) [~~takes, traps, or captures or attempts to take,~~  
4-17 ~~trap, or capture white-tailed deer or mule deer from the wild,~~

4-18 [~~(2)~~] allows the hunting or killing of a breeder  
4-19 [~~white-tailed~~] deer or any other deer [~~or mule deer~~] held in  
4-20 captivity in a facility permitted under [~~the provisions of~~] this  
4-21 subchapter, except as provided by this subchapter or a rule adopted  
4-22 by the commission under this subchapter; or

4-23 (2) knowingly sells, arranges the sale of, purchases,  
4-24 transfers, receives, or attempts to sell, arrange the sale of,  
4-25 purchase, transfer, or receive a live breeder deer in violation of  
4-26 this subchapter or a rule adopted by the commission under this  
4-27 subchapter.

4-28 (b) It is an offense if a deer breeder [~~(3)~~] fails to furnish  
4-29 to a game warden commissioned by the department or other authorized  
4-30 department employee records for the previous two reporting years  
4-31 required to be maintained under Section 43.359(a).

4-32 Sec. 43.366. APPLICATION OF OTHER [~~GENERAL~~] LAWS. (a) In  
4-33 order that native species may be preserved, breeder [~~white-tailed~~]  
4-34 deer [~~and mule deer~~] held under a deer [~~scientific~~] breeder's  
4-35 permit are subject to all laws and regulations of this state  
4-36 pertaining to [~~white-tailed deer or mule~~] deer except as  
4-37 specifically provided in this subchapter.

4-38 (b) This [~~However, it is specifically provided that this~~]  
4-39 subchapter may not be construed to restrict or prohibit the use of  
4-40 high fences.

4-41 Sec. 43.367. PENALTY. (a) Except as provided by Subsection  
4-42 (b), a [A] person who violates a provision of this subchapter [~~, the~~  
4-43 conditions of a permit,] or a regulation of the commission issued  
4-44 under this subchapter or who fails to file a full and complete  
4-45 report as required by Section 43.359 [~~of this code~~] commits an  
4-46 offense that is a Class C Parks and Wildlife Code misdemeanor.

4-47 (b) A person who violates Section 43.365(a)(1) commits an  
4-48 offense that is a Class A Parks and Wildlife Code misdemeanor.

4-49 SECTION 3. Sections 43.354, 43.355, and 43.361, Parks and  
4-50 Wildlife Code, are repealed.

4-51 SECTION 4. (a) Section 43.3561, Parks and Wildlife Code, as  
4-52 added by this Act, takes effect January 1, 2008, and applies only to  
4-53 deer born at a deer breeder facility or acquired by a deer breeder  
4-54 after December 31, 2007.

4-55 (b) Except as provided by Subsection (c) of this section, a  
4-56 breeder deer born or acquired on or before December 31, 2007, that  
4-57 is not removed from a permitted facility after December 31, 2007, is  
4-58 covered by the law in effect when the deer is born or acquired, and  
4-59 the former law is continued in effect for that purpose.

4-60 (c) The former requirement under Section 43.362(c), Parks  
4-61 and Wildlife Code, before amendment by this Act, to remove all  
4-62 markings required under Section 43.356(b) of that code, as it  
4-63 existed before amendment by this Act, before releasing the marked  
4-64 deer into the wild may not be enforced by the Parks and Wildlife  
4-65 Department after the effective date of this Act.

4-66 SECTION 5. This Act takes effect September 1, 2007.

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